(f) As used in this subsection, "rate of insured unemployment" means the percentage determined by dividing:

(*i*) The average weekly number of individuals filing claims for regular benefits for weeks of unemployment with respect to the specified period as determined on the basis of the reports made by all state agencies or, in the case of subdivisions (c) and (d), by the bureau, to the federal government; by

(*ii*) In the case of subdivisions (c) and (d), the average monthly covered employment under this act for the specified period.

(g) Calculations under subdivisions (c) and (d) shall be made by the bureau and shall conform to regulations, if any, prescribed by the United States secretary of labor under authority of the federal-state extended unemployment compensation act of 1970 title II of Public Law 91-373, section 3304 nt of the internal revenue code of 1986, 26 U.S.C. 3304 nt.

(h) An "on" indicator under subdivision (c)(*ii*) applies to claimants who qualify on or after the week ending May 24, 2003 and before the week ending December 27, 2003 for benefits payable beginning the week after the effective date of this subdivision.

(6) As used in this section:

(a) "Regular benefits" means benefits payable to an individual under this act and, unless otherwise expressly provided, under any other state unemployment compensation law, including unemployment benefits payable pursuant to sections 8501 to 8525 of title 5 of the United States Code, 5 U.S.C. 8501 to 8525, other than extended benefits, and other than additional benefits which includes training benefits under section 27(g).

(b) "Extended benefits" means benefits, including additional benefits and unemployment benefits payable pursuant to sections 8501 to 8525 of title 5 of the United States Code, 5 U.S.C. 8501 to 8525, payable for weeks of unemployment beginning in an extended benefit period to an individual as provided under this section.

(c) "Additional benefits" means benefits totally financed by a state and payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law as well as training benefits paid under section 27(g) with respect to an extended benefit period.

(d) "Weekly extended benefit rate" means an amount equal to the amount of regular benefits payable under this act to an individual within the individual's benefit year for a week of total unemployment, unless the individual had more than 1 weekly extended benefit rate within that benefit year, in which case the individual's weekly extended benefit rate shall be computed by dividing the maximum amount of regular benefits payable under this act within that benefit year by the number of weeks for which benefits were payable, adjusted to the next lower multiple of $1.00.

(e) "Benefits payable" includes all benefits computed in accordance with section 27(d), irrespective of whether the individual was otherwise eligible for the benefits within his or her current benefit year and irrespective of any benefit reduction by reason of a disqualification which required a reduction.

(7)(a) Notwithstanding the provisions of subsection (1)(b), an individual shall be ineligible for payment of extended benefits for any week of unemployment if the bureau finds that during that period either of the following occurred:

(*i*) The individual failed to accept any offer of suitable work or failed to apply for any suitable work to which the individual was referred by the bureau.

(*ii*) The individual failed to actively engage in seeking work as described in subdivision (f).

(b) Any individual who has been found ineligible for extended benefits under subdivision (a) shall also be denied benefits beginning with the first day of the week following the week in which the failure occurred and until the individual has been employed in each of 4 subsequent weeks, whether or not consecutive, and has earned remuneration equal to not less than 4 times the extended weekly benefit amount, as determined under subsection (2).

(c) As used in this subsection, "suitable work" means, with respect to any individual, any work which is within that individual's capabilities, if both of the following apply:

(*i*) The gross weekly remuneration payable for the work exceeds the sum of the following:

(A) The individual's extended weekly benefit amount as determined under subsection (2).

(B) The amount, if any, of supplemental unemployment compensation benefits, as defined in section 501(c)(7)(D) of the internal revenue code of 1986, payable to the individual for that week.

(*ii*) The employer pays wages not less than the higher of the minimum wage provided by section 6(a)(1) of the fair labor standards act of 1938, chapter 676, 52 Stat. 1062, 29 U.S.C. 206(a)(1), without regard to any exemption, or the applicable state or local minimum wage.

(d) An individual shall not be denied extended benefits for failure to accept an offer of, or apply for, any job which meets the definition of suitability as described in subdivision (c) if 1 or more of the following are true:

(*i*) The position was not offered to the individual in writing and was not listed with the state employment service.

(*ii*) The failure could not result in a denial of benefits under the definition of suitable work in section 29(6) to the extent that the criteria of suitability in that section are not inconsistent with the provisions of subdivision (c).

(*iii*) The individual furnishes satisfactory evidence to the bureau that his or her prospects for obtaining work in his or her customary occupation within a reasonably short period are good. If that evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to that individual shall be made in accordance with the definition of suitable work in section 29(6) without regard to the definition specified by subdivision (c).

(e) Notwithstanding subsection (1)(b), work shall not be considered suitable work for an individual if the work does not meet the labor standard provisions required by section 3304(a)(5) of the internal revenue code and section 29(7).

(f) For the purposes of subdivision (a)(*ii*), an individual is actively engaged in seeking work during any week if both of the following are true:

(*i*) The individual has engaged in a systematic and sustained effort to obtain work during that week.

(*ii*) The individual furnishes tangible evidence to the bureau that he or she has engaged in a systematic and sustained effort during that week.

(g) The bureau shall refer any applicant for extended benefits to any suitable work which meets the criteria prescribed in subdivisions (c) and (d).

(h) An individual is not eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period if that individual has been disqualified for benefits under this act because he or she voluntarily left work, was discharged for misconduct, or failed to accept an offer of or apply for suitable work unless the individual

requalified in accordance with a specific provision of this act requiring that the individual be employed subsequent to the week in which the act or discharge occurred which caused the disqualification.

(8)(a) Except as provided in subdivision (b), payment of extended benefits shall not be made to any individual for any week of unemployment that otherwise would have been payable pursuant to an interstate claim filed in any state under the interstate benefit payment plan, if an extended benefit period is not in effect for the week in the state in which the interstate claim is filed.

(b) Subdivision (a) does not apply with respect to the first 2 weeks for which extended benefits are payable, pursuant to an interstate claim, to the individual from the extended benefit account established for the individual.

(9) Notwithstanding the provisions of subsection (1)(b), an individual who established a benefit year under section 46a on or after January 2, 1983, shall be eligible to receive extended benefits only if the individual earned wages in an amount exceeding 40 times the individual's most recent weekly benefit rate during the base period of the benefit year which is used to establish the individual's extended benefit account under subsection (2).

(10) This subsection shall be effective for weeks of unemployment beginning after October 30, 1982. Notwithstanding any other provision of this section, an individual's extended benefit entitlement, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts of trade readjustment allowances, paid under the trade act of 1974, Public Law 93-618, 88 Stat. 1978, within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

This act is ordered to take immediate effect.
Approved August 14, 2003.
Filed with Secretary of State August 14, 2003

[No. 175]

(HB 4453)

AN ACT to amend 1980 PA 300, entitled "An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 68 (MCL 38.1368).

The People of the State of Michigan enact:

38.1368 Service credit; computing terms of service.

Sec. 68. (1) The retirement board shall grant 1 year of service credit to a member who has been employed and remunerated for services performed for not less than 1,020 hours

in a school fiscal year. In determining whether a member is entitled to service credit under this subsection, the retirement system shall calculate service credit using the payroll cycle reported to the retirement system by the employer of the member. If a biweekly payroll cycle is reported, the member shall not accrue more than 60 hours in a payroll cycle. If a semimonthly payroll cycle is reported, the member shall not accrue more than 72 hours in a payroll cycle. If a monthly payroll cycle is reported, the member shall not accrue more than 138 hours in a payroll cycle. If a quarterly payroll cycle is used, the member shall not accrue more than 396 hours in a payroll cycle.

(2) A part-time member or a member employed for a fraction of the school fiscal year shall receive service credit for full-time service on the basis of 60 or more hours per biweekly period and proportionate credit for less than 60 hours on the basis of 60 hours for full-time credit in the proportion which the hours employed in the school fiscal year bears to 1,020 hours.

(3) In computing terms of service, a year shall be a legal fiscal year at the time and place where the service was performed. Not more than 1 year's service shall be counted for retirement purposes in any school fiscal year.

This act is ordered to take immediate effect.
Approved August 22, 2003.
Filed with Secretary of State August 22, 2003.

[No. 176]

(HB 4630)

AN ACT to amend 1952 PA 214, entitled "An act authorizing the Mackinac bridge authority to acquire a bridge connecting the upper and lower peninsulas of Michigan, including causeways, tunnels, roads and all useful related equipment and facilities, including park, parking, recreation, lighting and terminal facilities; extending the corporate existence of the authority; authorizing such authority to enjoy and carry out all powers incident to its corporate objects; authorizing the appropriation and use of state funds for the preliminary purposes of the authority; providing for the payment of the cost of such bridge and in that connection authorizing the authority to issue revenue bonds payable solely from the revenues of the bridge; granting the right of condemnation to the authority; granting the use of state land and property to the authority; making provisions for the payment and security of such bonds and granting certain rights and remedies to the holders thereof; authorizing banks and trust companies to perform certain acts in connection therewith; authorizing the imposition of tolls and charges; authorizing the authority to secure the consent of the United States government to the construction of the bridge and to secure approval of plans, specifications and location of same; authorizing employment of engineers irrespective of whether such engineers have been previously employed to make preliminary inspections or reports with respect to the bridge; authorizing the state highway department to operate and maintain such bridge or to contribute thereto and enter into leases and agreements in connection therewith; exempting such bonds and the property of the authority from taxation; prohibiting competing traffic facilities; authorizing the operation of ferries by the authority; providing for the construction and use of certain buildings; and making an appropriation," by amending section 12 (MCL 254.322).

The People of the State of Michigan enact:

254.322 Use of bridge; payment of tolls; authorized emergency vehicles.

Sec. 12. Except as provided in this section, all individuals or vehicles using the bridge shall pay tolls and charges established by the authority. The authority shall not charge tolls or charges to its own personnel or vehicles while the personnel are on duty or while the vehicles are being used for authority business. Beginning October 1, 2003, the authority shall not charge tolls or charges to authorized emergency vehicles that are in the process of responding to an emergency. As used in this section, "authorized emergency vehicles" means that term as defined in section 2 of the Michigan vehicle code, 1949 PA 300, MCL 257.2.

This act is ordered to take immediate effect.
Approved August 25, 2003.
Filed with Secretary of State August 25, 2003.

[No. 177]

(HB 4087)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding part 317.

The People of the State of Michigan enact:

PART 317 AQUIFER PROTECTION AND DISPUTE RESOLUTION

324.31701 Definitions.

Sec. 31701. As used in this part:

(a) "Agricultural well" means a high capacity well that is used for an agricultural purpose.

(b) "Complaint" means a complaint submitted under section 31702 alleging a potential groundwater dispute.

(c) "Construction" means the process of building a building, road, utility, or another structure, including all of the following:

(*i*) Assembling materials.

(*ii*) Disassembling and removing a structure.

(*iii*) Preparing the construction site.

(*iv*) Work related to any of the items described in subparagraphs (*i*) to (*iii*).

(d) “Dewatering well” means a well or pump that is used for a limited time period as part of a construction project to remove or pump water from a surface or subsurface area and ceases to be used upon completion of the construction project or shortly after completion of the construction project.

(e) “Director” means the director of the department of environmental quality or his or her designee.

(f) “Farm” means that term as it is defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(g) “Fund” means the aquifer protection revolving fund created in section 31710.

(h) “Groundwater” means the water in the zone of saturation that fills all of the pore spaces of the subsurface geologic material.

(i) “Groundwater dispute” means a groundwater dispute declared by order of the director under section 31703.

(j) “High capacity well” means 1 or more water wells associated with an industrial or processing facility, an irrigation facility, a farm, or a public water supply system that, in the aggregate from all sources and by all methods, have the capability of withdrawing 100,000 or more gallons of groundwater in 1 day.

(k) “Industrial or processing facility” means that term as it is defined in section 32701.

(*l*) “Irrigation facility” means that term as it is defined in section 32701.

(m) “Local health department” means that term as it is defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

(n) “Owner” means either of the following:

(*i*) The owner of an interest in property.

(*ii*) A person in possession of property.

(o) “Potable water” means water that at the point of use is acceptable for human consumption.

(p) “Public water supply system” means a water system that provides water for human consumption or other purposes to persons other than the supplier of water.

(q) “Small quantity well” means 1 or more water wells of a person at the same location that, in the aggregate from all sources and by all methods, have the capability of withdrawing less than 100,000 gallons of groundwater in 1 day.

(r) “Water well” means an opening in the surface of the earth, however constructed, that is used for the purpose of withdrawing groundwater. Water well does not include a drain as defined in section 3 of the drain code of 1956, 1956 PA 40, MCL 280.3.

(s) “Well drilling contractor” means a well drilling contractor registered under part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771.

324.31702 Groundwater dispute; complaint; information; investigation; resolution; use of toll-free telephone line; duties of director and director of department of agriculture; payment of investigation costs; “unverified complaint” defined.

Sec. 31702. (1) Subject to section 31712, the owner of a small quantity well may submit a complaint alleging a potential groundwater dispute if the small quantity well has failed to furnish the well’s normal supply of water or the well has failed to furnish potable water and the owner has credible reason to believe the well’s problems have been caused by a high capacity well. A complaint shall be submitted to the director or to the director of the

department of agriculture if the complaint involves an agricultural well. The complaint shall be in writing and shall be submitted in person, via certified mail, via the toll-free facsimile telephone number provided in subsection (4), or via other means of electronic submittal as developed by the department. However, the director or the director of the department of agriculture may refuse to accept an unreasonable complaint. The complaint shall include all of the following information:

(a) The name, address, and telephone number of the owner of the small quantity well.

(b) The location of the small quantity well, including the county, township, township section, and address of the property on which the small quantity well is situated, and all other available information that defines the location of that well.

(c) An explanation of why the small quantity well owner believes that a high capacity well has interfered with the proper function of the small quantity well and any information available to the small quantity well owner about the location and operation of the high capacity well.

(d) The date or dates that the small quantity well owner alleges that the interference by a high capacity well occurred.

(e) Sufficient evidence to establish a reasonable belief that the interference was caused by a high capacity well.

(2) The owner of a small quantity well may call the toll-free telephone line provided for in subsection (5) to request a complaint form or other information regarding the dispute resolution process provided in this part.

(3) Within 2 working days after receipt of a complaint under subsection (1), the director or the director of the department of agriculture, as appropriate, shall contact the complainant and begin an investigation. Within 5 working days after receipt of a complaint under subsection (1), the director or the director of the department of agriculture, as appropriate, shall conduct an on-site evaluation. However, if the complaint is for a small quantity well that is in close proximity to other small quantity wells for which documented complaints have been received and investigated during the previous 60 days, the department need not conduct an on-site evaluation unless the department determines an on-site evaluation is necessary. If the director or the director of the department of agriculture, as appropriate, considers it necessary for an investigation under this subsection, he or she may request that the owner of the small quantity well provide a written assessment by a well drilling contractor that the small quantity well failure was not the result of well failure or equipment failure. The assessment shall include a determination of the static water level in the well at the time of the assessment and, if readily available, the type of pump and equipment. The director or the director of the department of agriculture, as appropriate, shall give affected persons an opportunity to contribute to the investigation of a complaint. In conducting the investigation, the director or the director of the department of agriculture, as appropriate, shall consider whether the owner of the high capacity well is using industry-recognized water conservation management practices.

(4) After conducting an investigation, the director or the director of the department of agriculture, as appropriate, shall make a diligent effort to resolve the complaint. In attempting to resolve a complaint, the director or the director of the department of agriculture, as appropriate, may propose a remedy that he or she believes would equitably resolve the complaint. If, within 14 days following the submittal of a complaint, the director of the department of agriculture is unable to resolve a complaint, the director of the department of agriculture shall refer the complaint, and provide all relevant information, to the director.

(5) The director shall provide for the use of a toll-free facsimile telephone line to receive complaints and a toll-free telephone line for owners of small quantity wells to request complaint forms and to obtain other information regarding the dispute resolution process provided in this part.

(6) The director and the director of the department of agriculture shall do both of the following:

(a) Publicize the toll-free facsimile line and the toll-free telephone line provided for in subsection (5).

(b) Enter into a memorandum of understanding that describes the process that will be followed by each director when a complaint involves an agricultural well.

(7) A complainant who submits more than 2 unverified complaints under this section within 1 year may be ordered by the director to pay for the full costs of investigation of any third or subsequent unverified complaint. As used in this subsection, "unverified complaint" means a complaint in response to which the director determines that there is not reasonable evidence to declare a groundwater dispute.

324.31703 Declaration of groundwater dispute.

Sec. 31703. (1) The director shall, by order, declare a groundwater dispute if an investigation of a complaint discloses all of the following, based upon reasonable scientifically-based evidence, and within a reasonable amount of time the director is unable to resolve the complaint:

(a) That the small quantity well has failed to furnish the well's normal supply of water or failed to furnish potable water.

(b) That the small quantity well and the well's equipment were functioning properly at the time of the failure. The determination under this subdivision shall be made based upon an assessment from a well drilling contractor that is provided by the owner of the small quantity well.

(c) That the failure of the small quantity well was caused by the lowering of the groundwater level in the area.

(d) That the lowering of the groundwater level exceeds normal seasonal water level fluctuations and substantially impairs continued use of the groundwater resource in the area.

(e) That the lowering of the groundwater level was caused by at least 1 high capacity well.

(f) That the owner of the small quantity well did not unreasonably reject a remedy proposed by the director or the director of the department of agriculture under section 31702(3).

(2) In addition to the authority under subsection (1) to declare a groundwater dispute, if the director has clear and convincing scientifically-based evidence that indicates that continued groundwater withdrawals from a high capacity well will exceed the recharge capability of the groundwater resource of the area, the director, by order, may declare a groundwater dispute.

(3) The director may amend or terminate an order declaring a groundwater dispute at any time.

324.31704 Service of order declaring groundwater dispute; effect; oral notification; copies to local units of government.

Sec. 31704. (1) An order declaring a groundwater dispute is effective when a copy of the order is served upon the owner of a high capacity well that is reasonably believed to have caused the failure of the complainant's small quantity well.

(2) If a groundwater dispute requires action before service can be completed under subsection (1), oral notification in person by the director is sufficient until service can be completed. Oral notification is effective for not more than 96 hours.

(3) As soon as possible after an order declaring a groundwater dispute has been issued, the director shall provide copies of the order to the local units of government in which the high capacity well and the small quantity well are located and to the local health departments with jurisdiction over those wells.

324.31705 Issuance of order declaring groundwater dispute; duties of director.

Sec. 31705. (1) Upon declaration of a groundwater dispute, the director shall, by order, require the immediate temporary provision at the point of use of an adequate supply of potable water.

(2) Except as provided in subsections (3), (4), and (5), if the director issues an order declaring a groundwater dispute, the director may, by order, restrict the quantity of groundwater that may be extracted from a high capacity well under either of the following conditions:

(a) If the high capacity well is reasonably believed to have caused the failure of the complainant's small quantity well and an immediate temporary provision of an adequate supply of potable water has not been provided to the complainant by the owner of the high capacity well.

(b) If there is clear and convincing scientifically-based evidence that continued groundwater withdrawals from the high capacity well will exceed the recharge capability of the groundwater resource of the area.

(3) In issuing an order under subsection (2), the director shall consider the impact the order will have on the viability of a business associated with the high capacity well or other use of the high capacity well.

(4) If an operator of a high capacity well withdraws water by a means other than pumping, the director may, by order, temporarily restrict the quantity of groundwater that may be extracted only if the conditions of subsection (2)(a) or (b) have not been met.

(5) The director shall not issue an order that diminishes the normal supply of drinking water or the capability for fire suppression of a public water supply system owned or operated by a local unit of government.

324.31706 Owner of high capacity well; compensation.

Sec. 31706. (1) If a groundwater dispute has been declared, the owner of a high capacity well shall, subject to an order of the director, provide timely and reasonable compensation as provided in section 31707 if there is a failure or substantial impairment of a small quantity well and the following conditions exist:

(a) The failure or substantial impairment was caused by the groundwater withdrawals of the high capacity well.

(b) The small quantity well was constructed prior to February 14, 1967 or, if the small quantity well was constructed on or after February 14, 1967, the well was constructed in compliance with part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771.

(2) In addition to the timely and reasonable compensation required under subsection (1), if a groundwater dispute has been declared, the owner of a high capacity well shall reimburse the director an amount equal to the actual and reasonable costs incurred by the

director in investigating and resolving the groundwater dispute, not to exceed $75,000.00. Money received by the director under this subsection shall be forwarded to the state treasurer for deposit into the fund.

324.31707 Timely and reasonable compensation; limitation; refusal to accept.

Sec. 31707. (1) Timely and reasonable compensation under section 31706 consists of and is limited to either or both of the following:

(a) The reimbursement of expenses reasonably incurred by the complainant beginning 30 days prior to the date on which a complaint is made under section 31702 in doing the following:

(*i*) Paying for the cost of conducting a well assessment to determine that the small quantity well and the well's equipment were functioning properly at the time of the failure.

(*ii*) Paying for the cost of obtaining an immediate temporary provision at the prior point of use of an adequate supply of potable water.

(*iii*) Obtaining 1 of the following:

(A) The restoration of the affected small quantity well to the well's normal supply of water.

(B) The permanent provision at the point of use of an alternative potable supply of equal quantity.

(b) If an adequate remedy is not achievable under subdivision (a), the restriction or scheduling of the groundwater withdrawals of the high capacity well so that the affected small quantity well continues to produce either of the following:

(*i*) The well's normal supply of water.

(*ii*) The normal supply of potable water if the well normally furnishes potable water.

(2) The refusal of an owner of an affected small quantity well to accept timely and reasonable compensation described in subsection (1) is sufficient grounds for the director to terminate an order imposed on the owner of a high capacity well.

324.31708 Appeal of order.

Sec. 31708. The owner of a high capacity well subject to an order under this part may appeal that order directly to circuit court pursuant to the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948.

324.31709 Exceptions.

Sec. 31709. This part does not apply to a potential groundwater dispute involving any of the following:

(a) A high capacity well owned or operated by a local unit of government if the local unit of government agrees to make the aggrieved property owner whole by connecting the owner's property to the local unit of government's public water supply system or by drilling the owner a new well, with the installation costs paid by the local unit of government.

(b) A high capacity well associated with a public water supply system that is owned or operated by a local unit of government if the recharge area of the water well is protected by a wellhead protection program approved by the department under the state's wellhead protection program.

(c) A high capacity well that is a dewatering well.

(d) A high capacity well that is used solely for the purpose of fire suppression.

324.31710 Aquifer protection revolving fund.

Sec. 31710. (1) The aquifer protection revolving fund is created in the state treasury.

(2) The fund 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) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) Money in the fund shall be expended by the department only to implement this part.

(5) If money in the fund is used to conduct hydrogeological studies or other studies to gather data on the nature of aquifers or groundwater resources in the state, the department shall include this information in the groundwater inventory and map prepared under section 32802.

324.31711 Report.

Sec. 31711. Not later than April 1, 2004, and every 2 years thereafter, the department shall prepare and submit to the standing committees of the senate and the house of representatives a report that includes both of the following:

(a) An analysis of the department's costs of implementing this part and whether the limitation on reimbursable costs under section 31706(2) should be modified.

(b) Recommendations on modifications to this part that would improve the overall effectiveness of this part.

324.31712 Identification of 2 at-risk geographic areas; administration of part.

Sec. 31712. (1) Within 30 days after the effective date of the amendatory act that added this section, the director shall identify 2 geographic areas in the state that are at greatest risk for potential groundwater disputes.

(2) Beginning 30 days after the effective date of the amendatory act that added this section, this part shall be administered in the 2 geographic areas identified by the director under subsection (1).

(3) Beginning July 1, 2004, this part shall be administered on a statewide basis.

324.31713 Violation of order; penalty; default; disposition; enforcement action.

Sec. 31713. (1) A person who violates an order issued under this part is responsible for a civil fine of not more than $1,000.00 for each day of violation, but not exceeding a total of $50,000.00.

(2) A default in the payment of a civil fine or costs ordered under this section or an installment of the fine or costs may be remedied by any means authorized under the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948.

(3) All civil fines recovered under this section shall be forwarded to the state treasurer for deposit into the general fund.

(4) The director may bring an action in a court of competent jurisdiction to enforce an order under this part, including injunctive or other equitable relief.

This act is ordered to take immediate effect.
Approved August 28, 2003.
Filed with Secretary of State August 29, 2003.

[No. 178]

(HB 4737)

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," by amending sections 880b, 2529, 2538, 4805, 5756, 8371, and 8731 (MCL 600.880b, 600.2529, 600.2538, 600.4805, 600.5756, 600.8371, and 600.8731), sections 880b, 2529, 2538, 5756, and 8371 as amended by 2003 PA 138 and section 8731 as amended by 2003 PA 95.

The People of the State of Michigan enact:

600.880b Fees paid to probate register; exceptions; disposition.

Sec. 880b. (1) Except as otherwise provided by law, after the commencement of a civil action or proceeding in the probate court, a party filing a motion, petition, account, objection, or claim shall pay a $20.00 motion fee to the probate register.

(2) The probate register shall charge and collect a $15.00 service fee for each writ of garnishment, attachment, or execution or for each judgment debtor discovery subpoena issued.

(3) A fee shall not be charged under this section in a guardianship or limited guardianship proceeding if the moving party is the subject of the proceeding.

(4) A fee shall not be charged under this section in a conservatorship proceeding if the moving party is the subject of the proceeding or, if the conservatorship is for a minor, for a motion to release restricted funds.

(5) A party is not required to pay a fee under this section if the party is the attorney general, department of treasury, family independence agency, state public administrator, or administrator of veterans affairs of the United States veterans administration, or an agency of county government.

(6) The probate register, on or before the fifth day of the month following the month in which fees are collected under this section, shall transmit to the county treasurer all fees collected under this section during the preceding month. Within 15 days after receiving the fees, the county treasurer shall transmit 50% of each fee collected to the state treasurer for deposit in the state court fund created by section 151a and shall deposit the remaining 50% of each fee in the county general fund for use exclusively for expenses of the probate court, to be first applied toward expenses in adult guardianship pro-

ceedings of the independent evaluations, legal counsel, and periodic review mandated by article 5 of the estates and protected individuals code, 1998 PA 386, MCL 700.5101 to 700.5520.

600.2529 Fees paid to clerk of circuit court; sums held as payment in full; payment of fees to county treasurer; waiving or suspending fees; affidavit of indigency or inability to pay.

Sec. 2529. (1) In the circuit court, the following fees shall be paid to the clerk of the court:

(a) Before a civil action other than an action brought exclusively under section 2950, 2950a, or 2950h to 2950m is commenced, or before the filing of an application for superintending control or for an extraordinary writ, except the writ of habeas corpus, the party bringing the action or filing the application shall pay the sum of $150.00. The clerk at the end of each month shall transmit for each fee collected under this subdivision within the month $31.00 to the county treasurer and the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

(b) Before the filing of a claim of appeal or motion for leave to appeal from the district court, probate court, a municipal court, or an administrative tribunal or agency, the sum of $150.00. For each fee collected under this subdivision, the clerk shall transmit $31.00 to the county treasurer and the balance of the fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

(c) If a trial by jury is demanded, the party making the demand at the time shall pay the sum of $85.00. Failure to pay the fee at the time the demand is made constitutes a waiver of the right to a jury trial. The sum shall be taxed in favor of the party paying the fee, in case the party recovers a judgment for costs. For each fee collected under this subdivision, the clerk shall transmit $25.00 to the state treasurer for deposit in the juror compensation reimbursement fund created in section 151d.

(d) Before entry of a final judgment in an action for divorce or separate maintenance in which minor children are involved, or the entry of a final judgment in a child custody dispute submitted to the circuit court as an original action, 1 of the following sums, which shall be deposited by the county treasurer as provided in section 2530:

(*i*) If the matter was contested or uncontested and was not submitted to domestic relations mediation or investigation by the friend of the court, $30.00.

(*ii*) If the matter was contested or uncontested and was submitted to domestic relations mediation, $50.00.

(*iii*) If the matter was contested or uncontested and the office of the friend of the court conducted an investigation and made a recommendation to the court, $70.00.

(e) Except as otherwise provided in this section, upon the filing of a motion the sum of $20.00. In conjunction with an action brought under section 2950 or 2950a, a motion fee shall not be collected for a motion to dismiss the petition, a motion to modify, rescind, or terminate a personal protection order, or a motion to show cause for a violation of a personal protection order. A motion fee shall not be collected for a motion to dismiss a proceeding to enforce a foreign protection order or a motion to show cause for a violation of a foreign protection order under sections 2950h to 2950m. For each fee collected under this subdivision, the clerk shall transmit $10.00 to the state treasurer for deposit in the state court fund created by section 151a.

(f) For services under the direction of the court that are not specifically provided for in this section relative to the receipt, safekeeping, or expending of money, or the pur-

chasing, taking, or transferring of a security, or the collecting of interest on a security, the clerk shall receive the allowance and compensation from the parties as the court may consider just and shall direct by court order, after notice to the parties to be charged.

(g) Upon appeal to the court of appeals or the supreme court, the sum of $25.00.

(h) The sum of $15.00 as a service fee for each writ of garnishment, attachment, execution, or judgment debtor discovery subpoena issued.

(2) The sums paid as provided in this section shall be held to be in full for all clerk, entry, and judgment fees in an action from the commencement of the action to and including the issuance and return of the execution or other final process, and are taxable as costs.

(3) Except as otherwise provided in this section, the fees shall be paid over to the county treasurer as required by law.

(4) The court shall order any of the fees prescribed in this section waived or suspended, in whole or in part, upon a showing by affidavit of indigency or inability to pay.

600.2538 Payments of support or maintenance collected by friend of the court or state disbursement unit; fee; notice; transition to centralized receipt and disbursement of support and fees; "state disbursement unit" or "SDU" defined.

Sec. 2538. (1) For services provided that are not reimbursable under the provisions of part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 660, and 663 to 669b, every person required to make payments of support or maintenance to be collected by the friend of the court or the state disbursement unit shall pay a fee of $1.50 per month for every month or portion of a month that support or maintenance is required to be paid. The fee shall be paid monthly, quarterly, or semiannually as required by the friend of the court. The friend of the court shall provide notice of the fee required by this section to the person ordered to pay the support and that the fee shall be paid monthly or as otherwise determined by the friend of the court. The friend of the court or SDU shall transmit each fee collected under this section as follows:

(a) Twenty-five cents to the appropriate county treasurer for deposit into the general fund of the county.

(b) For fees assessed on or after October 1, 2003, 25 cents to the state treasurer for deposit in the fund created in subsection (3).

(c) One dollar to the state treasurer for deposit in the state court fund created in section 151a.

(2) The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

(3) An attorney general's operations fund is created within the state treasury. 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. 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 of attorney general shall expend money from the fund, upon appropriation, for operational purposes.

(4) As used in this section, "state disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

600.4805 Penalty; recovery.

Sec. 4805. Unless otherwise specially provided for by law, if a penalty, fee, or costs are incurred by any person and the act or omission for which the penalty, fee, or costs are imposed is not also a misdemeanor, the penalty, fee, or costs may be recovered in the same manner as civil judgments for money in the same court.

600.5756 Filing fees; disposition.

Sec. 5756. (1) If the complaint is for the recovery of possession of premises only, the fee for filing a proceeding under this chapter is $45.00. Beginning October 1, 2005, the fee required under this subsection is $40.00.

(2) If a claim for a money judgment is joined with a claim for the recovery of possession of premises, the plaintiff shall pay a supplemental filing fee in the same amount as established by law for the filing of a claim for a money judgment in the same court.

(3) Of each filing fee collected under this section, at the end of each month, the clerk of the district court shall transmit $17.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than $5.00 shall be used by the district funding unit to fund the operation of the district court; and the balance to the state treasurer for deposit in the civil filing fee fund created by section 171. Beginning October 1, 2005, the amount of each fee that the clerk shall transmit to the treasurer of the district funding unit is reduced to $12.00.

(4) At the end of each month, the clerk of the district court shall transmit each supplemental filing fee collected under this section in the same manner as a fee under section 8371 for the filing of a claim for money judgment for the same amount is transmitted.

600.8371 Filing fees paid to clerk of district court; disposition; waiver or suspension; exception; filing fee for civil action; fee in trial by jury; motion filing fees.

Sec. 8371. (1) In the district court, the fees prescribed in this section shall be paid to the clerk of the court.

(2) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of $150.00 if the amount in controversy exceeds $10,000.00. For each fee collected under this subsection, the clerk shall transmit $31.00 to the treasurer of the district funding unit in which the action was commenced, and shall transmit the balance to the state treasurer for deposit in the civil filing fee fund created by section 171.

(3) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of $65.00 if the amount in controversy exceeds $1,750.00 but does not exceed $10,000.00. Beginning October 1, 2005, the fee required under this subsection is $60.00. For each fee collected under this subsection, the clerk shall transmit $23.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than $5.00 shall be used by the district funding unit to fund the operation of the district court; and shall transmit the balance to the state treasurer for deposit in the civil filing fee fund created by section 171. Beginning October 1, 2005, the amount of each fee that the clerk shall transmit to the treasurer of the district funding unit is reduced to $18.00.

(4) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of $45.00 if the amount in controversy exceeds $600.00 but does not exceed $1,750.00. Beginning October 1, 2005, the fee required under this subsection is $40.00. For each fee collected under this subsection, the clerk shall transmit $17.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than $5.00 shall be used by the district funding unit to fund the operation of the district court; and shall transmit the balance to the state treasurer for deposit in the civil filing fee fund created by section 171. Beginning October 1, 2005, the amount of each fee that the clerk shall transmit to the treasurer of the district funding unit is reduced to $12.00.

(5) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of $25.00 if the amount in controversy does not exceed $600.00. Beginning October 1, 2005, the fee required under this subsection is $20.00. For each fee collected under this subsection, the clerk shall transmit $11.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than $5.00 shall be used by the district funding unit to fund the operation of the district court; and shall transmit the balance to the state treasurer for deposit in the civil filing fee fund created by section 171. Beginning October 1, 2005, the amount of each fee that the clerk shall transmit to the treasurer of the district funding unit is reduced to $6.00.

(6) The judge shall order payment of any statutory fees waived or suspended if the person subject to the fee is receiving public assistance or is determined by the court to be indigent.

(7) Neither this state nor a political subdivision of this state shall be required to pay a filing fee in a civil infraction action.

(8) Except for civil actions filed for relief under chapter 43, 57, or 84, if a civil action is filed for relief other than money damages, the filing fee shall be equal to the filing fee in actions for money damages in excess of $1,750.00 but not in excess of $10,000.00 as provided in subsection (3) and shall be transmitted in the same manner as a fee under subsection (3) is transmitted. If a claim for money damages is joined with a claim for relief other than money damages, the plaintiff shall pay a supplemental filing fee in the same amount as required under subsections (2) to (5).

(9) If a trial by jury is demanded, the party making the demand at the time shall pay the sum of $50.00. Failure to pay the fee at the time the demand is made constitutes a waiver of the right to a jury trial. The sum shall be taxed in favor of the party paying the fee, in case the party recovers a judgment for costs. For each fee collected under this subsection, the clerk shall transmit $10.00 to the state treasurer for deposit in the juror compensation reimbursement fund created in section 151d.

(10) A sum of $20.00 shall be assessed for all motions filed in a civil action. A motion fee shall not be assessed in a civil infraction action. For each fee collected under this subsection, the clerk shall transmit $10.00 to the state treasurer for deposit in the state court fund created in section 151a and the balance shall be transmitted to the treasurer of the district funding unit for the district court in the district in which the action was commenced.

600.8731 Violation involving land, building, or other structure; nonpayment of civil fine, costs, or installment; lien.

Sec. 8731. (1) If a defendant does not pay a civil fine, costs, or assessment or an installment ordered under section 8727 within 30 days after the date on which payment is due under section 8727 in a municipal civil infraction action brought for a violation

involving the use or occupation of land or a building or other structure, the plaintiff may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fines, costs, and assessment with the register of deeds for the county in which the land, building, or structure is located. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order. The lien is effective immediately upon recording of the court order with the register of deeds.

(2) The court order recorded with the register of deeds shall constitute notice of the pendency of the lien. In addition, a written notice of the lien shall be sent by the plaintiff by first-class mail to the owner of record of the land, building, or structure at the owner's last known address.

(3) The lien may be enforced and discharged by a county, city, village, or township in the manner prescribed by its charter, by the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, or by an ordinance duly passed by the governing body of the county, city, village, or township. However, property is not subject to sale under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, for nonpayment of a civil fine, costs, or assessment or an installment ordered under section 8727 unless the property is also subject to sale under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, for delinquent property taxes.

(4) A lien created under this section has priority over any other lien unless 1 or more of the following apply:

(a) The other lien is a lien for taxes or special assessments.

(b) The other lien is created before May 1, 1994.

(c) Federal law provides that the other lien has priority.

(d) The other lien is recorded before the lien under this section is recorded.

(5) A political subdivision may institute an action in a court of competent jurisdiction for the collection of the judgment imposed by a court order for a municipal civil infraction. However, an attempt by a county, city, village, or township to collect the judgment by any process does not invalidate or waive the lien upon the land, building, or structure.

(6) A lien provided for by this section shall not continue for a period longer than 5 years after a copy of the court order imposing a fine, costs, or assessment is recorded, unless within that time an action to enforce the lien is commenced.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2003.

This act is ordered to take immediate effect.
Approved September 30, 2003.
Filed with Secretary of State September 30, 2003.

[No. 179]

(SB 393)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization,

regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending the title and sections 5, 501, and 504a (MCL 380.5, 380.501, and 380.504a), the title and sections 501 and 504a as amended by 1995 PA 289 and section 5 as amended by 1999 PA 23, and by adding section 503b and part 6c.

The People of the State of Michigan enact:

TITLE

An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts.

380.5 Definitions; L to R.

Sec. 5. (1) "Local act school district" or "special act school district" means a district governed by a special or local act or chapter of a local act. "Local school district" and "local school district board" as used in article 3 include a local act school district and a local act school district board.

(2) "Membership" means the number of full-time equivalent pupils in a public school as determined by the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the state board.

(3) "Nonpublic school" means a private, denominational, or parochial school.

(4) "Objectives" means measurable pupil academic skills and knowledge.

(5) "Public school" means a public elementary or secondary educational entity or agency that is established under this act, has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, strict discipline academy corporation, urban high school academy corporation, or by the department or state board. Public school also includes a laboratory school or other elementary or secondary school that is controlled and

operated by a state public university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

(6) "Public school academy" means a public school academy established under part 6a and, except as used in part 6a, also includes an urban high school academy established under part 6c and a strict discipline academy established under sections 1311b to 1311*l*.

(7) "Pupil membership count day" of a school district means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(8) "Reorganized intermediate school district" means an intermediate school district formed by consolidation or annexation of 2 or more intermediate school districts under sections 701 and 702.

(9) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

380.501 Public school academy; scope; powers; definitions.

Sec. 501. (1) A public school academy is a public school under section 2 of article VIII of the state constitution of 1963, is a school district for the purposes of section 11 of article IX of the state constitution of 1963 and for the purposes of section 1225 and section 1351a, and is subject to the leadership and general supervision of the state board over all public education under section 3 of article VIII of the state constitution of 1963. A public school academy is a body corporate and is a governmental agency. The powers granted to a public school academy under this part constitute the performance of essential public purposes and governmental functions of this state.

(2) As used in this part:

(a) "Authorizing body" means any of the following that issues a contract as provided in this part:

(*i*) The board of a school district that operates grades K to 12.

(*ii*) An intermediate school board.

(*iii*) The board of a community college.

(*iv*) The governing board of a state public university.

(b) "Certificated teacher" means an individual who holds a valid teaching certificate issued by the superintendent of public instruction under section 1531.

(c) "Community college" means a community college organized under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195, or a federal tribally controlled community college that is recognized under the tribally controlled community college assistance act of 1978, Public Law 95-471, 92 Stat. 1325, and is determined by the department to meet the requirements for accreditation by a recognized regional accrediting body.

(d) "Contract" means the executive act taken by an authorizing body that evidences the authorization of a public school academy and that establishes, subject to the constitutional powers of the state board and applicable law, the written instrument executed by an authorizing body conferring certain rights, franchises, privileges, and obligations on a public school academy, as provided by this part, and confirming the status of a public school academy as a public school in this state.

(e) "Entity" means a partnership, nonprofit or business corporation, labor organization, or any other association, corporation, trust, or other legal entity.

(f) "State public university" means a state university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

380.503b Agreement between public school academy and third party; obligation of state or authorizing party; debt.

Sec. 503b. (1) An agreement, mortgage, loan, or other instrument of indebtedness entered into by a public school academy and a third party does not constitute an obligation, either general, special, or moral, of this state or an authorizing body. The full faith and credit or the taxing power of this state or any agency of this state, or the full faith and credit of an authorizing body, may not be pledged for the payment of any public school academy bond, note, agreement, mortgage, loan, or other instrument of indebtedness.

(2) This part does not impose any liability on this state or on an authorizing body for any debt incurred by a public school academy.

380.504a Public school academy; additional powers.

Sec. 504a. In addition to other powers set forth in this part, a public school academy may take action to carry out the purposes for which it was incorporated under this part, including, but not limited to, all of the following:

(a) To sue and be sued in its name.

(b) Subject to section 503b, to acquire, hold, and own in its own name real and personal property, or interests in real or personal property, for educational purposes by purchase, gift, grant, devise, bequest, lease, sublease, installment purchase agreement, land contract, option, or condemnation, and subject to mortgages, security interests, or other liens; and to sell or convey the property as the interests of the public school academy require.

(c) To receive, disburse, and pledge funds for lawful purposes.

(d) To enter into binding legal agreements with persons or entities as necessary for the operation, management, financing, and maintenance of the public school academy.

(e) To incur temporary debt in accordance with section 1225.

(f) To solicit and accept any grants or gifts for educational purposes and to establish or permit to be established on its behalf 1 or more nonprofit corporations the purpose of which is to assist the public school academy in the furtherance of its public purposes.

(g) To borrow money and issue bonds in accordance with section 1351a and in accordance with part VI of the revised municipal finance act, 2001 PA 34, MCL 141.2601 to 141.2613, except that the borrowing of money and issuance of bonds by a public school academy is not subject to section 1351a(4) or section 1351(2) to (4). Bonds issued under this section shall be full faith and credit obligations of the public school academy, pledging the general funds or any other money available for such a purpose. Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

PART 6C

URBAN HIGH SCHOOL ACADEMIES

380.521 Urban high school academy; powers; definitions.

Sec. 521. (1) An urban high school academy is a public school under section 2 of article VIII of the state constitution of 1963, is a school district for the purposes of section 11 of article IX of the state constitution of 1963 and for the purposes of sections 1225 and 1351a, and is

subject to the leadership and general supervision of the state board over all public education under section 3 of article VIII of the state constitution of 1963. An urban high school academy is a body corporate and is a governmental agency. The powers granted to an urban high school academy under this part constitute the performance of essential public purposes and governmental functions of this state.

(2) As used in this part:

(a) "Authorizing body" means the governing board of a state public university that issues a contract as provided in this part.

(b) "Certificated teacher" means an individual who holds a valid teaching certificate issued by the superintendent of public instruction under section 1531.

(c) "Contract" means the executive act taken by an authorizing body that evidences the authorization of an urban high school academy and that establishes, subject to the constitutional powers of the state board and applicable law, the written instrument executed by an authorizing body conferring certain rights, franchises, privileges, and obligations on an urban high school academy, as provided by this part, and confirming the status of an urban high school academy as a public school in this state.

(d) "Educational management company" means an entity that enters into an agreement with the governing board of a public school to provide comprehensive educational, administrative, management, or instructional services or staff to the public school.

(e) "Entity" means a nonprofit corporation that is organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, and that has been granted tax-exempt status under section 509(a) of the internal revenue code of 1986.

(f) "State public university" means a state university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

380.522 Organization and administration.

Sec. 522. (1) An urban high school academy shall be organized and administered under the direction of a board of directors in accordance with this part and with bylaws adopted by the board of directors. An urban high school academy corporation shall be organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, except that an urban high school academy corporation is not required to comply with sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177. To the extent disqualified under the state or federal constitution, an urban high school academy shall not be organized by a church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(2) The governing board of a state public university may act as an authorizing body to issue a contract for the organization and operation of an urban high school academy under this part. Subject to section 524(1), not more than 15 contracts may be issued under this part. A contract issued under this part shall be for an urban high school academy that will be located in a school district of the first class. An urban high school academy authorized under this part shall not operate outside the boundaries of a school district of the first class.

(3) A contract issued under this part shall be issued for an initial term of 10 years. If the urban high school academy meets the educational goals set forth in the contract and operates in substantial compliance with this part, the authorizing body shall automatically renew the contract for subsequent 10-year terms.

(4) To obtain a contract to organize and operate 1 or more urban high school academies, an entity may apply to an authorizing body described in subsection (2). The contract shall be issued to an urban high school academy corporation designated by the entity applying for the contract. The application shall include at least all of the following:

(a) Name of the entity applying for the contract.

(b) Subject to the resolution adopted by the authorizing body under section 528, a list of the proposed members of the board of directors of the urban high school academy and a description of the qualifications and method for appointment or election of members of the board of directors.

(c) The proposed articles of incorporation, which shall include at least all of the following:

(*i*) The name of the proposed urban high school academy to which the contract will be issued.

(*ii*) The purposes for the urban high school academy corporation. This language shall provide that the urban high school academy is incorporated pursuant to this part and that the urban high school academy corporation is a governmental entity and political subdivision of this state.

(*iii*) The name of the authorizing body.

(*iv*) The proposed time when the articles of incorporation will be effective.

(*v*) Other matters considered expedient to be in the articles of incorporation.

(d) A copy of the proposed bylaws of the urban high school academy.

(e) Documentation meeting the application requirements of the authorizing body, including at least all of the following:

(*i*) The governance structure of the urban high school academy.

(*ii*) A copy of the educational goals of the urban high school academy and the curricula to be offered and methods of pupil assessment to be used by the urban high school academy. To the extent applicable, the progress of the pupils in the urban high school academy shall be assessed using at least a Michigan education assessment program (MEAP) test or an assessment instrument developed under section 1279.

(*iii*) The admission policy and criteria to be maintained by the urban high school academy. The admission policy and criteria shall comply with section 524. This part of the application also shall include a description of how the applicant will provide to the general public adequate notice that an urban high school academy is being created and adequate information on the admission policy, criteria, and process.

(*iv*) The school calendar and school day schedule.

(*v*) The age or grade range of pupils to be enrolled.

(f) Descriptions of staff responsibilities and of the urban high school academy's governance structure.

(g) A description of and address for the proposed building or buildings in which the urban high school academy will be located, and a financial commitment by the entity applying for the contract to construct or renovate the building or buildings that will be occupied by the urban high school academy that is issued the contract.

(5) If a particular state public university issues a contract that allows an urban high school academy to operate the same configuration of grades at more than 1 site, as provided in section 524(1), each of those sites shall be under the direction of the board of directors that is a party to the contract.

(6) If the state board finds that an authorizing body is not engaging in appropriate continuing oversight of 1 or more urban high school academies operating under a contract issued by the authorizing body, the state board by unanimous vote may suspend the power of the authorizing body to issue new contracts to organize and operate urban high school academies. A contract issued by the authorizing body during the suspension is void. A contract issued by the authorizing body before the suspension is not affected by the suspension.

(7) An authorizing body shall not charge a fee, or require reimbursement of expenses, for considering an application for a contract, for issuing a contract, or for providing oversight of a contract for an urban high school academy in an amount that exceeds a combined total of 3% of the total state school aid received by the urban high school academy in the school year in which the fees or expenses are charged. All of the following apply to this fee:

(a) An authorizing body may use this fee only for the following purposes:

(*i*) Considering applications and issuing or administering contracts.

(*ii*) Compliance monitoring and oversight of urban high school academies.

(*iii*) Training for urban high school academy applicants, administrators, and boards of directors.

(*iv*) Technical assistance to urban high school academies.

(*v*) Academic support to urban high school academies or to pupils or graduates of urban high school academies.

(*vi*) Evaluation of urban high school academy performance.

(*vii*) Training of teachers, including supervision of teacher interns.

(*viii*) Other purposes that assist the urban high school academies or traditional public schools in achieving improved academic performance.

(b) An authorizing body may provide other services for an urban high school academy and charge a fee for those services, but shall not require such an arrangement as a condition to issuing the contract authorizing the urban high school academy.

(8) An urban high school academy shall be presumed to be legally organized if it has exercised the franchises and privileges of an urban high school academy for at least 2 years.

380.523 Contracts; issuance; priority; contents; compliance with state laws; immunity from civil liability; exemption from taxation; acquisition of property.

Sec. 523. (1) An authorizing body is not required to issue a contract to any entity. Urban high school academy contracts shall be issued on a competitive basis taking into consideration the resources available for the proposed urban high school academy, the population to be served by the proposed urban high school academy, and the educational goals to be achieved by the proposed urban high school academy. In evaluating if an applicant is qualified, the authorizing body shall examine the proposed performance standards, proposed academic program, financial viability of the applicant, and the ability of the proposed board of directors to meet the contract goals and objectives. An authorizing body shall give priority to applicants that demonstrate all of the following:

(a) The proposed school will operate at least all of grades 9 through 12 within 3 years after beginning operation.

(b) The proposed school will occupy a building or buildings that are newly constructed or renovated after January 1, 2003.

(c) The proposed school has a stated goal of increasing high school graduation rates.

(d) The proposed school has received commitments for financial and educational support from the entity applying for the contract.

(e) The entity that submits the application for a contract has net assets of at least $50,000,000.00.

(2) A contract issued to organize and administer an urban high school academy shall contain at least all of the following:

(a) The educational goals the urban high school academy is to achieve and the methods by which it will be held accountable. To the extent applicable, the pupil performance of an urban high school academy shall be assessed using at least a Michigan education assessment program (MEAP) test or an assessment instrument developed under section 1279.

(b) A description of the method to be used to monitor the urban high school academy's compliance with applicable law and its performance in meeting its targeted educational objectives.

(c) A description of the process for amending the contract during the term of the contract. An authorizing body may approve amendment of the contract with respect to any provision contained in the contract.

(d) A certification, signed by an authorized member of the urban high school academy board of directors, that the urban high school academy will comply with the contract and all applicable law.

(e) Procedures for revoking the contract and grounds for revoking the contract.

(f) A description of and address for the proposed building or buildings in which the urban high school academy will be located.

(g) Requirements and procedures for financial audits. The financial audits shall be conducted at least annually by an independent certified public accountant in accordance with generally accepted governmental auditing principles.

(h) A requirement that the board of directors shall ensure compliance with the requirements of 1968 PA 317, MCL 15.321 to 15.330.

(i) A requirement that the board of directors shall prohibit specifically identified family relationships between members of the board of directors, individuals who have an ownership interest in or who are officers or employees of an educational management company involved in the operation of the urban high school academy, and employees of the urban high school academy. The contract shall identify the specific prohibited relationships consistent with applicable law.

(j) A requirement that the board of directors of the urban high school academy shall make information concerning its operation and management available to the public and to the authorizing body in the same manner as is required by state law for school districts.

(k) A requirement that the board of directors of the urban high school academy shall collect, maintain, and make available to the public and the authorizing body, in accordance with applicable law and the contract, at least all of the following information concerning the operation and management of the urban high school academy:

(*i*) A copy of the contract issued by the authorizing body for the urban high school academy.

(*ii*) A list of currently serving members of the board of directors of the urban high school academy, including name, address, and term of office; copies of policies approved by the board of directors; board meeting agendas and minutes; copy of the budget approved by the board of directors and of any amendments to the budget; and copies of bills paid for amounts of $10,000.00 or more as they were submitted to the board of directors.

(*iii*) Quarterly financial reports submitted to the authorizing body.

(*iv*) A current list of teachers working at the urban high school academy that includes their individual salaries; copies of the teaching certificates or permits of current teaching staff; and evidence of compliance with the criminal background and records checks and unprofessional conduct check required under sections 1230, 1230a, and 1230b for all teachers and administrators working at the urban high school academy.

(*v*) Curriculum documents and materials given to the authorizing body.

(*vi*) Proof of insurance as required by the contract.

(*vii*) Copies of facility leases or deeds, or both, and of any equipment leases.

(*viii*) Copies of any management contracts or services contracts approved by the board of directors.

(*ix*) All health and safety reports and certificates, including those relating to fire safety, environmental matters, asbestos inspection, boiler inspection, and food service.

(*x*) Any management letters issued as part of the annual financial audit under subdivision (g).

(*xi*) Any other information specifically required under this act.

(*l*) A requirement that the authorizing body must review and may disapprove any agreement between the board of directors and an educational management company before the agreement is final and valid. An authorizing body may disapprove an agreement described in this subdivision only if the agreement is contrary to the contract or applicable law.

(m) A requirement that the board of directors shall demonstrate all of the following to the satisfaction of the authorizing body with regard to its pupil admission process:

(*i*) That the urban high school academy has made a reasonable effort to advertise its enrollment openings in a newspaper of general circulation in the intermediate school district in which the urban high school academy is located.

(*ii*) That the urban high school academy has made the following additional efforts to recruit pupils who are eligible for special education programs and services to apply for admission:

(A) Reasonable efforts to advertise all enrollment openings to organizations and media that regularly serve and advocate for individuals with disabilities within the boundaries of the intermediate school district in which the urban high school academy is located.

(B) Inclusion in all pupil recruitment materials of a statement that appropriate special education services will be made available to pupils attending the school as required by law.

(*iii*) That the open enrollment period for the urban high school academy is for a duration of at least 2 weeks and that the enrollment times include some evening and weekend times.

(n) A requirement that the board of directors shall prohibit any individual from being employed by the urban high school academy in more than 1 full-time position and simultaneously being compensated at a full-time rate for each of those positions.

(o) A requirement that, if requested, the board of directors shall report to the authorizing body the total compensation for each individual working at the urban high school academy.

(3) An urban high school academy shall comply with all applicable law, including all of the following:

(a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(b) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) 1947 PA 336, MCL 423.201 to 423.217.

(d) 1965 PA 166, MCL 408.551 to 408.558.

(e) 1978 PA 566, MCL 15.181 to 15.185.

(f) 1968 PA 317, MCL 15.321 to 15.330.

(g) The uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(h) The revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(i) The federal no child left behind act of 2001, Public Law 107-110, 115 Stat. 1425.

(j) Sections 1134, 1135, 1146, 1153, 1263(3), 1267, 1274, and 1280.

(4) An urban high school academy and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for any acts or omissions in authorizing or oversight of an urban high school academy if the authorizing body or the person acted or reasonably believed he or she acted within the authorizing body's or the person's scope of authority.

(5) An urban high school academy is exempt from all taxation on its earnings and property. Instruments of conveyance to or from an urban high school academy are exempt from all taxation, including taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. An urban high school academy may not levy ad valorem property taxes or any other tax for any purpose.

(6) An urban high school academy may acquire by purchase, gift, devise, lease, sublease, installment purchase agreement, land contract, option, or any other means, hold, and own in its own name buildings and other property for school purposes, and interests therein, and other real and personal property, including, but not limited to, interests in property subject to mortgages, security interests, or other liens, necessary or convenient to fulfill its purposes. For the purposes of condemnation, an urban high school academy may proceed under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding sections 6 to 9 of that act, MCL 213.56 to 213.59, or other applicable statutes, but only with the express, written permission of the authorizing body in each instance of condemnation and only after just compensation has been determined and paid.

380.523a Instrument of indebtedness; liability.

Sec. 523a. (1) An agreement, mortgage, loan, or other instrument of indebtedness entered into by an urban high school academy and a third party does not constitute an obligation, either general, special, or moral, of this state or an authorizing body. The full faith and credit or the taxing power of this state or any agency of this state, or the full faith and credit of an authorizing body, may not be pledged for the payment of any urban high school academy bond, note, agreement, mortgage, loan, or other instrument of indebtedness.

(2) This part does not impose any liability on this state or on an authorizing body for any debt incurred by an urban high school academy.

380.524 Site configuration; tuition; discrimination; admission; in-state residency; enrollment priority; grades 9 through 12.

Sec. 524. (1) An urban high school academy may be located in all or part of an existing public school building. Except as otherwise provided in this subsection, an urban high school academy shall not operate at a site other than the single site requested for the configuration of grades that will use the site, as specified in the contract. However, an authorizing body may include a provision in the contract allowing an urban high school academy to operate the same configuration of grades at more than 1 site. If an urban high school academy operates the same configuration of grades at more than 1 site, each of those sites shall be considered to be operated under a separate contract, and the operation shall be equivalent to the issuance of a contract, for the purposes of the limitation in section 522(2) on the number of contracts that may be issued under this part. For the purposes of this subsection, if an urban high school academy operates classes at more than 1 location, the urban high school academy shall be considered to be operating at a single site if all of the locations are within a 1-mile radius of the urban high school academy's central administrative office and if the total number of pupils enrolled in any particular grade at all of the locations does not exceed 125.

(2) An urban high school academy shall not charge tuition. Except as otherwise provided in this section, an urban high school academy shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a handicapped person, or any other basis that would be illegal if used by a school district. However, an urban high school academy may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district and may give enrollment priority as provided in subsection (4).

(3) Except for a foreign exchange student who is not a United States citizen, an urban high school academy shall not enroll a pupil who is not a resident of this state. Enrollment in an urban high school academy shall be open to all pupils who reside in this state who meet the admission policy. Subject to subsection (4), if there are more applications to enroll in the urban high school academy than there are spaces available, pupils shall be selected to attend using a random selection process. An urban high school academy shall allow any pupil who was enrolled in the urban high school academy in the immediately preceding school year to enroll in the urban high school academy in the appropriate grade unless the appropriate grade is not offered at that urban high school academy.

(4) An urban high school academy may give enrollment priority to 1 or more of the following:

(a) A sibling of a pupil enrolled in the urban high school academy.

(b) A child of a person who is employed by or at the urban high school academy or who is on the board of directors of the urban high school academy. As used in this subdivision, "child" includes an adopted child or a legal ward.

(5) Subject to the terms of the contract authorizing the urban high school academy, an urban high school academy shall include at least grades 9 through 12 within 5 years after beginning operations and may include other grades or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. If specified in its contract, an urban high school academy may also operate an adult basic

education program, adult high school completion program, or general education development testing preparation program.

380.525 Powers.

Sec. 525. In addition to other powers set forth in this part, an urban high school academy may take action to carry out the purposes for which it was incorporated under this part, including, but not limited to, all of the following:

(a) To sue and be sued in its name.

(b) Subject to section 523a, to acquire, hold, and own in its own name real and personal property, or interests in real or personal property, for educational purposes by purchase, gift, grant, devise, bequest, lease, sublease, installment purchase agreement, land contract, option, or condemnation, and subject to mortgages, security interests, or other liens; and to sell or convey the property as the interests of the urban high school academy require.

(c) To receive, disburse, and pledge funds for lawful purposes.

(d) To enter into binding legal agreements with persons or entities as necessary for the operation, management, financing, and maintenance of the urban high school academy.

(e) To incur temporary debt in accordance with section 1225.

(f) To solicit and accept any grants or gifts for educational purposes and to establish or permit to be established on its behalf 1 or more nonprofit corporations the purpose of which is to assist the urban high school academy in the furtherance of its public purposes.

(g) To borrow money and issue bonds in accordance with section 1351a and in accordance with part VI of the revised municipal finance act, 2001 PA 34, MCL 141.2601 to 141.2613, except that the borrowing of money and issuance of bonds by an urban high school academy are not subject to section 1351a(4) or section 1351(2) to (4). Bonds issued under this section shall be full faith and credit obligations of the urban high school academy, pledging the general funds or any other money available for such a purpose. Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

380.526 Use of certificated and noncertificated teachers; teaching techniques or methods.

Sec. 526. (1) Except as otherwise provided by law, an urban high school academy shall use certificated teachers according to state board rule.

(2) An urban high school academy may use noncertificated individuals to teach as follows:

(a) The urban high school academy may use as a classroom teacher in any grade a faculty member who is employed full-time by the state public university that is the authorizing body and who has been granted institutional tenure, or has been designated as being on tenure track, by that state public university.

(b) In any other situation in which a school district is permitted under this act to use noncertificated teachers.

(3) An urban high school academy may develop and implement new teaching techniques or methods or significant revisions to known teaching techniques or methods and shall report those to the authorizing body and state board to be made available to the public. An urban high school academy may use any instructional technique or delivery method that may be used by a school district.

380.527 Teacher or personnel contracts.

Sec. 527. An urban high school academy, with the approval of the authorizing body, may employ or contract with personnel, or enter into a contract with another party to furnish teachers or other personnel, as necessary for the operation of the urban high school academy, prescribe their duties, and fix their compensation.

380.528 Authorizing body; contracts; agreements; fiscal agent; revocation, issuance, reissuance, or reconstitution of contract.

Sec. 528. (1) An authorizing body that issues a contract for an urban high school academy under this part shall do all of the following:

(a) Ensure that the contract and the application for the contract comply with the requirements of this part.

(b) Within 10 days after issuing the contract, submit to the department a copy of the contract.

(c) Adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each urban high school academy that it authorizes.

(d) Oversee the operations of each urban high school academy operating under a contract issued by the authorizing body. The oversight shall be sufficient to ensure that the urban high school academy is in compliance with the terms of the contract and with applicable law. An authorizing body may enter into an agreement with 1 or more other authorizing bodies to oversee an urban high school academy operating under a contract issued by the authorizing body.

(e) Develop and implement a process for holding an urban high school academy board of directors accountable for meeting applicable academic performance standards set forth in the contract and for implementing corrective action for an urban high school academy that does not meet those standards.

(f) Take necessary measures to ensure that an urban high school academy board of directors operates independently of any educational management company involved in the operations of the urban high school academy.

(g) Oversee and ensure that the pupil admission process used by the urban high school academy is operated in a fair and open manner and is in compliance with the contract and this part.

(h) Ensure that the board of directors of the urban high school academy maintains and releases information as necessary to comply with applicable law.

(2) An authorizing body may enter into an agreement with 1 or more other authorizing bodies to carry out any function of an authorizing body under this act.

(3) The authorizing body for an urban high school academy is the fiscal agent for the urban high school academy. A state school aid payment for an urban high school academy shall be paid to the authorizing body that is the fiscal agent for that urban high school academy, which shall then forward the payment to the urban high school academy. Within 30 days after a contract is submitted to the department by an authorizing body under subsection (1), the department shall issue a district code to the urban high school academy for which the contract was issued. If the department does not issue a district code within 30 days after a contract is filed, the state treasurer shall assign a temporary district code in order for the urban high school academy to receive funding under the state school aid act of 1979.

(4) A contract issued under this part may be revoked by the authorizing body that issued the contract if the authorizing body determines that 1 or more of the following have occurred:

(a) Failure of the urban high school academy to abide by and meet the educational goals set forth in the contract.

(b) Failure of the urban high school academy to comply with all applicable law.

(c) Failure of the urban high school academy to meet generally accepted public sector accounting principles.

(d) The existence of 1 or more other grounds for revocation as specified in the contract.

(5) The decision of an authorizing body to issue, reissue, or reconstitute a contract under this part, or to revoke a contract under this section, is solely within the discretion of the authorizing body, is final, and is not subject to review by a court or any state agency. An authorizing body that does not issue, reissue, or reconstitute a contract under this part, or that revokes a contract under this section, is not liable for that action to the urban high school academy, the urban high school academy corporation, a pupil of the urban high school academy, the parent or guardian of a pupil of the urban high school academy, or any other person.

(6) Before an authorizing body revokes a contract, the authorizing body shall consider and take corrective measures to avoid revocation. An authorizing body shall reconstitute the urban high school academy in a final attempt to improve student educational performance or to avoid interruption of the educational process. An authorizing body shall include a reconstituting provision in the contract that identifies these corrective measures, including, but not limited to, removing 1 or more members of the board of directors, withdrawing approval to contract under section 525 for an agreement described in section 1320, or appointing a new board of directors or a trustee to take over operation of the urban high school academy.

(7) If an authorizing body revokes a contract, the authorizing body shall work with a school district or another public school, or with a combination of these entities, to ensure a smooth transition for the affected pupils. If the revocation occurs during the school year, the authorizing body, as the fiscal agent for the urban high school academy under this part, shall return any school aid funds received by the authorizing body that are attributable to the affected pupils to the state treasurer for deposit into the state school aid fund. The state treasurer shall distribute funds to the public school in which the pupils enroll after the revocation pursuant to a methodology established by the department and the center for educational performance and information.

(8) If an authorizing body revokes a contract issued under this part, the authorizing body may issue a new contract within the 1-year period following the revocation without the new contract counting toward the maximum number of contracts that may be issued under this part.

(9) Not more than 10 days after an urban high school academy's contract terminates or is revoked, the authorizing body shall notify the superintendent of public instruction in writing of the name of the urban high school academy whose contract has terminated or been revoked and the date of contract termination or revocation.

(10) If an urban high school academy's contract terminates or is revoked, title to all real and personal property, interest in real or personal property, and other assets owned by the urban high school academy shall revert to the state. This property shall be distributed in accordance with the following:

(a) Within 30 days following the termination or revocation, the board of directors of an urban high school academy shall hold a public meeting to adopt a plan of distribution of

assets and to approve the dissolution of the urban high school academy corporation, all in accordance with chapter 8 of the nonprofit corporation act, 1982 PA 162, MCL 450.2801 to 450.2864.

(b) The urban high school academy shall file a certificate of dissolution with the department of consumer and industry services within 10 business days following board approval.

(c) Simultaneously with the filing of the certificate of dissolution under subdivision (b), the urban high school academy board of directors shall provide a copy of the board of directors' plan of distribution of assets to the state treasurer for approval. Within 30 days, the state treasurer, or his or her designee, shall review and approve the board of directors' plan of distribution of assets. If the proposed plan of distribution of assets is not approved within 30 days, the state treasurer, or his or her designee, shall provide the board of directors with an acceptable plan of distribution of assets.

(d) The state treasurer, or his or her designee, shall monitor the urban high school academy's winding up of the dissolved corporation in accordance with the plan of distribution of assets approved or provided under subdivision (c).

(e) As part of the plan of distribution of assets, the urban high school academy board of directors shall designate the director of the department of management and budget, or his or her designee, to dispose of all real property of the urban high school academy corporation in accordance with the directives developed for disposition of surplus land and facilities under section 251 of the management and budget act, 1984 PA 431, MCL 18.1251.

(f) If the board of directors of an urban high school academy fails to take any necessary action under this section, the state treasurer, or his or her designee, may suspend the urban high school academy board of directors and appoint a trustee to carry out the board's plan of distribution of assets. Upon appointment, the trustee shall have all the rights, powers, and privileges under law that the urban high school academy board of directors had before being suspended.

(g) Following the sale of the real or personal property or interests in the real or personal property, and after payment of any urban high school academy debt secured by the property or interest in property, whether real or personal, the urban high school academy board of directors, or a trustee appointed under this section, shall forward any remaining money to the state treasurer. Following receipt, the state treasurer, or his or her designee, shall deposit this remaining money in the state school aid fund.

380.529 Contract provisions; powers of applicant.

Sec. 529. An authorizing body and urban high school academy may include provisions in the contract that permit the entity that applied for the contract to do any of the following:

(a) Participate in the recruiting, interviewing, and nominating process for urban high school academy board members.

(b) Conduct an independent educational review, on a periodic basis, to determine whether the urban high school academy is successful in implementing the educational goals set forth in the contract.

(c) Serve as contract administrator between the urban high school academy board of directors and any educational management company contracted to operate the urban high school academy.

(d) Make recommendations to the authorizing body and urban high school academy on how to improve the urban high school academy's operation.

This act is ordered to take immediate effect.
Filed October 3, 2003.

Compiler's note: Senate Bill 393 (SB 393) was enrolled on August 13, 2003, and presented to the governor for her approval on September 8, 2003, at 5:00 p.m. On September 18, 2003, the senate requested that the bill be returned to the senate. The governor granted the senate's request on that same date and returned the bill to that body (without objections), where a motion was made to vacate the enrollment and the motion prevailed. On September 23, 2003, the house of representatives approved a motion to send a letter to the senate agreeing with the senate's request that the governor return SB 393. Neither the Senate Journal nor the House Journal entries reveal any other action taken by the house of representatives regarding the return of SB 393.

In order to determine whether SB 393 had become law, as requested, the attorney general examined whether SB 393 was recalled by concurrent action of the house of representatives and the senate within the 14-day period afforded the governor for vetoing a bill under the last sentence of Const 1963, art. 4, § 33: "SB 393 was presented to the Governor on September 8, 2003, at 5:00 p.m. The 14-day period afforded for consideration, measured in hours and minutes, therefore expired on September 22, 2003 at 5:00 p.m. While the Senate had acted to recall the bill within that 14-day period (on September 18, 2003), the House did not. Its action concurring in the request to recall SB 393 was not taken until September 23, 2003. In the absence of concurrent action by both houses of the Legislature within the 14-day period, SB 393 was not effectively recalled and 'further legislative action thereon' was not authorized." The attorney general declared that "in the absence of a return of the bill with objections, SB 393 therefore became law by operation of the last sentence of art. 4, § 33." OAG, 2003, No. 7139 (October 2, 2003).

[No. 180]

(SB 365)

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to prescribe penalties; and to repeal acts and parts of acts," by amending section 94a (MCL 388.1694a), as amended by 2002 PA 521.

The People of the State of Michigan enact:

388.1694a Center for educational performance and information.

Sec. 94a. (1) There is created within the office of the state budget director in the department of management and budget the center for educational performance and information. The center shall do all of the following:

(a) Coordinate the collection of all data required by state and federal law from all entities receiving funds under this act.

(b) Collect data in the most efficient manner possible in order to reduce the administrative burden on reporting entities.

(c) Establish procedures to ensure the validity and reliability of the data and the collection process.

(d) Develop state and model local data collection policies, including, but not limited to, policies that ensure the privacy of individual student data. State privacy policies shall ensure that student social security numbers are not released to the public for any purpose.

(e) Provide data in a useful manner to allow state and local policymakers to make informed policy decisions.

(f) Provide reports to the citizens of this state to allow them to assess allocation of resources and the return on their investment in the education system of this state.

(g) Assist all entities receiving funds under this act in complying with audits performed according to generally accepted accounting procedures.

(h) Other functions as assigned by the state budget director.

(2) Not later than August 15, 2004, each state department, officer, or agency that collects information from districts or intermediate districts as required under state or federal law shall make arrangements with the center, and with the districts or intermediate districts, to have the center collect the information and to provide it to the department, officer, or agency as necessary. To the extent that it does not cause financial hardship, the center shall arrange to collect the information in a manner that allows electronic submission of the information to the center. Each affected state department, officer, or agency shall provide the center with any details necessary for the center to collect information as provided under this subsection. This subsection does not apply to information collected by the department of treasury under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a; the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821; 1961 PA 108, MCL 388.951 to 388.963; or section 1351a of the revised school code, MCL 380.1351a.

(3) The state budget director shall appoint a CEPI advisory committee, consisting of the following members:

(a) One representative from the house fiscal agency.

(b) One representative from the senate fiscal agency.

(c) One representative from the office of the state budget director.

(d) One representative from the state education agency.

(e) One representative each from the department of career development and the department of treasury.

(f) Three representatives from intermediate school districts.

(g) One representative from each of the following educational organizations:

(*i*) Michigan association of school boards.

(*ii*) Michigan association of school administrators.

(*iii*) Michigan school business officials.

(h) One representative representing private sector firms responsible for auditing school records.

(i) Other representatives as the state budget director determines are necessary.

(4) The CEPI advisory committee appointed under subsection (3) shall provide advice to the director of the center regarding the management of the center's data collection activities, including, but not limited to:

(a) Determining what data is necessary to collect and maintain in order to perform the center's functions in the most efficient manner possible.

(b) Defining the roles of all stakeholders in the data collection system.

(c) Recommending timelines for the implementation and ongoing collection of data.

(d) Establishing and maintaining data definitions, data transmission protocols, and system specifications and procedures for the efficient and accurate transmission and collection of data.

(e) Establishing and maintaining a process for ensuring the accuracy of the data.

(f) Establishing and maintaining state and model local policies related to data collection, including, but not limited to, privacy policies related to individual student data.

(g) Ensuring the data is made available to state and local policymakers and citizens of this state in the most useful format possible.

(h) Other matters as determined by the state budget director or the director of the center.

(5) The center may enter into any interlocal agreements necessary to fulfill its functions.

(6) From the general fund appropriation in section 11, there is allocated an amount not to exceed $4,500,000.00 each fiscal year for 2002-2003 and for 2003-2004 to the department of management and budget to support the operations of the center. The center shall cooperate with the state education agency to ensure that this state is in compliance with federal law and is maximizing opportunities for increased federal funding to improve education in this state. In addition, from the federal funds appropriated in section 11 for 2002-2003 and for 2003-2004, there is allocated the following amounts each fiscal year in order to fulfill federal reporting requirements:

(a) An amount estimated at $1,000,000.00 funded from DED-OESE, title I, disadvantaged children funds.

(b) An amount estimated at $284,700.00 funded from DED-OESE, title I, reading first state grant funds.

(c) An amount estimated at $46,750.00 funded from DED-OESE, title I, migrant education funds.

(d) An amount estimated at $500,000.00 funded from DED-OESE, improving teacher quality funds.

(e) An amount estimated at $526,100.00 funded from DED-OESE, drug-free schools and communities funds.

(7) Funds allocated under this section that are not expended in the fiscal year in which they were allocated may be carried forward to a subsequent fiscal year. From the funds allocated for 1999-2000 that were carried forward under this section and from the general funds appropriated under this section for 2002-2003, the center shall make grants to intermediate districts for the purpose of assisting the intermediate districts and their constituent districts in data collection required by state and federal law or necessary for audits according to generally accepted accounting procedures. Grants to each intermediate district shall be made at the rate of $2.00 per each full-time equated membership pupil times the total number of 2000-2001 pupils in membership in the intermediate district and its constituent districts. An intermediate district shall develop a plan in cooperation with its constituent districts to distribute the grants between the intermediate district and its constituent districts. These grants shall be paid to intermediate districts no later than the next regularly scheduled school aid payment after the effective date of this section.

(8) If the applicable intermediate district determines that the pupil counts submitted by a district for the February 2002 supplemental pupil count using the single record student database cannot be audited by the intermediate district pursuant to section 101, all of the following apply:

(a) The district may submit its pupil count data for the February 2002 supplemental pupil count using the education data network system.

(b) If the applicable intermediate district determines that the pupil counts submitted by the district for the 2002-2003 pupil membership count day using the single record student database cannot be audited by the intermediate district pursuant to section 101, the district may submit its pupil count data for the 2002-2003 pupil membership count day using the education data network system.

(9) At least 30 days before implementing a proposed electronic data collection, submission, or collation process, or a proposed change to 1 or more of those processes, the center shall submit the proposal and an analysis of the proposal to the senate and house

of representatives appropriations subcommittees responsible for this act. The analysis shall include at least a determination of the cost of the proposal for districts and intermediate districts and of available funding for districts and intermediate districts.

(10) The center may bill departments as necessary in order to fulfill reporting requirements of state and federal law.

(11) As used in this section:

(a) "Center" means the center for educational performance and information created under this section.

(b) "DED-OESE" means the United States department of education office of elementary and secondary education.

(c) "State education agency" means the department.

This act is ordered to take immediate effect.
Approved October 3, 2003.
Filed with Secretary of State October 3, 2003.

[No. 181]

(HB 4764)

AN ACT to amend 1972 PA 284, entitled "An act to provide for the organization and regulation of corporations; to prescribe their duties, rights, powers, immunities and liabilities; to provide for the authorization of foreign corporations within this state; to prescribe the functions of the administrator of this act; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts," by amending section 791 (MCL 450.1791), as amended by 1993 PA 91, and by adding section 798a.

The People of the State of Michigan enact:

450.1791 "Control share acquisition" defined; acquisition of shares or power to direct exercise of voting power; acquisition of shares in ordinary course of business for benefit of others in good faith; acquisition of shares not constituting control share acquisition; formation of group.

Sec. 791. (1) As used in this chapter, "control share acquisition" means the acquisition, directly or indirectly, by any person of ownership of, or the power to direct the exercise of voting power with respect to, issued and outstanding control shares.

(2) For purposes of this section, shares or the power to direct the exercise of voting power acquired within a 90-day period, or shares or the power to direct the exercise of voting power acquired pursuant to a plan to make a control share acquisition, are considered to have been acquired in the same acquisition.

(3) For purposes of this section, a person who acquires shares in the ordinary course of business for the benefit of others in good faith and not for the purpose of circumventing this chapter has voting power only of shares in respect of which that person would be able to exercise or direct the exercise of votes without further instruction from others.

(4) For purposes of this section, the acquisition of any shares of an issuing public corporation does not constitute a control share acquisition if the acquisition is consummated in any of the following circumstances:

(a) Before January 1, 1988.

(b) Pursuant to a contract existing before January 1, 1988.

(c) By gift, testamentary disposition, marital settlement, descent and distribution, or otherwise without consideration.

(d) Pursuant to the satisfaction of a pledge or other security interest created in good faith and not for the purpose of circumventing this chapter.

(e) Pursuant to a merger or share exchange effected in compliance with sections 701 to 735 if the issuing public corporation is a party to the agreement of merger or share exchange.

(f) By a governmental official acting in an official or fiduciary capacity.

(5) For purposes of this section, the acquisition of shares of an issuing public corporation in good faith and not for the purpose of circumventing this chapter by any person whose voting rights previously had been authorized by shareholders in compliance with this chapter, or whose previous acquisition of shares of an issuing public corporation would have constituted a control share acquisition but for subsection (4), does not constitute a control share acquisition, unless the acquisition entitles a person, directly or indirectly, alone or as part of a group, to exercise or direct the exercise of voting power of the corporation in the election of directors in excess of the range of the voting power which the acquiring person was entitled to exercise or direct prior to such acquisition.

(6) For purposes of this section, the formation of a group does not constitute a control share acquisition of shares of an issuing public corporation held by members of the group.

450.1798a Voting rights of group formed after April 1, 1988.

Sec. 798a. Shares without voting rights because the formation of a group after April 1, 1988 was deemed to be a control share acquisition shall have the same voting rights as were accorded the shares before the formation of the group.

This act is ordered to take immediate effect.
Approved October 7, 2003.
Filed with Secretary of State October 7, 2003.

[No. 182]

(HB 4632)

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 therefor; 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 394 (MCL 750.394).

The People of the State of Michigan enact:

750.394 Train, car, or vehicle, throwing, propelling, or dropping stone or object; violation; penalty; "serious impairment" defined.

Sec. 394. (1) A person shall not throw, propel, or drop a stone, brick, or other dangerous object at a passenger train, sleeping car, passenger coach, express car, mail car, baggage car, locomotive, caboose, or freight train or at a street car, trolley car, or motor vehicle.

(2) A person who violates this section is guilty of a crime as follows:

(a) Except as provided in subdivisions (b), (c), and (d), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(b) Except as provided in subdivision (c), (d), or (e), if the violation causes property damage, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $500.00, or both.

(c) If the violation causes injury to any person, other than serious impairment or death, the person 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.

(d) If the violation causes serious impairment to any person, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both.

(e) If the violation causes death to any person, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(3) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

(4) As used in this section, "serious impairment" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2004.

This act is ordered to take immediate effect.
Approved October 17, 2003.
Filed with Secretary of State October 17, 2003.

[No. 183]

(HB 4633)

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 16s of chapter XVII (MCL 777.16s), as amended by 2000 PA 279.

The People of the State of Michigan enact:

CHAPTER XVII

777.16s MCL 750.377a to 750.406; felonies to which chapter applicable.

Sec. 16s. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.377a(1)(a)	Property	D	Malicious destruction of personal property involving $20,000 or more or with prior convictions	10
750.377a(1)(b)	Property	E	Malicious destruction of personal property involving $1,000 to $20,000 or with prior convictions	5
750.377b	Property	F	Malicious destruction of fire/police property	4
750.377c	Property	E	School bus — intentional damage	5
750.378	Property	F	Malicious destruction of property — dams/canals/mills	4
750.379	Property	F	Malicious destruction of property — bridges/ railroads/locks	4
750.380(2)	Property	D	Malicious destruction of building involving $20,000 or more or with prior convictions	10
750.380(3)	Property	E	Malicious destruction of a building involving $1,000 to $20,000 or with prior convictions	5
750.382(1)(c)	Property	E	Malicious destruction of plants or turf involving $1,000 to $20,000 or with prior convictions	5

750.382(1)(d)	Property	D	Malicious destruction of plants or turf involving $20,000 or more or with prior convictions	10
750.383a	Property	F	Malicious destruction of utility equipment	4
750.386	Property	E	Malicious destruction of mine property	20
750.387(5)	Property	E	Malicious destruction of a tomb or memorial involving $1,000 to $20,000 or with prior convictions	5
750.387(6)	Property	D	Malicious destruction of a tomb or memorial involving $20,000 or more or with prior convictions	10
750.392	Property	E	Malicious destruction of property — vessels	10
750.394(2)(c)	Person	F	Throwing or dropping dangerous object at vehicle causing injury	4
750.394(2)(d)	Person	D	Throwing or dropping dangerous object at vehicle causing serious impairment	10
750.394(2)(e)	Person	C	Throwing or dropping dangerous object at vehicle causing death	15
750.397	Person	D	Mayhem	10
750.397a	Person	D	Placing harmful objects in food	10
750.405	Pub saf	E	Inciting soldiers to desert	5
750.406	Pub saf	E	Military stores — larceny, embezzlement or destruction	5

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2004.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4632 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved October 17, 2003.
Filed with Secretary of State October 17, 2003.

[No. 184]

(HB 4457)

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the

examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 676 (MCL 257.676), as amended by 1980 PA 518.

The People of the State of Michigan enact:

257.676 Unattended vehicle; setting brakes, stopping motor, placing in park, and turning front wheels; violation as civil infraction.

Sec. 676. (1) A person shall not allow a motor vehicle to stand on a highway unattended without engaging the parking brake or placing the vehicle in park and stopping the motor of the vehicle. If the vehicle is standing upon a grade, the front wheels of the vehicle shall be turned to the curb or side of the highway.

(2) A person who violates this section is responsible for a civil infraction.

This act is ordered to take immediate effect.
Approved October 17, 2003.
Filed with Secretary of State October 17, 2003.

[No. 185]

(HB 4715)

AN ACT to amend 1966 PA 189, entitled "An act to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts," by amending section 1 (MCL 780.651), as amended by 2002 PA 506.

The People of the State of Michigan enact:

780.651 Issuance of search warrant; requirements; making affidavit for search warrant or search warrant by electronic or electromagnetic means; proof; oath or affirmation; impression seal; nonpublic information; suppression order.

Sec. 1. (1) When an affidavit is made on oath to a magistrate authorized to issue warrants in criminal cases, and the affidavit establishes grounds for issuing a warrant under this act, the magistrate, if he or she is satisfied that there is probable cause for the

search, shall issue a warrant to search the house, building, or other location or place where the property or thing to be searched for and seized is situated.

(2) An affidavit for a search warrant may be made by any electronic or electromagnetic means of communication, including by facsimile or over a computer network, if both of the following occur:

(a) The judge or district court magistrate orally administers the oath or affirmation to an applicant for a search warrant who submits an affidavit under this subsection.

(b) The affiant signs the affidavit. Proof that the affiant has signed the affidavit may consist of an electronically or electromagnetically transmitted facsimile of the signed affidavit or an electronic signature on an affidavit transmitted over a computer network.

(3) A judge or district court magistrate may issue a written search warrant in person or by any electronic or electromagnetic means of communication, including by facsimile or over a computer network.

(4) The peace officer or department receiving an electronically or electromagnetically issued search warrant shall receive proof that the issuing judge or district court magistrate has signed the warrant before the warrant is executed. Proof that the issuing judge or district court magistrate has signed the warrant may consist of an electronically or electromagnetically transmitted facsimile of the signed warrant or an electronic signature on a warrant transmitted over a computer network.

(5) If an oath or affirmation is orally administered by electronic or electromagnetic means of communication under this section, the oath or affirmation is considered to be administered before the judge or district court magistrate.

(6) If an affidavit for a search warrant is submitted by electronic or electromagnetic means of communication, or a search warrant is issued by electronic or electromagnetic means of communication, the transmitted copies of the affidavit or search warrant are duplicate originals of the affidavit or search warrant and are not required to contain an impression made by an impression seal.

(7) Except as provided in subsection (8), an affidavit for a search warrant contained in any court file or court record retention system is nonpublic information.

(8) On the fifty-sixth day following the issuance of a search warrant, the search warrant affidavit contained in any court file or court record retention system is public information unless, before the fifty-sixth day after the search warrant is issued, a peace officer or prosecuting attorney obtains a suppression order from a magistrate upon a showing under oath that suppression of the affidavit is necessary to protect an ongoing investigation or the privacy or safety of a victim or witness. The suppression order may be obtained ex parte in the same manner that the search warrant was issued. An initial suppression order issued under this subsection expires on the fifty-sixth day after the order is issued. A second or subsequent suppression order may be obtained in the same manner as the initial suppression order and shall expire on a date specified in the order. This subsection and subsection (7) do not affect a person's right to obtain a copy of a search warrant affidavit from the prosecuting attorney or law enforcement agency under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

This act is ordered to take immediate effect.
Approved October 17, 2003.
Filed with Secretary of State October 17, 2003.

[No. 186]

(SB 701)

AN ACT to amend 1999 PA 94, entitled "An act to create the Michigan merit award scholarship trust fund; to create the Michigan merit award scholarship board and prescribe the powers and duties of the board; and to provide for the Michigan merit award scholarship program," by amending section 8 (MCL 390.1458), as amended by 2002 PA 736.

The People of the State of Michigan enact:

390.1458 Scholarship; use; payment; installments; consideration in determining financial aid program; certification or affirmation by student; request or application for payment; disbursement of funds.

Sec. 8. (1) A Michigan merit award scholarship shall be used only to pay for eligible costs. The board shall determine the manner and form of application for payment of a Michigan merit award scholarship by a student eligible under section 7 and the procedure for payment to the student or to the approved postsecondary educational institution on the student's behalf. As determined by the board, upon the request of a student or parent or legal guardian of a minor student, the board may pay a Michigan merit award scholarship in 2 consecutive annual installments rather than 1 lump sum for a student who graduates from high school or passes the general educational development (GED) test or approved graduate equivalency examination before March 1, 2003. For each student who graduates from high school or passes the general educational development (GED) test or approved graduate equivalency examination on or after March 1, 2003, the board shall pay a Michigan merit award scholarship in 2 consecutive annual installments, beginning in the state fiscal year for which the student is otherwise eligible under section 7. The first installment shall not exceed 50% of the award amount, and the second installment shall consist of the remaining award amount. Verification that the student has met the enrollment criteria under section 7(4)(c) is required prior to issuance of the second installment.

(2) An approved postsecondary educational institution shall not consider a Michigan merit award scholarship in determining a student's eligibility for a financial aid program administered by this state. It is the intent of the legislature that an approved postsecondary educational institution not reduce institutionally-funded student aid because of the Michigan merit award scholarship program.

(3) Before payment of a Michigan merit award scholarship to a student or approved postsecondary educational institution, the student shall certify or affirm in writing to the board each of the following:

(a) That the student is enrolled at an approved postsecondary educational institution.

(b) The name of the approved postsecondary educational institution in which the student is enrolled.

(c) That the student agrees to use the Michigan merit award scholarship only for eligible costs.

(d) That the student has not been convicted of a felony involving an assault, physical injury, or death.

(e) That the student graduated from high school or passed the general educational development (GED) test or approved graduate equivalency examination within 1 of the following time periods:

(*i*) If the student graduated from high school or passed the test or examination before March 1, 2002, within the 7-year period preceding the date of the student's application to receive his or her Michigan merit award scholarship.

(ii) If the student graduated on or after March 1, 2002, within the 4-year period preceding the date of the student's application to receive his or her Michigan merit award scholarship, or within a period equal to 4 years plus the number of days the student served as a member of the United States armed forces or peace corps if the student became a member of the United States armed forces or peace corps during this 4-year period and served for 4 years or less. The board may also extend the 4-year period if the board determines that an extension is warranted because of an illness or disability of the student or in the student's immediate family or another family emergency.

(4) The board shall not begin disbursing funds for a Michigan merit award scholarship to a student or an approved postsecondary educational institution on behalf of the student unless it receives the request or application for payment, including the written certification or affirmation described in this section, from the student on or before 1 of the following dates, for disbursement in that academic year:

(a) In the 2002-2003 academic year, January 15.

(b) In the 2003-2004 academic year, September 15 if the student received notification of eligibility prior to August 1.

(c) In the 2003-2004 academic year, November 15 if the student received notification of eligibility on or after August 1.

(d) In any other academic year, September 15.

This act is ordered to take immediate effect.
Approved October 17, 2003.
Filed with Secretary of State October 17, 2003.

[No. 187]

(HB 4967)

AN ACT to amend 1965 PA 261, entitled "An act to authorize the creation and to prescribe the powers and duties of county and regional parks and recreation commissions; and to prescribe the powers and duties of county boards of commissioners with respect to county and regional parks and recreation commissions," by amending section 1 (MCL 46.351), as amended by 2000 PA 496.

The People of the State of Michigan enact:

46.351 County parks and recreation commission; creation; membership; terms; vacancy; commission as county agency; rules and regulations; compensation.

Sec. 1. (1) The county board of commissioners of a county, by resolution adopted by a 2/3 vote of all its members, may create a county parks and recreation commission, which shall be under the general control of the board of commissioners.

(2) The county parks and recreation commission shall consist of the following members:

(a) The chairperson of the county road commission or another road commissioner designated by the board of county road commissioners.

(b) The county drain commissioner.

(c) One of the following:

(*i*) In a county that elects a county executive under section 9 of 1973 PA 139, MCL 45.559, the county executive or a designee of the county executive.

(*ii*) In a county with a population of 1,000,000 or less, the chairperson of the county planning commission or another member of the county planning commission designated by the county planning commission. In a county that does not have a county planning commission, the chairperson of the regional planning commission shall serve on the county parks and recreation commission if that person is a resident of that county. If the chairperson of the regional planning commission is not a resident of that county, then the board shall, by a 2/3 vote, appoint a member of the regional planning commission who is a resident of that county to serve on the county parks and recreation commission.

(d) Seven members appointed by the county board of commissioners, not less than 1 and not more than 3 of whom shall be members of the board of commissioners.

(e) For counties with a population greater than 750,000 but less than 1,000,000, the county board of commissioners shall appoint a neighborhood representative. The appointee under this subdivision shall be an officer of the homeowners or property owners association that represents the largest area geographically that is located totally or partially within 1,000 feet of the property boundary of the most frequently used county park who is willing to serve on the county parks and recreation commission. If a homeowners or property owners association is not located within 1,000 feet of that park or no officer is willing to serve, then the appointee shall be a resident who lives within 1/2 mile of that park and who is willing to serve on the county parks and recreation commission. If no resident lives within 1/2 mile of that park or no resident is willing to serve, then the appointee shall be a resident of the city, village, or township in which that park is located who is willing to serve on the county parks and recreation commission. The first appointment under this subdivision shall be made not more than 60 days from the effective date of the amendatory act that added this subdivision or not more than 60 days from the date a county qualifies for an appointment under this subdivision.

(3) Of the members first appointed by the county board of commissioners, 2 shall be appointed for a term ending 1 year from the following January 1, 2 for a term ending 2 years from the following January 1, and 3 for a term ending 3 years from the following January 1. The first member appointed by a qualifying county under subdivision (e) shall be appointed for a term ending 2 years from the following January 1. From then on, each appointed member shall be appointed for a term of 3 years and until his or her successor is appointed and qualified. Each term shall expire at noon on January 1. A vacancy shall be filled by the county board of commissioners for the unexpired term.

(4) The county parks and recreation commission is an agency of the county. The county board of commissioners may make rules and regulations with respect to the county parks and recreation commission as the board of commissioners considers advisable. The members of the county parks and recreation commission are not full-time officers. The county board of commissioners shall fix the compensation of the members.

This act is ordered to take immediate effect.
Approved October 17, 2003.
Filed with Secretary of State October 17, 2003.

[No. 188]

(HB 4601)

AN ACT to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending section 552 (MCL 168.552), as amended by 1999 PA 220.

The People of the State of Michigan enact:

168.552 Nominating petitions; certification by county or city clerk; sworn complaint; investigation to determine validity of signatures and genuineness of petition; examination of petitions; declaration of sufficiency or insufficiency of petitions; review; filing of nomination petitions with secretary of state; notification; canvass of petitions; hearing; subpoenas; oaths; adjournment; completion of canvass; availability to public; declaration; request for notice of approval or rejection of petition; judicial review; use of qualified voter file; certification to boards of election commissioners.

Sec. 552. (1) The county or city clerk, after the last day specified in this act for receiving and filing nominating petitions, shall immediately certify to the proper board or boards of election commissioners in the city, county, district, or state the name and post office address of each party candidate whose petitions meet the requirements of this act, together with the name of the political party and the office for which he or she is a candidate.

(2) If the county clerk receives a sworn complaint, in writing, questioning the registration or genuineness of the signature of the circulator or of a person signing a petition filed with the county clerk for an office, the county clerk shall commence an investigation. The county clerk shall cause the petition that he or she considers necessary to be forwarded to the proper city clerk or township clerk to compare the signatures appearing on the petition with the signatures appearing on the registration record, or in some other proper manner determine whether the signatures appearing on the petition are valid and genuine. If the request has been made by the county clerk, the city clerk or township clerk shall complete the investigation and report his or her findings to the county clerk within 7 days after the request. The investigation shall include the validity of the signatures and the genuineness of a petition as is specified in the sworn complaint and may include any other doubtful signatures or petitions filed on behalf of the candidate against whose petitions the sworn complaint is directed, as the county clerk considers necessary. The county clerk is not required to act on a complaint respecting the validity and genuineness of signatures on a petition unless the complaint sets forth the specific signatures claimed to be invalid and the specific petition for which the complaint questions the validity and genuineness of the signature or registration of the circulator, and unless

the complaint is received by the county clerk within 7 days after the deadline for the filing of the nominating petitions.

(3) In addition to the duty specified in subsection (2) for the examination of petitions, the county clerk, on his or her own initiative, on receipt of the nominating petitions, may examine the petitions, and if after examination the county clerk is in doubt as to the validity of the registration or genuineness of the signature of the circulator or persons signing or purported to have signed the petitions, the county clerk shall commence an investigation. Subject to subsection (13), the county clerk shall cause the petitions in question to be forwarded to the proper city clerk or township clerk to compare the signatures appearing on the petitions with the signatures appearing on the registration records, or in some other proper manner to determine whether the signatures appearing on the petitions are valid and genuine.

(4) The clerk of a political subdivision shall cooperate fully with the county clerk in a request made to the clerk by the county clerk in determining the validity of doubtful signatures by checking the signatures against registration records in an expeditious and proper manner.

(5) At least 2 business days before the county clerk makes a final determination on challenges to and sufficiency of a petition, the county clerk shall make public its staff report concerning disposition of challenges filed against the petition. Beginning with the receipt of any document from local election officials under subsection (2) or (3), the county clerk shall make that document available to petitioners and challengers on a daily basis.

(6) Upon the completion of the investigation or examination, the county clerk shall immediately make an official declaration of the sufficiency or insufficiency of nominating petitions for which a sworn complaint has been received or of the sufficiency or insufficiency of nominating petitions that the county clerk has examined or investigated on his or her own initiative. A person feeling aggrieved by a determination made by the county clerk may have the determination reviewed by the secretary of state by filing a written request with the secretary of state within 3 days after the official declaration of the county clerk, unless the third day falls on a Saturday, Sunday, or legal holiday, in which case the request may be filed not later than 4 p.m. on the next day that is not a Saturday, Sunday, or legal holiday. Alternatively, the aggrieved person may have the determination of the county clerk reviewed by filing a mandamus, certiorari, or other appropriate remedy in the circuit court. A person who filed a nominating petition and feels aggrieved by the determination of the secretary of state may then have that determination reviewed by mandamus, certiorari, or other appropriate remedy in the circuit court.

(7) A city clerk with whom nominating petitions are filed may examine the petitions and investigate the validity and genuineness of signatures appearing on the petitions. Subject to subsection (13), the city clerk may check the signatures against registration records. The city clerk shall make a determination as to the sufficiency or insufficiency of the petitions upon the completion of the examination or investigation, and shall make an official declaration of the findings. A person feeling aggrieved by the determination has the same rights of review as in case of a determination by the county clerk.

(8) Upon the filing of nominating petitions with the secretary of state, the secretary of state shall notify the board of state canvassers within 5 days after the last day for filing the petitions. The notification shall be by first-class mail. Upon the receipt of the nominating petitions, the board of state canvassers shall canvass the petitions to ascertain if the petitions have been signed by the requisite number of qualified and registered electors. Subject to subsection (13), for the purpose of determining the validity of the signatures, the board of state canvassers may cause a doubtful signature to be checked

against the registration records by the clerk of a political subdivision in which the petitions were circulated. If the board of state canvassers receives a sworn complaint, in writing, questioning the registration of or the genuineness of the signature of the circulator or of a person signing a nominating petition filed with the secretary of state, the board of state canvassers shall commence an investigation. Subject to subsection (13), the board of state canvassers shall cause the petition to be forwarded to the proper city clerk or township clerk to compare the signatures on the petition with the signatures on the registration record, or in some other manner determine whether the signatures on the petition are valid and genuine. The board of state canvassers is not required to act on a complaint respecting the validity and genuineness of signatures on a petition unless the complaint sets forth the specific signatures claimed to be invalid and the specific petition for which the complaint questions the validity and genuineness of the signature or the registration of the circulator, and unless the complaint is received by the board of state canvassers within 7 days after the deadline for filing the nominating petitions. After receiving a request from the board of state canvassers under this subsection, the clerk of a political subdivision shall cooperate fully in determining the validity of doubtful signatures by rechecking the signatures against registration records in an expeditious and proper manner. The board of state canvassers may extend the 7-day challenge period if it finds that the challenger did not receive a copy of each petition sheet that the challenger requested from the secretary of state. The extension of the challenge deadline under this subsection does not extend another deadline under this section.

(9) The board of state canvassers may hold a hearing upon a complaint filed or for a purpose considered necessary by the board of state canvassers to conduct an investigation of the petitions. In conducting a hearing, the board of state canvassers may issue subpoenas and administer oaths. The board of state canvassers may also adjourn periodically awaiting receipt of returns from investigations that are being made or for other necessary purposes, but shall complete the canvass not less than 9 weeks before the primary election at which candidates are to be nominated. Before making a final determination, the board of state canvassers may consider any deficiency found on the face of the petition that does not require verification against data maintained in the qualified voter file or in the voter registration files maintained by a city or township clerk.

(10) At least 2 business days before the board of state canvassers meets to make a final determination on challenges to and sufficiency of a petition, the board shall make public its staff report concerning disposition of challenges filed against the petition. Beginning with the receipt of any document from local election officials under subsection (8), the board of state canvassers shall make that document available to candidates and challengers on a daily basis.

(11) An official declaration of the sufficiency or insufficiency of a nominating petition shall be made by the board of state canvassers not less than 60 days before the primary election at which candidates are to be nominated. At the time of filing a nominating petition with the secretary of state, the person filing the petition may request a notice of the approval or rejection of the petition. If a request is made at the time of filing the petition, the secretary of state, immediately upon the determination of approval or rejection, shall transmit by registered mail to the person making the request an official notice of the sufficiency or insufficiency of the petitions.

(12) A person who filed a nominating petition with the secretary of state and who feels aggrieved by a determination made by the board of state canvassers may have the determination reviewed by mandamus, certiorari, or other appropriate process in the supreme court.

(13) The qualified voter file may be used to determine the validity of petition signatures by verifying the registration of signers. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote, there is a rebuttable presumption that the signature is invalid. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote in the city or township designated on the petition, there is a rebuttable presumption that the signature is invalid.

(14) Not less than 60 days before the primary election at which candidates are to be nominated, the secretary of state shall certify to the proper boards of election commissioners in the various counties in the state, the name and post office address of each partisan or nonpartisan candidate whose petitions have been filed with the secretary of state and meet the requirements of this act, together with the name of the political party, if any, and the office for which he or she is a candidate.

This act is ordered to take immediate effect.
Approved October 31, 2003.
Filed with Secretary of State October 31, 2003.

[No. 189]

(HB 4790)

AN ACT to amend 1964 PA 283, entitled "An act to regulate and provide standards for weights and measures, and the packaging and advertising of certain commodities; to provide for a state director and other officials and to prescribe their powers and duties; to provide a fee system for certain inspections and tests; to provide penalties for fraud and deception in the use of false weights and measures and other violations; and to repeal certain acts and parts of acts," by amending section 28c (MCL 290.628c), as added by 2002 PA 208.

The People of the State of Michigan enact:

290.628c Commodity sale; method; packaging and labeling requirements; certificate of conformance; compliance standards; registration for service persons and agents.

Sec. 28c. (1) The method of sale of a commodity sold in Michigan shall conform to the "uniform regulation for the method of sale of commodities" published in the 2002 edition of the NIST handbook 130, incorporated by reference, except as otherwise provided in this section or where modified by rule. Section 2.20.1 of the uniform regulation for the method of sale of commodities is not adopted.

(2) The packaging and labeling requirements for commodities sold in Michigan shall conform to the "uniform packaging and labeling regulation" published in the 2002 edition of the NIST handbook 130, incorporated by reference, except for section 13 of that publication or except as otherwise modified by rule.

(3) A certificate of conformance for a type shall comply with the requirements of NCWM publication 14, "national type evaluation program technical policy, checklists and test procedures" and the 2002 edition of the NIST handbook 44, "specifications, tolerances, and other technical requirements for weighing and measuring devices", incorporated by reference.

(4) The determination for a uniform basis conformance for a type shall comply with NCWM publication 14, “national type evaluation program technical policy, checklists and test procedures” and the 2002 edition of the NIST handbook 44, “specifications, tolerances, and other technical requirements for weighing and measuring devices”, incorporated by reference.

(5) The specifications, tolerances, and regulations for commercial weights and measures shall be in compliance with the standards contained in the 2002 edition of the NIST handbook 44, incorporated by reference.

(6) Registration for service persons and service agencies and competency tests shall be in compliance with the standards contained in the 2002 edition of the NIST handbook 130, “uniform regulation for the voluntary registration of service persons and service agencies for commercial weighing and measuring devices”, incorporated by reference, and the NIST handbook 44, incorporated by reference.

This act is ordered to take immediate effect.
Approved October 31, 2003.
Filed with Secretary of State October 31, 2003.

[No. 190]

(HB 5037)

AN ACT to amend 1992 PA 234, entitled “An act to establish a judges retirement system; to provide for the administration and maintenance of the retirement system; to create a retirement board; to prescribe the powers and duties of the retirement board; to establish certain reserves for the retirement system; to establish certain funds; to prescribe the powers and duties of certain state departments and certain state and local officials and employees; to provide for certain disqualifications; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending section 512 (MCL 38.2512), as added by 2002 PA 675.

The People of the State of Michigan enact:

38.2512 Supplemented retirement allowance.

Sec. 512. (1) A person may elect to receive a supplemented retirement allowance if the person meets all of the following requirements:

(a) The person is a retirant or beneficiary of a deceased retirant whose effective date of retirement was on or after January 1, 1980 but before January 2, 1993.

(b) The person is not a retirant or beneficiary of a deceased retirant who was a member of the former judges retirement system before September 8, 1961.

(c) The person executes and submits to the retirement system an election form with a waiver agreement in form and substance as required under subsection (7).

(2) Except as otherwise provided in this section, effective June 1, 2003, a person who meets the requirements of subsection (1) and who timely files a fully executed waiver agreement with the retirement system on a form furnished by the retirement system, on

or after January 1, 2003, but not later than April 1, 2003, shall receive a retirement allowance supplemented as follows:

Effective Date of Retirement	Percent of Increase
January 1, 1992 to January 1, 1993	3.5%
January 1, 1991 to December 31, 1991	4.0%
January 1, 1990 to December 31, 1990	4.5%
January 1, 1989 to December 31, 1989	5.0%
January 1, 1988 to December 31, 1988	5.5%
January 1, 1987 to December 31, 1987	6.0%
January 1, 1986 to December 31, 1986	6.5%
January 1, 1985 to December 31, 1985	7.0%
January 1, 1984 to December 31, 1984	7.5%
January 1, 1983 to December 31, 1983	8.0%
January 1, 1982 to December 31, 1982	8.0%
January 1, 1981 to December 31, 1981	8.0%
January 1, 1980 to December 31, 1980	8.0%

(3) The supplemental retirement allowance calculated under subsection (2) shall be the basis on which any future adjustments to the retirement allowance are calculated.

(4) For a person who meets the requirements of subsection (1) and who filed a fully executed waiver agreement by April 1, 2003, the supplement provided by this section shall be calculated under subsection (2) and shall be paid to retirants or beneficiaries of deceased retirants before October 1, 2003. For a person who meets the requirements of subsection (1) who did not file a fully executed waiver agreement with the retirement system by April 1, 2003, and who files a fully executed waiver agreement with the retirement system by January 30, 2004, the supplement provided by this section shall be calculated under subsection (2) and shall be paid to retirants or beneficiaries of deceased retirants before April 1, 2004.

(5) If a retirant dies before October 1, 2003 and no benefits become payable under section 506 or 508, the retirant's retirement allowance shall not be supplemented.

(6) For purposes of this section, a person who elects to receive a retirement allowance supplemented under this section shall be deemed to have done all of the following:

(a) Waived any past, present, or future claim or claims asserted by the plaintiffs in the case of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI).

(b) Waived any past, present, or future claim or claims that arise from facts that form the basis of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI), including, but not limited to, asserted violations of the equal protection clause of section 1 of Amendment XIV of the constitution of the United States, section 2 of article I of the state constitution of 1963, section 604(6), the wasting trust doctrine, and fiduciary duties.

(c) Agreed that he or she will not take any action to question the legal effect of, amend, or rescind the waiver created by his or her election under this section.

(7) The waiver agreement agreed to, executed, and submitted by a person electing a retirement allowance supplemented under this section shall read as follows:

"1. __________ (Name of person) desires to settle and compromise, in their entirety, any past, present, or future claim or claims, either asserted by the plaintiffs in the case of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI), or that arise from the facts forming the basis of that case, including, but not limited to, asserted violations of the equal protection clause of the fourteenth amendment of the United States constitution, section 2 of article I of the state constitution of 1963, section 604(6) of the judges retirement act of 1992, 1992 PA 234, MCL 38.2604, the wasting trust doctrine, and fiduciary duties.