is to consider and act upon information received by the board after the original parole release decision. A revocation interview shall be conducted within 45 days after receiving the new information. At least 10 days before the interview, the parolee shall receive a copy or summary of the new evidence that is the basis for the interview.

(3) A parole order may be amended at the discretion of the parole board for cause. An amendment to a parole order shall be in writing and is not effective until notice of the amendment is given to the parolee.

(4) When a parole order is issued, the order shall contain the conditions of the parole and shall specifically provide proper means of supervision of the paroled prisoner in accordance with the rules of the bureau of field services.

(5) The parole order shall contain a condition to pay restitution to the victim of the prisoner's crime or the victim's estate if the prisoner was ordered to make restitution pursuant to the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(6) The parole order shall contain a condition requiring the parolee to pay a parole supervision fee as prescribed in section 36a.

(7) The parole order shall contain a condition requiring the parolee to pay any assessment the prisoner was ordered to pay pursuant to section 5 of 1989 PA 196, MCL 780.905.

(8) The parole order shall contain a condition requiring the parolee to pay the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j, if the minimum state cost has not been paid.

(9) If the parolee is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the parole order shall contain a condition requiring the parolee to comply with that act.

(10) If a prisoner convicted of violating or conspiring to violate section 7401(2)(a)(*i*) or (*ii*) or 7403(2)(a)(*i*) or (*ii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is released on parole, the parole order shall contain a notice that if the parolee violates or conspires to violate article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, and that violation or conspiracy to violate is punishable by imprisonment for 4 or more years, or commits a violent felony during his or her release on parole, parole shall be revoked.

(11) A parole order issued for a prisoner subject to disciplinary time may contain a condition requiring the parolee to be housed in a community corrections center or a community residential home for not less than the first 30 days but not more than the first 180 days of his or her term of parole. As used in this subsection, "community corrections center" and "community residential home" mean those terms as defined in section 65a.

(12) The parole order shall contain a condition requiring the parolee to pay the following amounts owed by the prisoner, if applicable:

(a) The balance of filing fees and costs ordered to be paid under section 2963 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2963.

(b) The balance of any filing fee ordered to be paid by a federal court under section 1915 of title 28 of the United States Code, 28 USC 1915 and any unpaid order of costs assessed against the prisoner.

(13) In each case in which payment of restitution is ordered as a condition of parole, a parole officer assigned to a case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. The final review shall be conducted not less than 60 days before the expiration of the parole period. If the parole officer determines that restitution is not being paid as ordered, the parole officer shall file a written report of the violation with the parole board on a form prescribed by the parole board. The report shall

include a statement of the amount of arrearage and any reasons for the arrearage known by the parole officer. The parole board shall immediately provide a copy of the report to the court, the prosecuting attorney, and the victim.

(14) If a parolee is required to register pursuant to the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the parole officer shall register the parolee as provided in that act.

(15) Beginning August 28, 2006, if a parolee convicted of violating or conspiring to violate section 520b or 520c of the Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, other than a parolee who is subject to lifetime electronic monitoring under section 85, is placed on parole, the parole board may require that the parolee be subject to electronic monitoring. The electronic monitoring required under this subsection shall be conducted in the same manner, and shall be subject to the same requirements, as is described in section 85 of this act and section 520n(2) of the Michigan penal code, 1931 PA 328, MCL 750.520n, except as follows:

(a) The electronic monitoring shall continue only for the duration of the term of parole.

(b) A violation by the parolee of any requirement prescribed in section 520n(2)(a) to (c) is a violation of a condition of parole, not a felony violation.

(16) If the parole order contains a condition intended to protect 1 or more named persons, the department shall enter those provisions of the parole order into the corrections management information system, accessible by the law enforcement information network. If the parole board rescinds a parole order described in this subsection, the department within 3 business days shall remove from the corrections management information system the provisions of that parole order.

(17) Each prisoner who is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, before being released on parole or being released upon completion of his or her maximum sentence, shall provide to the department notice of the location of his or her proposed place of residence or domicile. The department then shall forward that notice of location to the appropriate law enforcement agency as required under section 5(2) of the sex offenders registration act, 1994 PA 295, MCL 28.725. A prisoner who refuses to provide notice of the location of his or her proposed place of residence or domicile or knowingly provides an incorrect notice of the location of his or her proposed place of residence or domicile under this subsection is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(18) As used in this section, "violent felony" means an offense against a person in violation of section 82, 83, 84, 86, 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d, 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529, 750.529a, and 750.530.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2006.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5193 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 29, 2006.

Filed with Secretary of State September 29, 2006.

Compiler's note: House Bill No. 5193, referred to in enacting section 2, was filed with the Secretary of State September 29, 2006, and became 2006 PA 402, Eff. Dec. 1, 2006.

[No. 404]

(HB 6135)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 17f of chapter XVII (MCL 777.17f), as added by 2002 PA 28.

The People of the State of Michigan enact:

CHAPTER XVII

777.17f Applicability of chapter to certain felonies; MCL 764.1e to 791.236(17).

Sec. 17f. This chapter applies to the following felonies enumerated in chapters 760 to 799 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
764.1e	Pub trst	C	Peace officer — false statement in a complaint	15
767.4a	Pub trst	F	Disclosing or possessing grand jury information	4
767A.9(1)(a)	Pub trst	C	Perjury committed in prosecutor's investigative hearing — noncapital crime	15
767A.9(1)(b)	Pub trst	B	Perjury committed in prosecutor's investigative hearing — capital crime	Life
791.236(17)	Pub ord	F	Failure to provide correct notice of proposed domicile by sex offender	4

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2006.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5194 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

Compiler's note: House Bill No. 5194, referred to in enacting section 2, was filed with the Secretary of State September 29, 2006, and became 2006 PA 403, Eff. Dec. 1, 2006.

[No. 405]

(HB 5719)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding sections 217g and 217h.

The People of the State of Michigan enact:

750.217g Badge, patch, or uniform of fire department, life support agency, or medical first response service; selling, furnishing, possessing, wearing, exhibiting, or displaying prohibited; exceptions; violation as misdemeanor; penalty; definitions.

Sec. 217g. (1) A person shall not sell, furnish, possess, wear, exhibit, display, or use the badge, patch, or uniform, or facsimile of the badge, patch, or uniform, of any organized fire department, life support agency, or medical first response service unless 1 or more of the following apply:

(a) The person receiving or possessing the badge, patch, uniform, or facsimile is authorized to receive or possess the badge, patch, uniform, or facsimile by the chief officer of the organized fire department, life support agency, or medical first response service.

(b) The person receiving or possessing the badge, patch, uniform, or facsimile is a member of the organized fire department or an employee of the life support agency or medical first response service.

(c) The badge is a retirement badge and is in the possession of the retired member of the organized fire department or retired employee of the life support agency or medical first response service.

(d) The badge, patch, or uniform is the badge, patch, or uniform of a deceased member of the organized fire department or deceased employee of the life support agency or medical first response service and is in the possession of his or her spouse, child, or next of kin.

(e) The person receiving, possessing, exhibiting, displaying, or using the badge, patch, uniform, or facsimile is a collector of badges, patches, uniforms, or facsimiles. A badge, patch, uniform, or facsimile possessed as part of a collection shall be in a container or display case when being transported.

(f) The person is in the theatrical profession and wears the badge, patch, uniform, or facsimile while actually engaged in that profession.

(2) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(3) As used in this section:

(a) "Facsimile" includes both an exact replica of an existing item and a close imitation of an existing item.

(b) "Life support agency" means that term as defined in section 20906 of the public health code, 1978 PA 368, MCL 333.20906.

(c) "Medical first response service" means that term as defined in section 20906 of the public health code, 1978 PA 368, MCL 333.20906.

(d) "Organized fire department" means that term as defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

750.217h Emblem, insignia, logo, service mark, or other identification; wearing or displaying prohibited; violation as misdemeanor; penalty; definitions.

Sec. 217h. (1) A person, other than a member of an organized fire department or an employee of a life support agency or medical first response service, shall not wear or display the emblem, insignia, logo, service mark, or other identification of any organized fire department, life support agency, or medical first response service, or a facsimile of any of those items, if either of the following applies:

(a) The person represents himself or herself to another person as being a member of that organized fire department or an employee of that life support agency or medical first response service.

(b) The wearing or display occurs in a manner that would lead a reasonable person to falsely believe that the organized fire department, life support agency, or medical first response service whose emblem, insignia, logo, service mark, or other identification or facsimile is being worn or displayed is promoting or endorsing a commercial service or product or a charitable endeavor.

(2) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(3) As used in this section:

(a) "Facsimile" includes both an exact replica of an existing item and a close imitation of an existing item.

(b) "Life support agency" means that term as defined in section 20906 of the public health code, 1978 PA 368, MCL 333.20906.

(c) "Medical first response service" means that term as defined in section 20906 of the public health code, 1978 PA 368, MCL 333.20906.

(d) "Organized fire department" means that term as defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

Effective date.
Enacting section 1. This amendatory act takes effect October 1, 2006.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

[No. 406]

(HB 6063)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 18811 and 18821 (MCL 333.18811 and 333.18821), section 18811 as amended by 1982 PA 353 and section 18821 as amended by 1993 PA 79.

The People of the State of Michigan enact:

333.18811 Veterinarian or veterinary technician; license or authorization required; prohibited conduct; use of words, titles, or letters.

Sec. 18811. (1) A person shall not engage in the practice of veterinary medicine unless licensed or otherwise authorized by this article.

(2) After July 1, 1979, an individual shall not practice as a veterinary technician without a license.

(3) A veterinary technician shall not diagnose animal diseases, prescribe medical or surgical treatment, or perform as a surgeon.

(4) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: "veterinary", "veterinarian", "veterinary doctor", "veterinary surgeon", "doctor of veterinary medicine", "v.m.d.", "d.v.m.", "animal technician", or "animal technologist".

333.18821 Michigan board of veterinary medicine; creation; membership; waiver; terms.

Sec. 18821. (1) The Michigan board of veterinary medicine is created in the department and shall consist of the following 9 members who shall meet the requirements of part 161: 5 veterinarians, 1 veterinary technician, and 3 public members. The chief of the animal health division of the department of agriculture is an ex officio member without vote.

(2) The requirement of section 16135(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived until September 30, 1980 for members of the board who are licensed in a health profession subfield created by this part.

(3) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

Compiler's note: House Bill No. 6147, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 392, Imd. Eff. Sept. 27, 2006.

[No. 407]

(HB 6064)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 18705 (MCL 333.18705), as added by 2004 PA 3.

The People of the State of Michigan enact:

333.18705 Michigan board of respiratory care; creation; membership; terms.

Sec. 18705. (1) The Michigan board of respiratory care is created in the department and consists of the following 7 members who meet the requirements of part 161:

(a) Four individuals who meet the requirements of section 16135(2).

(b) One medical director.

(c) Two public members.

(2) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

Compiler's note: House Bill No. 6147, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 392, Imd. Eff. Sept. 27, 2006.

[No. 408]

(HB 6086)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 18411 (MCL 333.18411).

The People of the State of Michigan enact:

333.18411 Use of titles or similar words.

Sec. 18411. A person shall not use the titles "sanitarian", "registered sanitarian", "r.s.", or similar words which indicate that he, she, or it is a registered sanitarian unless the person is registered under this article.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

Compiler's note: House Bill No. 6147, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 392, Imd. Eff. Sept. 27, 2006.

[No. 409]

(HB 6138)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 17211 and 17221 (MCL 333.17211 and 333.17221), section 17221 as amended by 1993 PA 79.

The People of the State of Michigan enact:

333.17211 Practice of nursing or as licensed practical nurse; license or authorization required; use of words, titles, or letters.

Sec. 17211. (1) A person shall not engage in the practice of nursing or the practice of nursing as a licensed practical nurse unless licensed or otherwise authorized by this article.

(2) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: "registered professional nurse", "registered nurse", "r.n.", "licensed practical nurse", "l.p.n.", "nurse midwife", "nurse anesthetist", "nurse practitioner", "trained attendant", and "t.a.".

333.17221 Michigan board of nursing; creation; number and qualifications of members; terms.

Sec. 17221. (1) The Michigan board of nursing is created in the department and shall consist of the following 23 voting members who shall meet the requirements of part 161: 9 registered professional nurses, 1 nurse midwife, 1 nurse anesthetist, 1 nurse practitioner, 3 licensed practical nurses, and 8 public members. Three of the registered professional nurse members shall be engaged in nursing education, 1 of whom shall be in less than a baccalaureate program, 1 in a baccalaureate or higher program and 1 in a licensed practical nurse program and each of whom shall have a master's degree from an accredited college with a major in nursing. Three of the registered professional nurse members shall be engaged in nursing practice or nursing administration, each of whom shall have a baccalaureate degree in nursing from an accredited college. Three of the registered professional nurse members shall be engaged in nursing practice or nursing administration, each of whom shall be a nonbaccalaureate registered nurse. The 3 licensed practical nurse members shall have graduated from a state approved program for the preparation of individuals to practice as licensed practical nurses. The nurse midwife, the nurse anesthetist, and the nurse practitioner shall each have a specialty certification issued by the department in his or her respective specialty field.

(2) The terms of office of individual members of the board created under this part, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

Compiler's note: House Bill No. 6147, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 392, Imd. Eff. Sept. 27, 2006.

[No. 410]

(HB 6139)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health

maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 17411 and 17421 (MCL 333.17411 and 333.17421), section 17421 as amended by 1993 PA 79.

The People of the State of Michigan enact:

333.17411 Practice of optometry; authorization required; use of words, titles, or letters.

Sec. 17411. (1) A person shall not engage in the practice of optometry except as authorized by this article.

(2) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed by this part: "doctor of optometry", "optometrist", and "o.d.".

333.17421 Michigan board of optometry; creation; membership; terms.

Sec. 17421. (1) The Michigan board of optometry is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 optometrists and 4 public members.

(2) The terms of office of individual members of the board created under subsection (1), except those appointed to fill vacancies, expire 4 years after the appointment on June 30 of the year in which the term expires.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

Compiler's note: House Bill No. 6147, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 392, Imd. Eff. Sept. 27, 2006.

[No. 411]

(HB 6140)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health;

to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 16803 and 16805 (MCL 333.16803 and 333.16805), as added by 2004 PA 97.

The People of the State of Michigan enact:

333.16803 Practice of audiology; license required; use of words, titles, or letters.

Sec. 16803. (1) Beginning September 4, 2004 and except as otherwise provided in section 16807, an individual shall not engage in the practice of audiology unless licensed or otherwise authorized by this article.

(2) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those individuals authorized under this part to use the following terms and in a way prescribed in this part: "audiometrist", "audiologist", "hearing therapist", "hearing aid audiologist", "educational audiologist", "industrial audiologist", and "clinical audiologist".

333.16805 Michigan board of audiology; creation; membership; terms of office.

Sec. 16805. (1) The Michigan board of audiology is created within the department. The board consists of the following 9 voting members who meet the requirements of part 161:

(a) Five audiologists. The members initially appointed under this subdivision shall meet the requirements of section 16135.

(b) Two members shall be persons licensed to practice medicine or osteopathic medicine and surgery who hold a certificate of qualification from the American board of otolaryngology.

(c) Two public members, neither of whom is an audiologist or physician or has family or financial ties to an audiologist or physician.

(2) The terms of office of individual members of the board created under subsection (1), except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term will expire.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

Compiler's note: House Bill No. 6147, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 392, Imd. Eff. Sept. 27, 2006.

[No. 412]

(SB 848)

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

reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding section 3426.

The People of the State of Michigan enact:

500.3426 Offer of wellness coverage by insurer.

Sec. 3426. (1) Each insurer providing a group expense-incurred hospital, medical, or surgical certificate delivered, issued for delivery, or renewed in this state and each health maintenance organization may offer group wellness coverage. Wellness coverage may provide for an appropriate rebate or reduction in premiums or for reduced copayments, coinsurance, or deductibles, or a combination of these incentives, for participation in any health behavior wellness, maintenance, or improvement program offered by the employer. The employer shall provide evidence of demonstrative maintenance or improvement of the insureds' or enrollees' health behaviors as determined by assessments of agreed-upon health status indicators between the employer and the health insurer or health maintenance organization. Any rebate of premium provided by the health insurer or health maintenance organization is presumed to be appropriate unless credible data demonstrate otherwise, but shall not exceed 10% of paid premiums. Each insurer and each health maintenance organization shall make available to employers all wellness coverage plans that the insurer or health maintenance organization markets to employers in this state.

(2) Each insurer providing an individual or family expense-incurred hospital, medical, or surgical policy delivered, issued for delivery, or renewed in this state and each health maintenance organization may offer individual and family wellness coverage. Wellness coverage may provide for an appropriate rebate or reduction in premiums or for reduced copayments, coinsurance, or deductibles, or a combination of these incentives, for participation in any health behavior wellness, maintenance, or improvement program approved by the insurer or health maintenance organization. The insured or enrollee shall provide evidence of demonstrative maintenance or improvement of the individual's or family's health behaviors as determined by assessments of agreed-upon health status indicators between the insured or enrollee and the health insurer or health maintenance organization. Any rebate of premium provided by the health insurer or health maintenance organization is presumed to be appropriate unless credible data demonstrate otherwise, but shall not exceed 10% of paid premiums. Each insurer and each health maintenance organization shall make available to individuals and families all wellness coverage plans that the insurer or health maintenance organization markets to individuals and families in this state.

(3) An insurer and a health maintenance organization are not required to continue any health behavior wellness, maintenance, or improvement program or to continue any incentive associated with a health behavior wellness, maintenance, or improvement program.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2007.

Intent of amendatory act.

Enacting section 2. It is only the intent of this amendatory act to promote the availability of health behavior wellness, maintenance, and improvement programs.

Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

[No. 413]

(SB 849)

AN ACT to amend 1980 PA 350, entitled "An act to provide for the incorporation of nonprofit health care corporations; to provide their rights, powers, and immunities; to prescribe the powers and duties of certain state officers relative to the exercise of those rights, powers, and immunities; to prescribe certain conditions for the transaction of business by those corporations in this state; to define the relationship of health care providers to nonprofit health care corporations and to specify their rights, powers, and immunities with respect thereto; to provide for a Michigan caring program; to provide for the regulation and supervision of nonprofit health care corporations by the commissioner of insurance; to prescribe powers and duties of certain other state officers with respect to the regulation and supervision of nonprofit health care corporations; to provide for the imposition of a regulatory fee; to regulate the merger or consolidation of certain corporations; to prescribe an expeditious and effective procedure for the maintenance and conduct of certain administrative appeals relative to provider class plans; to provide for certain administrative hearings relative to rates for health care benefits; to provide for certain causes of action; to prescribe penalties and to provide civil fines for violations of this act; and to repeal certain acts and parts of acts," (MCL 550.1101 to 550.1704) by adding section 414b.

The People of the State of Michigan enact:

550.1414b Offer of wellness coverage by health care corporation.

Sec. 414b. (1) A health care corporation may offer group wellness coverage. Wellness coverage may provide for an appropriate rebate or reduction in premiums or for reduced copayments, coinsurance, or deductibles, or a combination of these incentives, for participation in any health behavior wellness, maintenance, or improvement program offered by the employer. The employer shall provide evidence of demonstrative maintenance or improvement of the members' health behaviors as determined by assessments of agreed-upon health status indicators between the employer and the health care corporation. Any rebate or premium provided by the health care corporation is presumed to be appropriate unless credible data demonstrate otherwise, but shall not exceed 10% of paid premiums. A health care corporation shall make available to employers all wellness coverage plans that it markets to employers in this state.

(2) A health care corporation may offer nongroup wellness coverage. Wellness coverage may provide for an appropriate rebate or reduction in premiums or for reduced copayments, coinsurance, or deductibles, or a combination of these incentives, for participation in any health behavior wellness, maintenance, or improvement program approved by the health care corporation. The member shall provide evidence of demonstrative maintenance or improvement of the individual's or family's health behaviors as determined by assessments of agreed-upon health status indicators between the member and the health care corporation. Any rebate of premium provided by the health care corporation is presumed to be appropriate unless credible data demonstrate otherwise, but shall not exceed 10% of paid premiums. A health care corporation shall make available to individuals all wellness coverage plans that it markets to individuals in this state.

(3) A health care corporation is not required to continue any health behavior wellness, maintenance, or improvement program or to continue any incentive associated with a health behavior wellness, maintenance, or improvement program.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2007.

Intent of amendatory act.

Enacting section 2. It is only the intent of this amendatory act to promote the availability of health behavior wellness, maintenance, and improvement programs.

Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

[No. 414]

(SB 1016)

AN ACT to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 2601, 2605, 2607, 2617, 2619, 2627, 2633, 2635, and 2637 (MCL 339.2601, 339.2605, 339.2607, 339.2617, 339.2619, 339.2627, 339.2633, 339.2635, and 339.2637), as amended by 1999 PA 170, and by adding section 2610; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

339.2601 Definitions.

Sec. 2601. As used in this article:

(a) "Appraisal" means an opinion, conclusion, or analysis relating to the value of real property but does not include any of the following:

(*i*) A market analysis performed by a person licensed under article 25 solely for the purpose of assisting a customer or potential customer in determining the potential sale, purchase, or listing price of real property or the rental rate of real property as long as a fee or any other valuable consideration is not charged for that analysis.

(*ii*) A market analysis of real property for a fee performed by a broker or associate broker licensed under article 25 which does not involve a federally related transaction if the market analysis is put in writing and it states in boldface print "This is a market analysis, not an appraisal and was prepared by a licensed real estate broker or associate broker, not a licensed appraiser.". Failure to do so results in the individual being subject to the penalties set forth in article 6.

(*iii*) An assessment of the value of real property performed on behalf of a local unit of government authorized to impose property taxes when performed by an assessor certified under section 10d of the general property tax act, 1893 PA 206, MCL 211.10d, or an individual employed in an assessing capacity.

(b) "AQB criteria" means the criteria established by the appraiser qualifications board of the appraisal foundation or as adopted by rule of the director. Until January 1, 2008, AQB criteria means the criteria entitled "Real Property Appraiser Qualification Criteria and Interpretation of the Criteria", adopted by the appraiser qualifications board on February 16, 1994, effective January 1, 1998, and as revised and effective January 1, 2003. Beginning January 1, 2008, AQB criteria means the criteria entitled "Real Property

Appraiser Qualification Criteria and Interpretation of the Criteria", adopted by the appraiser qualifications board on February 20, 2004, effective January 1, 2008.

(c) "Appraiser" means an individual engaged in or offering to engage in the development and communication of an appraisal.

(d) "Certified general real estate appraiser" means an individual who is licensed under section 2610 to appraise all types of real property, including nonresidential real property involving federally related transactions and real estate related financial transactions.

(e) "Certified residential real estate appraiser" means an individual who is licensed under section 2610 to appraise all types of residential real property involving real estate related financial transactions and federally related transactions as authorized by the regulations of a federal financial institution regulatory agency and resolution trust corporation as well as any nonresidential, nonfederally related transaction for which the individual is qualified.

(f) "Federal financial institution regulatory agency" means the board of governors of the federal reserve system, the federal deposit insurance corporation, the office of the comptroller of the currency, the office of thrift supervision, or the national credit union administration.

(g) "Federally related transaction" means any real estate related financial transaction that a federal financial institution regulatory agency engages in, contracts for, or regulates and that requires the services of an appraiser under any of the following:

(*i*) 12 CFR part 323, adopted by the federal deposit insurance corporation.

(*ii*) 12 CFR parts 208 and 225, adopted by the board of governors of the federal reserve system.

(*iii*) 12 CFR parts 701, 722, and 741, adopted by the national credit union administration.

(*iv*) 12 CFR part 34, adopted by the office of the comptroller of the currency.

(*v*) 12 CFR parts 506, 545, 563, 564, and 571, adopted by the office of thrift supervision.

(h) "Limited real estate appraiser" means an individual meeting the AQB criteria for appraiser trainee and licensed under section 2610 to perform appraisals of real property not involving real estate related financial transactions or federally related transactions that require the services of a state licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser.

(i) "Real estate related financial transaction" means any of the following:

(*i*) A sale, lease, purchase, investment in, or exchange of real property or the financing of real property.

(*ii*) A refinancing of real property.

(*iii*) The use of real property as security for a loan or investment, including mortgage-backed securities.

(j) "Real property" means an identified tract or parcel of land, including improvements on that land, as well as any interests, benefits, or rights inherent in the land.

(k) "Residential real property" means real property used as a residence containing a dwelling that has not more than 4 living units.

(*l*) "State licensed real estate appraiser" means an individual who is licensed under section 2610 to appraise real property, including, but not limited to, residential and nonresidential real property involving federally related transactions and real estate related financial transactions.

(m) "Uniform standards of professional appraisal practice" means those standards relating to real property adopted by the appraisal foundation on March 31, 1999, or as adopted by rule of the director.

339.2605 Uniform standards of professional appraisal practice; rules; use of AQB criteria.

Sec. 2605. (1) At a minimum and subject to subsection (2), licensees under this article shall utilize the uniform standards of professional appraisal practice.

(2) The director may supplement or adopt by reference any amendments to the uniform standards of professional appraisal practice through the promulgation of rules if the director determines that the amendments or supplemental standards serve as a basis for the competent development and communication of an appraisal and are not in conflict with federal requirements.

(3) The director through promulgation of a rule may supplement or adopt by reference any changes promulgated by a federal financial institution regulatory agency relative to standards for a federally related transaction.

(4) The department shall utilize the AQB criteria regarding education, examination, and experience for licensure under this article. The AQB criteria are adopted by reference. The department may, by promulgation of a rule by the director, supplement or amend the standards by adoption of a stricter standard that is otherwise in compliance with the minimum AQB criteria in effect or by adoption of subsequent amendments to that standard adopted by the appraiser qualification board of the appraisal foundation.

339.2607 Prohibited representations; definitions; authorized appraisals.

Sec. 2607. (1) A person shall not act as or offer to act as an appraiser unless licensed under this article or exempt from licensure under this article.

(2) An individual shall not represent himself or herself to be a state licensed real estate appraiser, a certified general real estate appraiser, a certified residential real estate appraiser, or a limited real estate appraiser unless that individual is licensed under this article in the appropriate capacity.

(3) The terms "state licensed real estate appraiser", "certified general real estate appraiser", "certified residential real estate appraiser", or "limited real estate appraiser" or any similar term tending to connote licensure under this article shall refer only to an individual licensed under this article and shall not refer to or be used in connection with the name or signature of a person that is not an individual licensed under this article.

(4) An individual licensed as a certified general real estate appraiser may perform the appraisal of real property of any type or value, including appraisals required for federally related transactions and real estate related financial transactions.

(5) An individual licensed as a certified residential real estate appraiser may perform the appraisal of residential real property and any other residential or nonresidential appraisal required for a federally related transaction for which a certified residential real estate appraiser is authorized under sections 1113 and 1114 of title XI of the financial institutions reform, recovery, and enforcement act of 1989, Public Law 101-73, 12 USC 3342 and 3343, real estate related financial transactions, and any nonfederally related transaction for which the licensee is qualified.

(6) An individual licensed as a state licensed real estate appraiser may independently perform the appraisal of residential real property and any other residential or nonresidential appraisal required for a federally related transaction for which a state licensed real estate appraiser is authorized under title XI of the financial institutions reform, recovery,

and enforcement act of 1989, Public Law 101-73, 12 USC 3342 and 3343, real estate related financial transactions, and any nonfederally related transaction for which the licensee is qualified.

(7) An individual licensed as a limited real estate appraiser may perform independently only those appraisals related to transactions not requiring, under federal law or regulations, the services of a state licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser. The appraisal must contain the supervisory signature of the state licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser and must also contain the signature of the limited real estate appraiser only where the appraisal is performed by the limited real estate appraiser under the provisions of this subsection.

339.2610 Licensure as limited real estate appraiser, state licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser.

Sec. 2610. The department shall license as a limited real estate appraiser, a state licensed real estate appraiser, a certified residential real estate appraiser, or a certified general real estate appraiser an individual who is at least 18 years of age, is of good moral character, and provides proof of having completed the minimum education, examination, and experience requirements contained in the AQB criteria for the appropriate license category.

339.2617 Rules regulating educational courses; courses; compliance with AQB criteria.

Sec. 2617. (1) The director may promulgate rules regulating the offering of educational courses required under this article, including the type and conditions of instruction, the qualification of instructors, the methods of grading, the means of monitoring and reporting attendance, and the representations made by course sponsors.

(2) All educational courses required under this article shall be courses offered by 1 of the following:

(a) An institution of higher education authorized to grant degrees, being a college, university, or community or junior college.

(b) A private school licensed by the department of education under 1943 PA 148, MCL 395.101 to 395.103, or authorized to operate in any other state or jurisdiction.

(c) A state or federal agency or commission.

(d) A nonprofit association related to real property or real property appraisal.

(3) Educational courses required for licensure under this article shall comply with AQB criteria.

339.2619 Appraiser qualification board endorsed uniform real property appraiser examination; equivalent; validity of scores.

Sec. 2619. (1) Except as otherwise provided in section 2623, an individual seeking licensure under this article as a state licensed real estate appraiser, certified general real estate appraiser, or certified residential real estate appraiser shall first successfully pass the appraiser qualification board endorsed uniform real property appraiser examination or its equivalent as appropriate to the level of licensure sought and that is acceptable to the board and the department.

(2) The board and department may adopt an examination prepared or approved by a professional entity or organization including, but not limited to, the appraisal qualification

board if the department and the board determine that the examination serves as a basis for determining whether an individual has the knowledge and skills to perform with competence.

(3) Examination scores are considered valid for 2 years from the date of the examination.

339.2627 Continuing education requirements.

Sec. 2627. As a condition for the renewal of licensure as a limited real estate appraiser, a certified general real estate appraiser, a certified residential real estate appraiser, or a state licensed real estate appraiser, a licensee shall complete the minimum continuing education requirements described in the AQB criteria.

339.2633 Duties of licensee.

Sec. 2633. A licensee shall do all of the following:

(a) Include, in any appraisal or report provided to a client, the following statement: "Appraisers are required to be licensed and are regulated by the Michigan Department of Labor and Economic Growth, P.O. Box 30018, Lansing, Michigan 48909.".

(b) Maintain an actual place of business whose address shall be used as the licensee address and in all advertising.

(c) Maintain a system of books and records open to the department upon request during normal business hours. The books and records shall be maintained in accordance with the uniform standards of professional appraisal practice, the requirements of this article, and any requirements imposed by rules promulgated under this article. The books and records shall show all appraisals undertaken by name of client and the address or description of the property appraised. In addition, applicants for licensure as a state licensed real estate appraiser, a certified residential real estate appraiser, or a certified general real estate appraiser must also provide an appraisal log that includes, at a minimum, the documentation or data required to be kept under the AQB criteria.

(d) Advertise only the services authorized to be rendered according to the type of license issued and only in the name and address under which the individual is licensed. The licensee shall indicate on every appraisal report the license number and level of licensure.

339.2635 Prohibited conduct; penalties.

Sec. 2635. A licensee who does 1 or more of the following shall be subject to the penalties set forth in article 6:

(a) Violates any of the standards for the development and communication of real property appraisals as provided in this article or a rule promulgated pursuant to this article.

(b) Fails or refuses without good cause to exercise reasonable diligence in developing or communicating an appraisal.

(c) Demonstrates incompetence in developing or communicating an appraisal.

(d) Fails to make available to the department upon request or fails to maintain books and records required under this article.

(e) Performs, attempts to perform, or offers to perform appraisal services for which the individual is not licensed under this article.

(f) Aids or abets another to commit a violation of this act or the rules promulgated under this act.

(g) Uses the license of another individual or knowingly allows another individual to use his or her license.

(h) If a limited real estate appraiser fails to disclose to the client, before making an appraisal, that the licensee's appraisal cannot be used in a federally related transaction.

339.2637 List of licensees; remittance of fee.

Sec. 2637. Not less than monthly, the department shall compile a list of certified general real estate appraiser, certified residential real estate appraiser, and state licensed real estate appraiser licensees under this article, provide it to the appraisal subcommittee of the federal financial institutions examination council as required by section 1109 of the financial institutions reform, recovery, and enforcement act of 1989, Public Law 101-73, 12 USC 3338, and remit the appropriate fee for each year the individual is licensed under section 38 of the state license fee act, 1979 PA 152, MCL 338.2238.

Repeal of MCL 339.2611, 339.2613, 339.2614, 339.2615, and 339.2621.

Enacting section 1. Sections 2611, 2613, 2614, 2615, and 2621 of the occupational code, 1980 PA 299, MCL 339.2611, 339.2613, 339.2614, 339.2615, and 339.2621, are repealed.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

[No. 415]

(HB 4431)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 316 (MCL 750.316), as amended by 2004 PA 58.

The People of the State of Michigan enact:

750.316 First degree murder; penalty; definitions.

Sec. 316. (1) A person who commits any of the following is guilty of first degree murder and shall be punished by imprisonment for life:

(a) Murder perpetrated by means of poison, lying in wait, or any other willful, deliberate, and premeditated killing.

(b) Murder committed in the perpetration of, or attempt to perpetrate, arson, criminal sexual conduct in the first, second, or third degree, child abuse in the first degree, a major controlled substance offense, robbery, carjacking, breaking and entering of a dwelling, home invasion in the first or second degree, larceny of any kind, extortion, kidnapping, vulnerable adult abuse in the first and second degree under section 145n, torture under section 85, or aggravated stalking under section 411i.

(c) A murder of a peace officer or a corrections officer committed while the peace officer or corrections officer is lawfully engaged in the performance of any of his or her duties as a peace officer or corrections officer, knowing that the peace officer or corrections officer is a peace officer or corrections officer engaged in the performance of his or her duty as a peace officer or corrections officer.

(2) As used in this section:

(a) "Arson" means a felony violation of chapter X.

(b) "Corrections officer" means any of the following:

(*i*) A prison or jail guard or other prison or jail personnel.

(*ii*) Any of the personnel of a boot camp, special alternative incarceration unit, or other minimum security correctional facility.

(*iii*) A parole or probation officer.

(c) "Major controlled substance offense" means any of the following:

(*i*) A violation of section 7401(2)(a)(*i*) to (*iii*) of the public health code, 1978 PA 368, MCL 333.7401.

(*ii*) A violation of section 7403(2)(a)(*i*) to (*iii*) of the public health code, 1978 PA 368, MCL 333.7403.

(*iii*) A conspiracy to commit an offense listed in subparagraph (*i*) or (*ii*).

(d) "Peace officer" means any of the following:

(*i*) A police or conservation officer of this state or a political subdivision of this state.

(*ii*) A police or conservation officer of the United States.

(*iii*) A police or conservation officer of another state or a political subdivision of another state.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2006.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

[No. 416]

(HB 5672)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the

implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 17766 (MCL 333.17766), as amended by 2004 PA 329, and by adding section 17780.

The People of the State of Michigan enact:

333.17766 Additional conduct constituting misdemeanor.

Sec. 17766. Except as provided in sections 17766d and 17780, a person who does any of the following is guilty of a misdemeanor:

(a) Obtains or attempts to obtain a prescription drug by giving a false name to a pharmacist or other authorized seller, prescriber, or dispenser.

(b) Obtains or attempts to obtain a prescription drug by falsely representing that he or she is a lawful prescriber, dispenser, or licensee, or acting on behalf of a lawful prescriber, dispenser, or licensee.

(c) Falsely makes, utters, publishes, passes, alters, or forges a prescription.

(d) Knowingly possesses a false, forged, or altered prescription.

(e) Knowingly attempts to obtain, obtains, or possesses a drug by means of a prescription for other than a legitimate therapeutic purpose, or as a result of a false, forged, or altered prescription.

(f) Possesses or controls for the purpose of resale, or sells, offers to sell, dispenses, or gives away, a drug, pharmaceutical preparation, or chemical that has been dispensed on prescription and has left the control of a pharmacist.

(g) Possesses or controls for the purpose of resale, or sells, offers to sell, dispenses, or gives away, a drug, pharmaceutical preparation, or chemical that has been damaged by heat, smoke, fire, water, or other cause and is unfit for human or animal use.

(h) Prepares or permits the preparation of a prescription drug, except as delegated by a pharmacist.

(i) Sells a drug in bulk or in an open package at auction, unless the sale has been approved in accordance with rules of the board.

333.17780 Cancer drug repository program.

Sec. 17780. (1) The board shall establish and maintain a cancer drug repository program that would allow a person to donate a cancer drug or supply for use by an individual who meets the eligibility criteria specified under subsection (7). The board shall establish program guidelines, policies, and procedures addressing the cancer drug repository program. Under the cancer drug repository program, donations may be made on the premises of a health facility or pharmacy that elects to participate in the program and meets the requirements specified under subsection (2).

(2) Any health facility or pharmacy that is licensed and in compliance with all federal and state laws, rules, and regulations is eligible to participate in the cancer drug repository program. Participation in the cancer drug repository program is voluntary and a pharmacy or health facility may withdraw from participation in the cancer drug repository program at any time upon notification to the board. A notice to withdraw from participation may be given by telephone or regular mail. A pharmacy or health facility may choose to fully participate in the cancer drug repository program by accepting, storing, and dispensing or administering donated drugs and supplies or the pharmacy or health facility may limit its participation to only accepting and storing donated drugs and supplies. If a pharmacy or

health facility chooses to limit its participation, the pharmacy or health facility shall distribute any donated drugs to a fully participating cancer drug repository in accordance with subsection (8). A pharmacy or health facility that elects to participate in the cancer drug repository program shall submit the following information to the board in a form provided by the board that includes, at a minimum, each of the following:

(a) The name, street address, and telephone number of the pharmacy or health facility.

(b) The name and telephone number of a pharmacist who is employed by or under contract with the pharmacy or health facility, or other contact person who is familiar with the pharmacy's or health facility's participation in the cancer drug repository program.

(c) A statement indicating that the pharmacy or health facility is licensed in this state and in compliance with all federal and state laws, rules, and regulations and the chosen level of participation in the cancer drug repository program.

(3) An individual who is at least 18 years of age may donate legally obtained cancer drugs or supplies to a cancer drug repository. If the donated drugs have not been previously dispensed, a pharmacy, health facility, manufacturer, or wholesale distributor may also donate cancer drugs or supplies to a cancer drug repository. Donated drugs or supplies are acceptable for donation if they are determined to be eligible by a pharmacist who is employed by or under contract with a cancer drug repository as follows:

(a) A cancer drug is eligible for donation under the cancer drug repository program only if all of the following requirements are met:

(*i*) The donation is accompanied by a cancer drug repository donor form that is provided by the board and states that to the best of the donor's knowledge the donated drug has been properly stored and that the drug has never been opened, used, tampered with, adulterated, or misbranded. The board shall make the cancer drug repository donor form available on the board's website. The form shall be signed by the person making the donation or that person's authorized representative.

(*ii*) The drug's expiration date is at least 6 months later than the date the drug was donated.

(*iii*) The drug is in its original, unopened, tamper-evident unit dose packaging that includes the drug's lot number and expiration date. Single unit dose drugs may be accepted if the single unit dose packaging is unopened.

(*iv*) The drug is not adulterated or misbranded.

(b) Cancer supplies are eligible for donation under the cancer drug repository program only if all of the following requirements are met:

(*i*) The supplies are not adulterated or misbranded.

(*ii*) The supplies are in their original, unopened, sealed package.

(*iii*) The donation is accompanied by a cancer drug repository donor form that is provided by the board and states that to the best of the donor's knowledge the donated supply has been properly stored and that the supply has never been opened, used, tampered with, adulterated, or misbranded. The board shall make the cancer drug repository donor form available on the board's website. The form shall be signed by the person making the donation or that person's authorized representative.

(4) Controlled substances are not eligible for donation or acceptance under the cancer drug repository program. Cancer drugs and supplies that do not meet the criteria described under subsection (3) are not eligible for donation or acceptance under the cancer drug repository program. Cancer drugs and supplies may be donated on the premises of a cancer drug repository to a pharmacist designated by the repository. A drop box shall not be used to deliver

or accept donations. Cancer drugs and supplies donated under the cancer drug repository program shall be stored in a secure storage area under environmental conditions appropriate for the drugs or supplies being stored. Donated drugs and supplies may not be stored with nondonated inventory.

(5) Cancer drugs and supplies that are donated under the cancer drug repository program shall be dispensed by a pharmacist pursuant to a prescription by a prescriber or may be dispensed or administered by a dispensing prescriber. The cancer drugs and supplies shall be visually inspected by the pharmacist or dispensing prescriber before being dispensed or administered for adulteration, misbranding, and date of expiration. Cancer drugs or supplies that have expired or appear upon visual inspection to be adulterated, misbranded, or tampered with in any way may not be dispensed or administered.

(6) Before a cancer drug or supply may be dispensed or administered to an individual, the individual must provide verification that he or she has a current diagnosis of cancer, provide proof of his or her insurance, if any, and sign a cancer drug repository recipient form provided by the board acknowledging that the individual understands the information stated on the form. The form shall be made available to the public on the board's website. The form shall include, at a minimum, the following information:

(a) That the drug or supply being dispensed or administered has been donated and may have been previously dispensed.

(b) That a visual inspection has been conducted by the pharmacist or dispensing prescriber to ensure that the drug has not expired, has not been adulterated or misbranded, and is in its original, unopened packaging.

(c) That the pharmacist, the dispensing or administering prescriber, the cancer drug repository, the board, and any other participant of the cancer drug repository program cannot guarantee the safety of the drug or supply being dispensed or administered and that the pharmacist or prescriber has determined that the drug or supply is safe to dispense or administer based on the accuracy of the donor's form submitted with the donated drug or supply and the visual inspection required to be performed by the pharmacist or prescriber before dispensing or administering.

(7) Any resident of this state who is diagnosed with cancer is eligible to receive drugs or supplies under the cancer drug repository program. Cancer drugs and supplies donated under the cancer drug repository program shall not be resold and shall only be dispensed or administered to residents of this state who are diagnosed with cancer. A pharmacist who dispenses those drugs and supplies donated under the cancer drug repository program shall not submit a claim or otherwise seek reimbursement from any public or private third party payer for drugs or supplies dispensed to any eligible individual in accordance with the program, nor shall a public or private third party payer be required to provide reimbursement for donated drugs or supplies dispensed by a pharmacist to an eligible individual in accordance with the program. Cancer drugs and supplies dispensed under the cancer drug repository program shall be dispensed in the following order of priority:

(a) Individuals who are uninsured or do not have insurance coverage for those cancer drugs or supplies.

(b) Individuals who are enrolled in medicaid, medicare, or any other public assistance health care program.

(c) All other individuals who are residents of this state and diagnosed with cancer.

(8) A cancer drug repository may charge the individual receiving a drug or supply a handling fee of not more than 250% of the medicaid dispensing fee or $5.00, whichever is less, for each cancer drug or supply dispensed or administered. Cancer drug repositories

may distribute drugs and supplies donated under the cancer drug repository program to other repositories if requested by a participating repository. A cancer drug repository that has elected not to dispense donated drugs or supplies shall distribute any donated drugs and supplies to a participating repository upon request of the repository. If a cancer drug repository distributes drugs or supplies to another participating repository, the repository shall complete a cancer drug repository donor form provided by the board. The completed form and copy of the donor form that was completed by the original donor under subsection (3) shall be provided to the fully participating cancer drug repository at the time of distribution.

(9) Cancer drug repository donor and recipient forms shall be maintained for at least 5 years. A record of destruction of donated drugs and supplies that are not dispensed under subsection (7) shall be maintained by the dispensing repository for at least 5 years. For each drug or supply destroyed, the record shall include the following information:

(a) The date of destruction.

(b) The name, strength, and quantity of the cancer drug destroyed.

(c) The name of the person or firm that destroyed the drug.

(d) The source of the drugs or supplies destroyed.

(10) A manufacturer is not subject to criminal liability or liability in tort or other civil action for injury, death, or loss to a person or to property for any of the following causes of action:

(a) The intentional or unintentional adulteration or misbranding of the drug or supply by a party not under the control of the manufacturer.

(b) The failure of a party not under the control of the manufacturer to transfer or communicate product or consumer information or the expiration date of the donated drug or supply.

(c) Claims for payment to government or private payers.

(11) A health facility or pharmacy participating in the cancer drug repository program, a pharmacist dispensing a drug or supply pursuant to the program, a prescriber dispensing or administering a drug or supply pursuant to the program, or a donor of a cancer drug or supply is immune from civil liability for an act or omission that causes injury to or the death of an individual to whom the cancer drug or supply is dispensed and no disciplinary action shall be taken against a pharmacist or prescriber as long as the drug or supply is donated, accepted, distributed, and dispensed according to the requirements of this section. This immunity does not apply if the act or omission involves reckless, wanton, or intentional misconduct, or malpractice unrelated to the quality of the cancer drug or supply.

(12) As used in this section:

(a) "Cancer drug" means a prescription drug that is used to treat either of the following:

(*i*) Cancer or the side effects of cancer.

(*ii*) The side effects of any prescription drug that is used to treat cancer or the side effects of cancer.

(b) "Cancer drug repository" means a health facility or pharmacy that has notified the board of its election to participate in the cancer drug repository program.

(c) "Cancer supply" or "supplies" means prescription and nonprescription cancer supplies needed to administer a cancer drug.

(d) "Distribute" means to deliver, other than by administering or dispensing.

(e) "Donor" means an individual and not a manufacturer or wholesale distributor who donates a cancer drug or supply according to the requirements of the cancer drug repository program.

(f) "Health facility" means a facility licensed in accordance with article 17 as a county medical care facility, freestanding surgical outpatient facility, home for the aged, hospital, hospital long-term care unit, nursing home, and hospice.

(g) "Side effects of cancer" means symptoms of cancer.

(h) "Single unit dose packaging" means a single unit container for articles intended for administration as a single dose, direct from the container.

(i) "Tamper-evident unit dose packaging" means a container within which a drug is sealed so that the contents cannot be opened without obvious destruction of the seal.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

[No. 417]

(SB 877)

AN ACT to establish safety and security practices for certain persons involved in the retail or wholesale sale or use of certain fertilizers; and to provide certain powers and duties for certain state agencies.

The People of the State of Michigan enact:

286.771 Short title.

Sec. 1. This act shall be known and may be cited as the "anhydrous ammonia security act".

286.773 Definitions.

Sec. 3. As used in this act:

(a) "AASSPs" means anhydrous ammonia safety and security practices established by the commission under section 5.

(b) "Anhydrous ammonia" means an inorganic compound that consists of 1 nitrogen atom and 3 hydrogen atoms and has a chemical formula of NH_3. Anhydrous ammonia is ammonia gas in a compressed or liquefied form but is not aqueous ammonia, which is a solution of ammonia gas in water.

(c) "Commission" means the commission of agriculture.

(d) "End user" means the person actually using anhydrous ammonia for a legal purpose.

(e) "Seller" means a person selling anhydrous ammonia at wholesale or retail to an end user for a legal purpose.

286.775 AASSPs; issuance by commission; safe and secure storage practices; consideration to information and recommendations.

Sec. 5. (1) Within 6 months after the effective date of this act, the commission shall issue AASSPs regarding the security of anhydrous ammonia in the possession of sellers and end users in this state. In addition to any other practices included, the AASSPs shall

provide that both of the following, either separately or in combination as the commission determines advisable, constitute safe and secure storage practices for anhydrous ammonia:

(a) Storage in a tank that is properly equipped with a functioning tank or valve lock that is used at all times except when the seller or end user is taking anhydrous ammonia from the tank or filling the tank.

(b) Storage with a substance added to the anhydrous ammonia that is or that contains a dye that will, on release from the container that holds the anhydrous ammonia, stain objects that it comes in contact with, including skin and clothing, in a highly visible manner.

(2) In establishing the AASSPs, the commission shall give due consideration to available department of agriculture information and written recommendations from the Michigan state university college of agriculture and natural resources extension, the department of state police, local law enforcement agencies, anhydrous ammonia manufacturers, retailers, and end users, and other professional and industry organizations.

Conditional effective date.

Enacting section 1. This act does not take effect unless House Bill No. 4108 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 29, 2006.

Filed with Secretary of State September 29, 2006.

Compiler's note: House Bill No. 4108, referred to in enacting section 1, was filed with the Secretary of State September 29, 2006, and became 2006 PA 418, Imd. Eff. Sept. 29, 2006.

[No. 418]

(HB 4108)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9947) by adding section 2976.

The People of the State of Michigan enact:

600.2976 Seller or end user who stores, secures, uses, transports, or protects anhydrous ammonia; immunity from tort liability; applicability; definitions.

Sec. 2976. (1) A seller or end user who stores, secures, uses, transports, or protects anhydrous ammonia in compliance with AASSPs is immune from tort liability for injury to a person, damage to property, or death that results from the larceny or attempted larceny of anhydrous ammonia, or from a person obtaining or using, or attempting to obtain or use, anhydrous ammonia in a manner contrary to law. The immunity from tort liability

under this subsection includes immunity from liability for an injury to, damage to the property of, or the death of a person who is not the person committing or attempting to commit a larceny of, or obtaining, using, or attempting to obtain or use, anhydrous ammonia in a manner contrary to law.

(2) Failure of a seller or end user to store, secure, use, transport, or protect anhydrous ammonia in compliance with AASSPs does not, by itself, create tort liability for injury to person, damage to property, or death caused by the storing, securing, using, transporting, or protecting of anhydrous ammonia.

(3) This section applies to a cause of action that accrues after the effective date of the amendatory act that added this section and after AASSPs are established under section 5 of the anhydrous ammonia security act.

(4) As used in this section, "AASSPs", "anhydrous ammonia", "end user", and "seller" mean those terms as defined in section 3 of the anhydrous ammonia security act.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 877 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

Compiler's note: Senate Bill No. 877, referred to in enacting section 1, was filed with the Secretary of State September 29, 2006, and became 2006 PA 417, Imd. Eff. Sept. 29, 2006.

[No. 419]

(HB 4086)

AN ACT to amend 1846 RS 83, entitled "Of marriage and the solemnization thereof," by amending sections 7 and 16 (MCL 551.7 and 551.16), section 7 as amended by 1983 PA 64.

The People of the State of Michigan enact:

551.7 Persons authorized to solemnize marriage; records; returns; disposition of fees charged by mayor or county clerk.

Sec. 7. (1) Marriages may be solemnized by any of the following:

(a) A judge of the district court, in the district in which the judge is serving.

(b) A district court magistrate, in the district in which the magistrate serves.

(c) A municipal judge, in the city in which the judge is serving or in a township over which a municipal court has jurisdiction according to section 9928 of the revised judicature act of 1961, 1961 PA 236, MCL 600.9928.

(d) A judge of probate, in the county or probate court district in which the judge is serving.

(e) A judge of a federal court.

(f) A mayor of a city, in the city in which the mayor serves.

(g) The county clerk in the county in which the clerk serves or, in a county having more than 2,000,000 inhabitants, an employee of the clerk's office designated by the county clerk in the county in which the clerk serves.

(h) A minister of the gospel or cleric or religious practitioner, anywhere in the state, if the minister or cleric or religious practitioner is ordained or authorized to solemnize marriages according to the usages of the denomination.

(i) A minister of the gospel or cleric or religious practitioner, anywhere in the state, if the minister or cleric or religious practitioner is not a resident of this state but is authorized to solemnize marriages under the laws of the state in which the minister or cleric or religious practitioner resides.

(2) A person authorized by this act to solemnize a marriage shall keep proper records and make returns as required by section 4 of 1887 PA 128, MCL 551.104.

(3) If a mayor of a city solemnizes a marriage, the mayor shall charge and collect a fee to be determined by the council of that city, which shall be paid to the city treasurer and deposited in the general fund of the city at the end of the month.

(4) If the county clerk or, in a county having more than 2,000,000 inhabitants, an employee of the clerk's office designated by the county clerk solemnizes a marriage, the county clerk shall charge and collect a fee to be determined by the commissioners of that county, which shall be paid to the county treasurer and deposited in the general fund of the county at the end of the month.

551.16 Want of jurisdiction or authority to solemnize marriage; effect on marriage.

Sec. 16. A marriage solemnized before an individual professing to be a district judge, common pleas court judge, district court magistrate, municipal judge, judge of probate, judge of a federal court, mayor, the county clerk or, in a county having more than 2,000,000 inhabitants, an employee of the county clerk designated by the clerk to solemnize marriages, or a minister of the gospel or cleric or religious practitioner shall not be considered or adjudged to be void, nor shall the validity of the marriage be affected, on account of a want of jurisdiction or authority by that individual if the marriage was consummated with a full belief on the part of the individuals married, or either of them, that they were lawfully joined in marriage.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

[No. 420]

(HB 6014)

AN ACT to amend 1931 PA 327, entitled "An act to provide for the organization, regulation and classification of corporations; to provide their rights, powers and immunities; to prescribe the conditions on which corporations may exercise their powers; to provide for the inclusion of certain existing corporations within the provisions of this act; to prescribe the terms and conditions upon which foreign corporations may be admitted to do business within this state; to require certain annual reports to be filed by corporations; to prescribe penalties for the violations of the provisions of this act; and to repeal certain acts and parts of acts relating to corporations," by amending sections 171 and 176 (MCL 450.171 and 450.176) and by adding section 184a.

The People of the State of Michigan enact:

450.171 Educational corporations; classification; religious college not included; filing of articles of incorporation; statement; guaranteed annual income as credit to capital; use of "college", "university", or "junior college" as name; expansion of program.

Sec. 171. (1) For the purposes of this act, educational corporations are classified as 1 of the following:

(a) Class w: those having a capital of not less than $500,000.00.

(b) Class x: those having a capital of not less than $100,000.00 and less than $500,000.00.

(c) Class y: those having a capital of $1,000,000.00 or more.

(d) Class z: those instituted and maintained by an ecclesiastical or religious order, society, corporation, or corporations that retain control of the institution for denominational purposes.

(2) For purposes of this act, educational corporation does not include a religious college described in section 184a.

(3) When submitting its articles of incorporation for filing with the department of labor and economic growth, an educational corporation conducting an elementary or secondary instructional program must include a written statement from the state board of education with the articles of incorporation and an educational corporation conducting a postsecondary educational program must include a written statement from the bureau of career education within the department of labor and economic growth with the articles of incorporation. A written statement submitted with the articles of incorporation of an educational institution under this subsection must confirm all of the following concerning the educational corporation:

(a) The housing space and administration facilities that it possesses or proposes to provide for its declared field or fields of education are adequate.

(b) Its proposed educational program leading to the diplomas or degrees that it proposes to offer is adequate.

(c) The laboratory, library, and other teaching facilities that it possesses or proposes to provide are adequate.

(d) It has or proposes to employ an adequate staff, fully trained, for the instruction proposed.

(e) At least 50% of its capital, whether consisting of stock or in gifts, devises, legacies, bequests or other contributions of money or property, has been paid in or is in its possession.

(4) In determining whether any educational corporation satisfies the conditions specified in subsection (1), the department of labor and economic growth may treat as a credit to the capital of the corporation the guaranteed annual income of that corporation to the extent that it considers that guaranteed income the equivalent of all or any part of the required endowment.

(5) The use of the word "college" or "university" in the name of any group, organization, or association formed in this state after September 18, 1931 is limited to those educational corporations complying with the requirements for class w or class y educational corporations or to any educational corporations of class z that satisfy the requirements established for class y corporations. The word "college" may be used by ecclesiastical corporations in the name of religious colleges complying with the requirements of section 184a. The words "junior college" may be used by educational corporations of class x. If this subsection is

violated, it is the duty of the prosecuting attorney, in the county where the educational corporation is located, to bring proceedings to enjoin the further use of a name in violation of this subsection.

(6) An educational corporation is not permitted to expand its program beyond that specified in its articles of incorporation until it obtains a written statement approving the facilities, equipment, and staff or the proposed facilities, equipment, and staff as adequate for the offering of the additional educational program and submits it to the department of labor and economic growth. The educational corporation must obtain the written statement described in this subsection from the state board of education if it is conducting an elementary or secondary instructional program or from the bureau of career education within the department of labor and economic growth if it is conducting a postsecondary educational program.

450.176 Educational corporations; holders of diplomas or certificates; privilege or immunity.

Sec. 176. A diploma, certificate of graduation, or other evidence of attendance at an educational corporation entitles the lawful recipient to all the privileges and immunities that by custom or usage are allowed to holders of similar diplomas or certificates granted by similar institutions in this country. However, if an occupation or profession is regulated by statute as to the requirements and qualifications necessary to the practice of that occupation or profession, the diploma or certificate of graduation does not entitle the recipient to any privilege or immunity if those statutory requirements or qualifications are not complied with.

450.184a Organization and operation of religious college by ecclesiastical corporation.

Sec. 184a. (1) An ecclesiastical corporation that meets all of the following criteria may organize and operate a religious college under this section:

(a) The ecclesiastical corporation was incorporated under this act before January 1, 2007.

(b) At the time it organizes the religious college, according to the most recent federal decennial census, the ecclesiastical corporation is located in a county with a population of more than 17,500 and fewer than 23,500 residents.

(2) A religious college organized and operated under this section must meet all of the following criteria:

(a) The religious college is organized and operated by an ecclesiastical corporation as a division of the ecclesiastical corporation and is not separately incorporated.

(b) The religious college began operating before January 1, 2007.

(c) The ecclesiastical corporation retains control of the religious college for denominational purposes.

(d) The religious college has an academic advisory board to assist the religious college in the development of its educational programs. The board shall consist of at least 4 individuals, appointed by the ecclesiastical corporation, who represent similar religious colleges located in the United States.

(e) The religious college offers postsecondary educational programs that are solely designed for, directed toward, and attended by students who seek to learn the particular religious faith or beliefs of the ecclesiastical corporation.

(f) The sole purposes of the educational programs of the religious college are to prepare students for ordination or appointment as a member of the clergy of a church, denomination, or religious association, order, or sect or to enter into other vocations directly related to the particular faith of the ecclesiastical corporation.

(g) The religious college does not offer general or liberal arts educational programs or any other postsecondary educational programs other than those described in this subsection.

(3) All of the following apply to the name of a religious college organized and operated by an ecclesiastical corporation under this section:

(a) The ecclesiastical corporation may use the word "college" in the name of the religious college. However, immediately following the name of the religious college, the ecclesiastical corporation shall clearly and prominently indicate on any signs, official school publications, letterhead, business cards, websites, or other similar written documents that include the name of the religious college that the religious college is a division of the ecclesiastical corporation.

(b) If the ecclesiastical corporation uses the word "college" in the name of the religious college, it shall provide a copy of each certificate of assumed name filed by the ecclesiastical corporation with the department of labor and economic growth for the name of the religious college to the bureau of career education within the department of labor and economic growth.

(4) Subject to subsection (5), a religious college may award 1 of the following degrees to a student of the religious college who satisfactorily completes a course of study prescribed by the ecclesiastical corporation for that degree:

(a) If the course of study requires at least 60 semester hours or equivalent of study, an associate of biblical studies, an associate of religious studies, an associate of theology, an associate of church administration, or another substantially similar associate degree that does not include the word "arts", "science", "business", or "applied".

(b) If the course of study requires at least 120 semester hours or equivalent of study, a bachelor of biblical studies, a bachelor of religious studies, a bachelor of theology, or another substantially similar bachelor's degree that does not include the word "arts", "science", "business", or "applied".

(c) If the course of study requires a bachelor's degree and at least 30 additional semester hours or equivalent of study, a master of theology, a master of biblical studies, a master of religious studies, or another substantially similar master's degree that does not include the word "arts", "science", "business", or "applied".

(d) If the course of study requires a bachelor's degree and at least 90 additional semester hours or equivalent of study, including, but not limited to, dissertation credits or research study, a doctor of theology, a doctor of biblical studies, a doctor of religious studies, or another substantially similar doctoral degree that does not include the word "arts", "science", "business", or "applied".

(5) A religious college shall clearly and prominently state all of the following on a student's diploma, certificate of graduation, transcript, or any other document prepared by or provided by the religious college to establish or verify that the student had attended the religious college or completed a course of study at the religious college:

(a) For a degree awarded by the religious college, the name of the degree, including the religious limitation on that degree required under subsection (4). A religious limitation required for a degree title under subsection (4) shall immediately precede or be part of the degree title wherever the degree title appears in the diploma or other document.

(b) That the religious college is not licensed, approved, or otherwise endorsed by the state of Michigan.

(c) For any document described in this subsection other than a diploma, that the state of Michigan does not guarantee that any of the degrees or credits granted by the religious college will be recognized by any organization for any purpose.

(6) A diploma, certificate of graduation, or other evidence of attendance at a religious college entitles the lawful recipient to all the privileges and immunities that by custom or usage are allowed to holders of similar diplomas or certificates granted by similar institutions in this country. However, if an occupation or profession is regulated by statute as to the requirements and qualifications necessary to the practice of that occupation or profession, the diploma or certificate of graduation does not entitle the recipient to any privilege or immunity if those statutory requirements or qualifications are not complied with.

(7) An ecclesiastical corporation is not required to obtain the approval of or a license from the department of labor and economic growth to operate a religious college under this section in this state and the operation of the religious college and its educational programs are not subject to the supervision of that department. However, if an ecclesiastical corporation does not obtain the approval of or a license from the department of labor and economic growth to operate a religious college, the ecclesiastical corporation shall clearly and prominently print a disclaimer on all of its application materials, course catalogs, brochures, websites, and other similar publications that states all of the following:

(a) The religious college is a division of the ecclesiastical corporation.

(b) The educational programs offered by the religious college are solely designed for, directed toward, and attended by students preparing for ordination or appointment as a member of the clergy of a church, denomination, or religious association, order, or sect or preparing to enter into another vocation directly related to the particular faith of the ecclesiastical corporation.

(c) The religious college is not licensed, approved, or otherwise endorsed by the state of Michigan and that the state of Michigan does not guarantee that any of the degrees or credits granted by the religious college will be recognized by any organization for any purpose.

(8) In any application materials, course catalogs, brochures, websites, or other publications made available by the religious college, the religious college shall include the religious limitation on that degree required under subsection (4), either immediately preceding or as part of the degree title, wherever the degree title appears in the document or publication.

(9) Every 2 years, an ecclesiastical corporation organizing or operating a religious college shall submit a sworn affidavit to the department of labor and economic growth that certifies that the religious college complies with the requirements of this section and includes all of the following:

(a) The name of the religious college. The name stated in the affidavit must comply with subsection (3).

(b) A statement that the religious college offers only educational programs designed for, directed toward, and attended by students preparing for ordination or appointment as a member of the clergy of a church, denomination, or religious association, order, sect, or preparing to enter into another vocation directly related to the particular faith of the ecclesiastical corporation.

(c) A statement that each diploma, certificate of graduation, transcript, or other document described in subsection (5) prepared or provided by the religious college complies with that subsection.

(d) A statement that each document provided or publication made available by the religious college under subsection (8) complies with that subsection.

(e) A statement that the religious college does not accept state or federal assistance for its educational programs and does not accept students who are receiving state or federal financial aid under any higher education loan, grant, or scholarship program.

(10) An ecclesiastical corporation organizing or operating a religious college shall annually provide the department with a surety bond that meets all of the following:

(a) It is conditioned to provide indemnification to any student suffering loss because of inability to complete an educational program at the religious college due to the closing of the religious college.

(b) It expires on June 30 following the date of issuance and the ecclesiastical corporation shall submit proof of renewal for an additional 1-year period to the department of labor and economic growth before the date of expiration.

(c) The amount of the security bond is 1 of the following, whichever is higher:

(*i*) An amount determined by multiplying the number of students enrolled in the religious college by $200.00.

(*ii*) The amount of $5,000.00.

(11) An ecclesiastical corporation operating a religious college that is in compliance with the requirements of this section is authorized to conduct business as a religious college and offer postsecondary educational programs in this state.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6016 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

Compiler's note: House Bill No. 6016, referred to in enacting section 1, was filed with the Secretary of State September 29, 2006, and became 2006 PA 421, Imd. Eff. Sept. 29, 2006.

[No. 421]

(HB 6016)

AN ACT to amend 1964 PA 142, entitled "An act to authorize the state department of education to provide minimum requirements for nonincorporated privately operated institutions which purport to offer degrees, diplomas or certificates based on education beyond high school, or education for transfer to institutions of higher learning," (MCL 390.771 to 390.772) by adding section 1a.

The People of the State of Michigan enact:

390.771a Act inapplicable to religious college.

Sec. 1a. This act does not apply to a religious college described in section 184a of 1931 PA 327, MCL 450.184a.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6014 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 29, 2006.

Filed with Secretary of State September 29, 2006.

Compiler's note: House Bill No. 6014, referred to in enacting section 1, was filed with the Secretary of State September 29, 2006, and became 2006 PA 420, Imd. Eff. Sept. 29, 2006.

[No. 422]

(SB 1167)

AN ACT to amend 2000 PA 322, entitled "An act to create certain funds from certain sources and to provide for the disposition of money from the funds; to provide for the creation of certain funds by certain private entities; to create incentives and to locate and maintain value-added agricultural processing and production ventures within this state; to provide for grants and loans to certain private and governmental entities for environmental purposes; to provide for certain powers and duties for certain private entities, state agencies, commissions, and departments; to authorize loans, expenditures, and grants from the funds; and to finance the development of certain programs," (MCL 285.301 to 285.304) by adding section 2b; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

285.302b Agricultural value-added commercialization roundtable; repeal of section.

Sec. 2b. (1) The director of the department, for the purpose of promoting innovation in Michigan agriculture and in an effort to make more early-stage capital available to the agriculture industry, shall convene an agricultural value-added commercialization roundtable to discuss all facets of the commercialization of agricultural products, processes, and services, including, but not limited to, the availability of capital, innovation infrastructure, and university licensing of intellectual property. The director of the department shall invite at least all of the following to participate in the roundtable:

(a) Three individuals from an association representing farmers.

(b) Two individuals from an association representing food processors.

(c) Two individuals from an association representing agribusiness.

(d) Two individuals representing agricultural lending institutions.

(e) One individual representing an institute of higher education.

(f) One individual representing the United States department of agriculture—rural development agency.

(g) One individual representing the Michigan strategic fund.

(h) One individual representing the rural development council of Michigan.

(2) The first meeting of the roundtable shall be convened by the director of the department within 90 days after the effective date of this section. The director of the department

shall convene the roundtable at least twice each calendar year, except that if this section takes effect after September 30, the roundtable shall convene at least once the first calendar year. The roundtable may advise the director of the department on the need for a more frequent meeting schedule. The meetings of the roundtable shall be open to the general public and shall be held in a place available to the general public. The department shall provide notice of each meeting of the roundtable by posting on the department website and such other means as the department determines appropriate. At least 1 meeting of the roundtable each year shall be held in a rural community. At such a meeting, the public shall be provided an opportunity to address the roundtable on issues within its purview. The department shall prepare a summary of each meeting of the roundtable including a department response to issues raised during the roundtable meeting. The department shall do both of the following:

(a) Post the summary on its website.

(b) Provide a copy of the summary to the members of the roundtable, to any member of the public requesting a copy, and to the standing committees of the senate and house of representatives dealing primarily with agricultural issues.

(3) This section is repealed effective 2 years after the effective date of this section.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 1168.

(b) Senate Bill No. 1169.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

Compiler's note: Senate Bill No. 1168, referred to in enacting section 1, was filed with the Secretary of State September 29, 2006, and became 2006 PA 423, Imd. Eff. Sept. 29, 2006.

Senate Bill No. 1169, also referred to in enacting section 1, was filed with the Secretary of State September 29, 2006, and became 2006 PA 424, Imd. Eff. Sept. 29, 2006.

[No. 423]

(SB 1168)

AN ACT to amend 2000 PA 322, entitled "An act to create certain funds from certain sources and to provide for the disposition of money from the funds; to provide for the creation of certain funds by certain private entities; to create incentives and to locate and maintain value-added agricultural processing and production ventures within this state; to provide for grants and loans to certain private and governmental entities for environmental purposes; to provide for certain powers and duties for certain private entities, state agencies, commissions, and departments; to authorize loans, expenditures, and grants from the funds; and to finance the development of certain programs," by amending the title and section 2 (MCL 285.302).

The People of the State of Michigan enact:

TITLE

An act to create certain committees; to create certain funds from certain sources and to provide for the disposition of money from the funds; to provide for the creation of certain funds by certain private entities; to create incentives and to locate and maintain value-added agricultural processing, commercialization of agriculture, and production ventures within this state; to provide for grants, loans, and loan guarantees to certain private and governmental entities for certain purposes; to provide for certain powers and duties for certain private entities, state agencies, commissions, and departments; to authorize loans, loan guarantees, expenditures, and grants from the funds; and to finance the development of certain programs.

285.302 Definitions; agricultural value-added grant program; establishment and administration; grant awards; procedure; condition of receiving grant; establishment of low-interest loan program; fiduciary obligations upon grant recipient; "substantial conflict of interest" defined; grant application; form or format; rules; effect on prior grants.

Sec. 2. (1) As used in this section and sections 2a and 2b:

(a) "Agricultural processing" means 1 or more of the operations that transform, package, sort, or grade livestock or livestock products, agricultural commodities, or plant or plant products into goods that are used for the intermediate or final consumption including goods for nonfood use.

(b) "Commercialization" means the transition from research to the actions necessary to achieve market entry and general market competitiveness of new innovative technologies, processes, and products and the services that support, assist, equip, finance, or promote a person or an entity with that transition.

(c) "Department" means the Michigan department of agriculture.

(d) "Eligible grantee" means a person able to receive a grant under this section and includes, but is not limited to, individuals, farmer owned cooperatives, partnerships, limited liability companies, private or public corporations, and local units of government.

(e) "Fund" means the agricultural development fund created in section 2a.

(f) "Joint evaluation committee" means a committee selected by the commission of agriculture with appropriate expertise to conduct an independent, unbiased, objective, and competitive evaluation of grant proposals. The committee shall include at least 3 producers, including 1 plant agricultural producer, 1 animal agricultural producer, and another producer at large, an individual with a scientific agriculture education, and an agricultural financial lender.

(g) "Qualified agricultural loan" means a loan for projects designed to establish, retain, attract, or develop value-added agricultural processing and related agricultural production operations in this state.

(h) "Specialty crops" means any agricultural commodity except wheat, feed grains, oil seeds, cotton, rice, peanuts, and tobacco, as well as products derived from these agricultural commodities.

(i) "Value-added" means the enhancement or improvement of the overall value of an agricultural commodity or of an animal or plant product into a product of higher value. The enhancement or improvement includes, but is not limited to, marketing, agricultural processing, transforming, or packaging.

(2) The department shall establish and administer an agricultural value-added grant program. The commission of agriculture shall award grants from the fund created in section 2a only for projects designed to establish, retain, expand, attract, or develop value-added agricultural processing and related agricultural production operations in this state. In approving a grant under this subsection, the commission of agriculture shall state the specific objective reasons supporting the selection of the applicant over competing applicants. The joint evaluation committee shall assist and provide recommendations to the commission of agriculture in identifying high-quality projects for funding based upon the selection criteria and scoring system approved by the commission of agriculture. The recommendations shall include all materials and decision documents used by the joint evaluation committee in making the recommendations.

(3) All scoring sheets, meetings, and other decisions made by the joint evaluation committee shall be open to the public and considered public documents. A record or portion of a record, material, or other data received, prepared, used, or retained by the department in connection with an application to or with a project or product assisted by the department or with an award, grant, loan, or investment relating to financial or proprietary information submitted by the applicant that is considered by the applicant and acknowledged by the department as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) Subject to subsection (2), the department shall do all of the following:

(a) Establish a competitive process to award grants. The competitive process shall include, but is not limited to, the following:

(*i*) A provision that the applications must be reviewed by the joint evaluation committee. Scientific and technical merit, commercial merit, and the ability to leverage additional funding shall be given equal weight in the review and scoring process.

(*ii*) A preference for proposals that demonstrate a high level of innovation for value-added agricultural processing and related agricultural production ventures to benefit producers in this state.

(*iii*) A preference for proposals that are attempting to secure a license for agricultural-related intellectual property to be produced in Michigan.

(*iv*) A provision that the program will utilize contracts with measurable milestones, clear objectives, and provisions to revoke awards for breach of contract.

(*v*) Provide for a cash match of at least 10% of the grant by the applicant.

(*vi*) Limit overhead rates for recipients of grants to reflect actual overhead but not greater than 15% of the grant.

(*vii*) A preference for proposals whose business plan forecasts revenues within 2 years or that have outside investments from investors with experience and management teams with experience in the area targeted by the proposal, or both.

(b) Prepare a request for proposals on at least an annual basis for grants for eligible grantees from the fund. Grants are contingent upon the availability of funds.

(5) Subject to subsection (4)(a)(*i*), an application for a grant submitted under this section shall be evaluated and ranked according to selection criteria and a scoring or point system approved by the director of the department. The selection criteria and the scoring or point system shall be reviewed and approved by the commission of agriculture. In developing such a system, the department shall seek the assistance of the Michigan economic development corporation, any institution of higher education, the United States department of agriculture—rural development agency, the rural development council of Michigan, agricultural producers, and other industry and professional organizations as determined by the director of the department.

(6) The commission of agriculture shall ensure that a recipient of a grant under this section agrees that, as a condition of receiving the grant, that recipient shall not use the money for the development of a casino regulated under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, a casino regulated under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467, or any other gaming enterprise.

(7) The department, in cooperation with the department of treasury and Michigan financial institutions, shall establish a low-interest loan program in a manner similar to the qualified agricultural loan program established in section 2a of 1855 PA 105, MCL 21.142a, or a loan guarantee program to provide qualified agricultural loans. The department of treasury shall give the department any necessary assistance required to establish a low-interest loan or loan guarantee program. The department shall work with Michigan financial institutions to establish a certification system to verify that loan applicants are requesting qualified agricultural loans. As part of the low-interest loan program, the department shall do the following:

(a) Work with the department of treasury to establish agreements with participating financial institutions.

(b) Ensure that an investment or new investment utilizing the 21st century jobs fund in which a qualified agricultural loan is attributed is not made pursuant to this section after June 1, 2008.

(c) Ensure that the terms of a qualified agricultural loan under this section are for a term of not more than 5 years and that the first payment made by the recipient occurs not later than 24 months after the date of the loan.

(d) Ensure that the interest rate charged by participating financial institutions does not exceed 50% of prime in Michigan plus 1%.

(e) Ensure that participating financial institutions do not refinance prior debt.

(f) Require a participating financial institution to certify compliance with the Sarbanes-Oxley act of 2002, Public Law 107-204, or prohibit an officer, director, or principal shareholder of a participating financial institution, or his or her immediate family members, from receiving an agricultural value-added low-interest loan from the financial institution.

(g) Require the recipient of a qualified agricultural loan under this section to agree that, as a condition of receiving the loan, that the recipient shall not use the money for the development of a casino regulated under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, a casino regulated under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467, or any other gaming enterprise.

(8) As part of a loan guarantee program, the department shall do the following:

(a) Work with the department of treasury to establish agreements with participating financial institutions.

(b) Ensure that participating financial institutions require adequate collateral and fully liquidate all collateral before calling on the loan guarantees.

(c) Establish a loan guarantee of not more than 90% of the financial institution's loss after all alternatives to collect have been exhausted.

(d) Ensure that participating financial institutions do not refinance prior debt.

(e) Require a participating financial institution to certify compliance with the Sarbanes-Oxley act of 2002, Public Law 107-204, or prohibit an officer, director, or principal shareholder of a participating financial institution, or his or her immediate family members, from receiving an agricultural value-added loan guarantee from the financial institution.

(f) Require the recipient of a qualified agricultural loan under this section to agree that, as a condition of receiving the loan guarantee, that the recipient shall not use the money for the development of a casino regulated under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, a casino regulated under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467, or any other gaming enterprise.

(g) Maintain a list of financial institutions that will participate in the loan guarantee program.

(9) The director of the department may impose fiduciary obligations upon a recipient of a grant, including performance bonding, and may impose conditions upon the receipt and expenditure of the grant money.

(10) Notwithstanding section 3(1) of 1968 PA 317, MCL 15.323, members of the commission of agriculture and the joint evaluation committee are subject to 1968 PA 317, MCL 15.321 to 15.330. As used in this subsection, "substantial conflict of interest" means that the pecuniary interest is of such importance as to either materially influence the judgment of the member in the actual performance of his or her duty under the act or to foreseeably and materially influence the judgment of a reasonable person with similar knowledge and experience acting under similar circumstances and in a like position as the member. For purposes of this section, members of the commission of agriculture and the joint evaluation committee shall do the following:

(a) 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. In discharging duties of the office, the commission of agriculture when acting in good faith may rely upon the report of the joint evaluation committee or upon financial statements of the department represented to the commission of agriculture by the officer having charge of its books or accounts or stated in a written report by the auditor general.

(b) Not make or participate in making, or in any way attempt to use his or her position to influence a matter before the department regarding, a loan, loan guarantee, grant, or other expenditure under this act.

(c) Not have any financial interest in a recipient of proceeds under this act and shall not engage in any conduct that constitutes a substantial conflict of interest.

(d) Immediately advise the commission of agriculture in writing of the details of any incident or circumstances that may present the existence of a substantial conflict of interest with respect to the performance of his or her duty under this act.

(e) Disclose a substantial conflict of interest related to any matter before the department or the commission of agriculture takes any action with respect to the matter, which disclosure shall become a part of the record of the official proceedings.

(f) Refrain from doing all of the following with respect to the matter that is a basis of a substantial conflict of interest:

(*i*) Voting in the proceedings related to the matter.

(*ii*) Participating in the discussion or deliberation of the matter.

(*iii*) Being present at the meeting when the discussion, deliberation, and voting on the matter takes place.

(*iv*) Discussing the matter with any other member of the commission of agriculture or the joint evaluation committee.

(11) An application for a grant from the fund shall be made on a form or format prescribed by the department. The department may require the applicant to provide information reasonably necessary to allow the department to make a determination required under this section.

(12) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this section.

(13) The amendatory act that added subsection (5) shall not affect any grants awarded under this act prior to the effective date of the amendatory act that added subsection (5).

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 1167.

(b) Senate Bill No. 1169.

This act is ordered to take immediate effect.

Approved September 29, 2006.

Filed with Secretary of State September 29, 2006.

Compiler's note: Senate Bill No. 1167, referred to in enacting section 1, was filed with the Secretary of State September 29, 2006, and became 2006 PA 422, Imd. Eff. Sept. 29, 2006.

Senate Bill No. 1169, also referred to in enacting section 1, was filed with the Secretary of State September 29, 2006, and became 2006 PA 424, Imd. Eff. Sept. 29, 2006.

[No. 424]

(SB 1169)

AN ACT to amend 2000 PA 322, entitled "An act to create certain funds from certain sources and to provide for the disposition of money from the funds; to provide for the creation of certain funds by certain private entities; to create incentives and to locate and maintain value-added agricultural processing and production ventures within this state; to provide for grants and loans to certain private and governmental entities for environmental purposes; to provide for certain powers and duties for certain private entities, state agencies, commissions, and departments; to authorize loans, expenditures, and grants from the funds; and to finance the development of certain programs," (MCL 285.301 to 285.304) by adding section 2a.

The People of the State of Michigan enact:

285.302a Agricultural development fund; creation as revolving fund; administration; investment; lapse; money appropriated from 21st century jobs trust fund; manner of investment.

Sec. 2a. (1) The agricultural development fund is created as a revolving fund within the department of treasury to be administered by the department. The state treasurer shall direct the investment of the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department may utilize up to 4% of the fund for administrative purposes. The state treasurer shall credit to the fund money from the following sources:

(a) Appropriations.

(b) Money or other assets from any source for deposit into the fund, including federal money, other state revenues, gifts, bequests, or donations, as well as money from any other source provided by law.

(c) Any money representing loan repayments and interest on the loans.

(2) Of the money appropriated under 2006 PA 153 from the 21st century jobs trust fund, not more than 10% shall be used for grants and the remaining shall be used for loans and loan guarantees. The maximum grant from the fund shall not exceed $250,000.00. The maximum low-interest loan supported by the fund shall not exceed $500,000.00.

(3) Upon request from the commission of agriculture, the state treasurer shall invest the money in the agricultural development fund in a manner similar to the qualified agricultural loan program established in section 2a of 1855 PA 105, MCL 21.142a, as provided in section 2.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 1167.

(b) Senate Bill No. 1168.

This act is ordered to take immediate effect.
Approved September 29, 2006.
Filed with Secretary of State September 29, 2006.

Compiler's note: Senate Bill No. 1167, referred to in enacting section 1, was filed with the Secretary of State September 29, 2006, and became 2006 PA 422, Imd. Eff. Sept. 29, 2006.

Senate Bill No. 1168, also referred to in enacting section 1, was filed with the Secretary of State September 29, 2006, and became 2006 PA 423, Imd. Eff. Sept. 29, 2006.

[No. 425]

(HB 6249)

AN ACT to amend 1960 PA 77, entitled "An act to create the Michigan higher education assistance authority and to prescribe its powers and duties; to authorize persons, corporations, and associations to make gifts to the authority; to prescribe the powers and duties of certain state officials; to authorize, ratify, and confirm certain guarantees of students' loans and authorize reguarantees; to authorize, ratify, and confirm certain guarantees of loans made to parents of students; to validate certain prior appropriations; and to authorize the transfer of certain appropriations to be transferred to and administered by the authority," (MCL 390.951 to 390.961) by adding section 7a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

390.957a Use of money from Michigan guaranty agency's operating fund for competitive scholarship program.

Sec. 7a. (1) The authority may use money from the Michigan guaranty agency's operating fund for the state competitive scholarship program described in 1964 PA 208, MCL 390.971 to 390.981, if all of the following are met:

(a) The money is used by the authority only in the state fiscal year ending September 30, 2006.

(b) Federal law does not prohibit use of the money used from the Michigan guaranty agency's operating fund in the manner described in this subsection.

(2) The authority may use money from the Michigan guaranty agency's operating fund for the state competitive scholarship program described in 1964 PA 208, MCL 390.971 to 390.981, or for the tuition incentive program described in section 310 of article 8 of 2005 PA 154 or a successor to that program, if all of the following are met:

(a) The money is used by the authority only in the state fiscal year ending September 30, 2007.

(b) Federal law does not prohibit use of the money used from the Michigan guaranty agency's operating fund in the manner described in this subsection.

(3) The authority described in this section is in addition to the powers described in section 7.

Repeal of MCL 390.957a.

Enacting section 1. Section 7a of 1960 PA 77, MCL 390.957a, is repealed effective October 1, 2007.

This act is ordered to take immediate effect.
Approved October 3, 2006.
Filed with Secretary of State October 5, 2006.

[No. 426]

(HB 6197)

AN ACT to amend 2003 PA 238, entitled "An act to provide for the qualification, appointment, and regulation of notaries; to provide for the levy, assessment, and collection of certain service charges and fees and to provide for their disposition; to create certain funds for certain purposes; to provide for liability for certain persons; to provide for the admissibility of certain evidence; to prescribe powers and duties of certain state agencies and local officers; to provide for remedies and penalties; and to repeal acts and parts of acts," by amending sections 5, 11, 13, 15, 17, 19, 21, 25, 31, 35, 51, and 53 (MCL 55.265, 55.271, 55.273, 55.275, 55.277, 55.279, 55.281, 55.285, 55.291, 55.295, 55.311, and 55.313).

The People of the State of Michigan enact:

55.265 Definitions; J to R.

Sec. 5. As used in this act:

(a) "Jurat" means a certification by a notary public that a signer, whose identity is personally known to the notary public or proven on the basis of satisfactory evidence, has made in the presence of the notary public a voluntary signature and taken an oath or affirmation vouching for the truthfulness of the signed record.

(b) "Lineal ancestor" means an individual in the direct line of ascent including, but not limited to, a parent or grandparent.

(c) "Lineal descendant" means an individual in the direct line of descent including, but not limited to, a child or grandchild.

(d) "Notarial act" means any act that a notary public commissioned in this state is authorized to perform including, but not limited to, the taking of an acknowledgment, the

administration of an oath or affirmation, the taking of a verification upon oath or affirmation, and the witnessing or attesting a signature performed in compliance with this act and the uniform recognition of acknowledgments act, 1969 PA 57, MCL 565.261 to 565.270.

(e) "Notify" means to communicate or send a message by a recognized mail, delivery service, or electronic means.

(f) "Official misconduct" means either or both of the following:

(*i*) The exercise of power or the performance of a duty that is unauthorized, unlawful, abusive, negligent, reckless, or injurious.

(*ii*) The charging of a fee that exceeds the maximum amount authorized by law.

(g) "Person" means every natural person, corporation, partnership, trust, association, or other legal entity and its legal successors.

(h) "Record" means that term as defined in the uniform electronic transactions act, 2000 PA 305, MCL 450.831 to 450.849.

(i) "Revocation" means the termination of a notary public's commission.

55.271 Notary public; qualifications.

Sec. 11. (1) The secretary may appoint as a notary public a person who applies to the secretary and meets all of the following qualifications:

(a) Is at least 18 years of age.

(b) Is a resident of this state or maintains a principal place of business in this state.

(c) Reads and writes in the English language.

(d) Is free of any felony convictions, misdemeanor convictions, and violations as described in section 41.

(e) For a person who does not reside in the state of Michigan, demonstrates that his or her principal place of business is located in the county in which he or she requests appointment and indicates that he or she is engaged in an activity in which he or she is likely to be required to perform notarial acts as that word is defined in section 2 of the uniform recognition of acknowledgments act, 1969 PA 57, MCL 565.262.

(f) Has filed with the county clerk of his or her county of residence or expected appointment a proper surety bond and an oath taken as prescribed by the constitution in a format acceptable to the secretary.

(2) The secretary shall, on a monthly basis, notify the county clerk's office of the appointment of any notaries.

55.273 Filing; oath; bond; fee.

Sec. 13. (1) Within 90 days before filing an application for a notary public appointment, a person shall file with the county clerk of his or her residence or expected appointment a proper surety bond and an oath taken as prescribed by the constitution.

(2) The bond shall be in the sum of $10,000.00 with good and sufficient surety by a surety licensed to do business in this state. The bond shall be conditioned upon indemnifying or reimbursing a person, financing agency, or governmental agency for monetary loss caused through the official misconduct of the notary public in the performance of a notarial act. The surety is required to indemnify or reimburse only after a judgment based on official misconduct has been entered in a court of competent jurisdiction against the notary public. The aggregate liability of the surety shall not exceed the sum of the bond. The surety on the bond may cancel the bond 60 days after the surety notifies the notary, the

secretary, and the county clerk of the cancellation. The surety is not liable for a breach of a condition occurring after the effective date of the cancellation. The county clerk shall not accept the personal assets of an applicant as security for a surety bond under this act.

(3) Each person who files an oath and bond with a county clerk as required in subsection (1) shall pay a $10.00 filing fee to the county clerk. Upon receipt of the filing fee, the county clerk shall give a bond and oath certificate of filing to the person as prescribed by the secretary. A charter county with a population of more than 2,000,000 may impose by ordinance a fee for the county clerk's services different than the amount prescribed by this subsection. Two dollars of each fee collected under this subsection shall be deposited into the notary education and training fund established in section 17 on a schedule determined by the secretary.

55.275 Application; format; fee; use of L.E.I.N. provided in C.J.I.S. policy council act; certificate of appointment.

Sec. 15. (1) A person shall apply to the secretary for appointment as a notary public in a format as prescribed by the secretary. An application for appointment as a notary public shall contain the signature of the applicant. In addition to other information as may be required by the secretary, the application shall include all of the following:

(a) The applicant's name, residence address, business address, date of birth, and residence and business telephone numbers.

(b) The applicant's driver license or state personal identification card number.

(c) A validated copy of the filing of the bond and oath certificate received from the county clerk.

(d) If applicable, a statement showing whether the applicant has previously applied for an appointment as a notary public in this or any other state, the result of the application, and whether the applicant has ever been the holder of a notary public appointment that was revoked, suspended, or canceled in this or any other state.

(e) A statement describing the date and circumstances of any felony or misdemeanor conviction of the applicant during the preceding 10 years.

(f) A declaration that the applicant is a citizen of the United States or, if not a citizen of the United States, proof of the applicant's legal presence in this country.

(g) An affirmation by the applicant that the application is correct, that the applicant has read this act, and that the applicant will perform his or her notarial acts faithfully.

(2) Each application shall be accompanied by an application processing fee of $10.00. One dollar of each fee collected under this subsection shall be deposited into the notary education and training fund established in section 17 on a schedule determined by the secretary.

(3) Upon receipt of an application that is accompanied by the prescribed processing fee, the secretary may inquire as to the qualifications of the applicant and shall determine whether the applicant meets the qualifications prescribed in this act. To assist in deciding whether the applicant is qualified, the secretary may use the law enforcement information network as provided in the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215, to check the criminal background of the applicant.

(4) After approval of the application, the secretary shall mail directly to the applicant the certificate of appointment as a notary public. Each certificate of appointment shall identify the person as a notary public of this state and shall specify the term and county of the person's commission.

55.277 Notary education and training fund.

Sec. 17. (1) The notary education and training fund is created within the state treasury. Money from fees collected under sections 13(3), 15(2), and 21(4) shall be deposited into the fund.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Up to $150,000.00 shall remain in the fund at the close of each fiscal year and shall not lapse to the general fund. Any amount in excess of $150,000.00 shall lapse to the general fund.

(4) The secretary shall expend money from the fund in the form of grants, upon appropriation, for the purposes of providing education and training programs for county clerks and their staffs including, but not limited to, notary responsibilities, election worker training, and election processes. The secretary shall consult with the president of the Michigan association of county clerks, or his or her designee, when approving grant applications under this section.

(5) The secretary shall annually file a report regarding the balance of the fund at the time of the report and a detailed account of the expenditures in the preceding fiscal year. This report shall be sent to the speaker of the house of representatives, the minority leader of the house of representatives, the majority leader of the senate, and the minority leader of the senate.

55.279 Reappointment; cause for cancellation of appointment.

Sec. 19. (1) The secretary shall not automatically reappoint a notary public.

(2) A person desiring another notary public appointment may apply to the secretary, in a format prescribed by the secretary, for an original appointment as a notary public. The application may be made not more than 60 days before the expiration of his or her current notary public commission.

(3) The secretary shall automatically cancel the notary public commission of any person who makes, draws, utters, or delivers any check, draft, or order for the payment of a processing fee under this act that is not honored by the bank, financial institution, or other depository expected to pay the check, draft, or order for payment upon its first presentation.

55.281 Corrected notary public commission.

Sec. 21. (1) A notary public shall immediately apply to the secretary, in a format prescribed by the secretary, for a corrected notary public commission upon the occurrence of any of the following circumstances:

(a) A change in the notary public's name.

(b) A change in the notary public's residence or business address.

(c) The issuance by the secretary of a notary public commission that contains an error in the person's name, birth date, county, or other pertinent information if the error was made on the notary public's application and was used by the secretary to appoint the person as a notary public.

(2) A notary public shall immediately notify both the secretary and the county clerk of his or her appointment, in a format prescribed by the secretary, upon any change in the factual information stated in the notary public's application for appointment.

(3) The secretary shall notify the county clerk of the applicant's appointment when a corrected commission is issued by the secretary.

(4) If a notary public's certificate of appointment becomes lost, mutilated, or illegible, the notary public shall promptly apply to the secretary for the issuance of a duplicate certificate. The application shall be made on a form prescribed by the secretary and be accompanied by a processing fee of $10.00. One dollar of each processing fee collected under this subsection shall be deposited into the notary education and training fund established in section 17.

55.285 Performance of notarial acts; scope; verification.

Sec. 25. (1) A notary public may perform notarial acts that include, but are not limited to, the following:

(a) Taking acknowledgments.

(b) Administering oaths and affirmations.

(c) Witnessing or attesting to a signature.

(2) In taking an acknowledgment, the notary public shall determine, either from personal knowledge or from satisfactory evidence, that the person in the presence of the notary public and making the acknowledgment is the person whose signature is on the record.

(3) In taking a verification upon oath or affirmation, the notary public shall determine, either from personal knowledge or from satisfactory evidence, that the person in the presence of the notary public and making the verification is the person whose signature is on the record being verified.

(4) In witnessing or attesting to a signature, the notary public shall determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person in the presence of the notary public and is the person named in the record.

(5) In all matters where the notary public takes a verification upon oath or affirmation, or witnesses or attests to a signature, the notary public shall require that the person sign the record being verified, witnessed, or attested in the presence of the notary public.

(6) A notary public has satisfactory evidence that a person is the person whose signature is on a record if that person is any of the following:

(a) Personally known to the notary public.

(b) Identified upon the oath or affirmation of a credible witness personally known by the notary public and who personally knows the person.

(c) Identified on the basis of a current license, identification card, or record issued by a federal or state government that contains the person's photograph and signature.

(7) The fee charged by a notary public for performing a notarial act shall not be more than $10.00 for any individual transaction or notarial act. A notary public shall either conspicuously display a sign or expressly advise a person concerning the fee amount to be charged for a notarial act before the notary public performs the act. Before the notary public commences to travel in order to perform a notarial act, the notary public and client may agree concerning a separate travel fee to be charged by the notary public for traveling to perform the notarial act.

(8) A notary public may refuse to perform a notarial act.

(9) The secretary shall prescribe the form that a notary public shall use for a jurat, the taking of an acknowledgment, the administering of an oath or affirmation, the taking of a verification upon an oath or affirmation, the witnessing or attesting to a signature, or any other act that a notary public is authorized to perform in this state.

(10) A county clerk may collect a processing fee of $10.00 for certifying a notarial act of a notary public.

55.291 Notary public; prohibited conduct.

Sec. 31. (1) A notary public shall not certify or notarize that a record is either of the following:

(a) An original.

(b) A true copy of another record.

(2) A notary public shall not do any of the following:

(a) Perform a notarial act upon any record executed by himself or herself.

(b) Notarize his or her own signature.

(c) Take his or her own deposition or affidavit.

(3) A notary public shall not claim to have powers, qualifications, rights, or privileges that the office of notary does not provide, including the power to counsel on immigration matters.

(4) A notary public shall not, in any document, advertisement, stationery, letterhead, business card, or other comparable written material describing the role of the notary public, literally translate from English into another language terms or titles including, but not limited to, notary public, notary, licensed, attorney, lawyer, or any other term that implies the person is an attorney.

(5) A notary public who is not a licensed attorney and who advertises notarial services in a language other than English shall include in the document, advertisement, stationery, letterhead, business card, or other comparable written material the following, prominently displayed in the same language:

(a) The statement: "I am not an attorney and have no authority to give advice on immigration or other legal matters".

(b) The fees for notarial acts as specified by statute.

(6) A notary public may not use the term "notario publico" or any equivalent non-English term in any business card, advertisement, notice, or sign.

(7) A notary public shall not perform any notarial act in connection with a transaction if the notary public has a conflict of interest. As used in this subsection, "conflict of interest" means either or both of the following:

(a) The notary public has a direct financial or beneficial interest, other than the notary public fee, in the transaction.

(b) The notary public is named, individually, as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, or lessee or as a party in some other capacity to the transaction.

(8) A notary public shall not perform a notarial act for a spouse, lineal ancestor, lineal descendant, or sibling including in-laws, steps, or half-relatives.

(9) A notary public who is a stockholder, director, officer, or employee of a bank or other corporation may take the acknowledgment of a party to a record executed to or by the corporation, or to administer an oath to any other stockholder, director, officer, employee, or agent of the corporation. A notary public shall not take the acknowledgment of a record by or to a bank or other corporation of which he or she is a stockholder, director, officer, or employee, under circumstances where the notary public is named as a party to the record, either individually or as a representative of the bank or other corporation and the notary public is individually a party to the record.

(10) For purposes of subsection (7), a notary public has no direct financial or beneficial interest in a transaction where the notary public acts in the capacity of an agent, employee, insurer, attorney, escrow, or lender for a person having a direct financial or beneficial interest in the transaction.

55.295 Request by secretary of state; failure to respond.

Sec. 35. (1) Upon receiving a written or electronic request from the secretary, a notary public shall do all of the following as applicable:

(a) Furnish the secretary with a copy of the notary public's records that relate to the request.

(b) Within 15 days after receiving the request, respond to the secretary with information that relates to the official acts performed by the notary public.

(c) Permit the secretary to inspect his or her notary public records, contracts, or other information that pertains to the official acts of a notary public if those records, contracts, or other information is maintained by the notary public.

(2) Upon presentation to the secretary of satisfactory evidence that a notary public has failed to respond within 15 days or another time period designated under this act to a request of the secretary under subsection (1), the secretary may notify the notary public that his or her notary public commission is suspended indefinitely until he or she provides a satisfactory response to the request.

55.311 Notary fees fund.

Sec. 51. (1) The notary fees fund is created in the state treasury. Except as otherwise provided in sections 15(2) and 21(4), an application processing fee, duplicate notary public certificate of appointment processing fee, certification processing fee, copying processing fee, reimbursement costs, or administrative fine collected under this act by the secretary shall be deposited by the state treasurer in the notary fees fund and is appropriated to defray the costs incurred by the secretary in administering this act.

(2) A processing or filing fee paid to the secretary or county clerk under this act is not refundable.

55.313 Maintenance of records.

Sec. 53. A person, or the personal representative of a person who is deceased, who both performed a notarial act and created a record of the act performed while commissioned as a notary public under this act shall maintain all the records of that notarial act for at least 5 years after the date of the notarial act.

This act is ordered to take immediate effect.
Approved October 3, 2006.
Filed with Secretary of State October 5, 2006.

[No. 427]

(SB 435)

AN ACT to amend 1972 PA 382, entitled "An act to license and regulate the conducting of bingo, millionaire parties, and certain other forms of gambling; to provide for the conducting of charity games, raffles, and numeral games; to provide for exemptions from licensing requirements under certain circumstances; to impose certain duties and authority upon certain state departments, agencies, and officers; to provide a tax exemption; and to provide penalties," by amending sections 3, 3a, 5, 5c, 8, 10, 10a, and 11b (MCL 432.103, 432.103a, 432.105, 432.105c, 432.108, 432.110, 432.110a, and 432.111b), section 3 as amended by 1995 PA 275, sections 3a, 5c, and 11b as added and sections 5, 10, and 10a as amended by 1999 PA 108, and section 8 as amended by 1981 PA 229.