

(7) The state shall pay to the building authority or its assignee the true rental at the times, in the manner, and at the place specified in the lease approved under subsection (4). The governor and the budget director shall include in the annual budget of the state for each year an amount fully sufficient to pay the true rental required to be paid by this state to the building authority or its assignee required by any lease under this act.

This act is ordered to take immediate effect.

Approved July 7, 2005.

Filed with Secretary of State July 7, 2005.

[No. 68]

(HB 4635)

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,” by amending section 8515 (MCL 324.8515), as added by 1995 PA 60, and by adding section 8518.

The People of the State of Michigan enact:

324.8515 Revocation or refusal of license or registration; grounds; hearing; exception for refusal to sell ammonium nitrate fertilizer.

Sec. 8515. (1) The director of the department may revoke the license of a manufacturer or distributor or the registration of a fertilizer product or soil conditioner, or may refuse to license a manufacturer or distributor or to register a fertilizer product or soil conditioner, upon satisfactory evidence that the licensee has engaged in fraudulent or deceptive practices or has evaded or attempted to evade this part or the rules promulgated under this part.

(2) A license or registration shall not be revoked or refused until the licensee or applicant has been given the opportunity by the director of the department to appear for a hearing.

(3) The department shall not suspend or revoke the license of a distributor or manufacturer who refuses to sell ammonium nitrate fertilizer to a person who fails to comply with the request for information required under section 8518 or who refuses to sell ammonium nitrate fertilizer to a person who purchases that fertilizer out of season, in unusual amounts, or under a pattern or circumstances considered unusual, as described in section 8518.

324.8518 Ammonium nitrate fertilizer; storage methods; information to be obtained by retailers; records; refusal of retailer to sell.

Sec. 8518. (1) A retailer shall secure at all times ammonium nitrate fertilizer to provide reasonable protection against vandalism, theft, or unauthorized access. Secured storage includes, but is not limited to, the following methods:

(a) Fencing.

(b) Lighting.

(c) Locks.

(2) Retailers shall obtain the following information regarding any sale of ammonium nitrate fertilizer:

(a) Date of sale.

(b) Quantity purchased.

(c) License number of the purchaser's valid state operator's license with the appropriate endorsement, if applicable, or other picture identification card number approved for purchaser identification by the department.

(d) The purchaser's name, current address, and telephone number.

(e) The agency relationship, if any, between the purchaser and the person picking up or accepting delivery of the ammonium nitrate fertilizer.

(3) Records created pursuant to this section shall be maintained by the retailer for a minimum of 2 years on a form or using a format recommended by the department. Records shall be made available for inspection and audit upon request of the director of the department.

(4) Records generated by means of the tracking system established under subsection (2) are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) Any retailer of ammonium nitrate fertilizer may refuse to sell to any person attempting to purchase ammonium nitrate fertilizer out of season, in unusual patterns or circumstances, or in unusual amounts as determined by the retailer.

This act is ordered to take immediate effect.

Approved July 11, 2005.

Filed with Secretary of State July 11, 2005.

[No. 69]

(SB 79)

AN ACT to amend 1967 (Ex Sess) PA 7, entitled "An act to provide for interlocal public agency agreements; to provide standards for those agreements and for the filing and status of those agreements; to permit the allocation of certain taxes or money received from tax increment financing plans as revenues; to permit tax sharing; to provide for the imposition of certain surcharges; to provide for additional approval for those agreements; and to prescribe penalties and provide remedies," by amending section 8a (MCL 124.508a), as amended by 1996 PA 45.

The People of the State of Michigan enact:

124.508a Surcharge on households for waste reduction programs and collection of materials for recycling or composting.

Sec. 8a. (1) Subject to subsection (3), a county, by resolution of the county board of commissioners of the county, or the agency responsible for preparing the solid waste management plan for counties with a population of 690,000 or more as certified by the 1980 census that do not operate under 1973 PA 139, MCL 45.551 to 45.573, or 1966 PA 293,

MCL 45.501 to 45.521, as provided in part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, may impose a surcharge on households within the county of not more than \$2.00 per month or \$25.00 per year per household for waste reduction programs and for the collection of consumer source separated materials for recycling or composting including, but not limited to, recyclable materials, as defined in part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, household hazardous wastes, tires, batteries, and yard clippings.

(2) Subject to subsection (4) and if approved by the voters of a participating unit of government, a county may charge an amount greater than allowed under subsection (1) but not more than \$4.00 per month or \$50.00 per year per household, for the purposes described under subsection (1). The county may include commercial businesses as entities to be subject to the surcharge approved by the voters.

(3) A county or agency shall defer the imposition and collection of a surcharge imposed under subsection (1) in a local unit of government within that county until the county or agency has entered into an interlocal agreement under this act relating to the collection and disposition of the surcharge with the local unit of government. A city in a county in which the agency described in subsection (1) prepared the update to the county's solid waste management plan as provided in part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, shall not enter into an interlocal agreement if the city has levied a tax of 3 mills on real property within the city for the disposal or management of solid waste in that city. Petitions for a referendum election on the question of entering an interlocal agreement may be filed with the clerk of the local unit of government no later than 6 months following adoption of a resolution of the county or agency to impose the surcharge or 6 months following any increase in the surcharge. Upon petition of 10% of the qualified electors of a local unit of government voting in the last general election before the adoption of the interlocal agreement by the governing body, the local unit of government shall hold a referendum on whether to reject the entrance into or terminate an interlocal agreement.

(4) An election allowed under subsection (2) shall not be held unless the county board of commissioners passes a resolution authorizing the election. The resolution shall include all of the following:

(a) The approval to hold the election.

(b) The name of the individual designated to negotiate the interlocal agreement between the municipalities and townships within the county.

(c) A date by which each municipality and township within the county shall elect to participate in the interlocal agreement and authorize an election under this section.

(d) The date for the election.

(e) The amount of the proposed surcharge.

(f) Whether commercial businesses will be subject to the proposed surcharge.

(5) The initial authorization under subsection (4) shall be for 5 years. Any subsequent authorizations shall be for a period of not less than 10 years.

(6) With the approval of the county, a municipality or township that is not part of an interlocal agreement established under this section may become subject to the agreement by otherwise complying with the requirements of this section.

(7) With the approval of the county and after providing notice to the municipality or township in which the business is located, a business not subject to this section may agree

to be part of an interlocal agreement established under this section and shall be subject to the terms and conditions of the agreement.

(8) The surcharge approved under subsection (2) shall not apply to vacant land, public-utility-owned land, rights-of-way, and easements that do not generate solid waste.

(9) A surcharge approved under subsection (2) is a mandatory charge and may be collected by any reasonable billing method approved by the county, including, but not limited to, as part of billings for property taxes, water and sewage usage, or other services provided by the county to households and commercial businesses within the county.

(10) As used in this section:

(a) “Agency” does not include the department of environmental quality.

(b) “Commercial businesses” means businesses engaged in the sale, lease, or exchange of goods, services, real property, or any other thing of value. Commercial businesses do not include wholesale businesses engaged in the manufacturing of goods or materials or the processing of goods or materials.

This act is ordered to take immediate effect.

Approved July 11, 2005.

Filed with Secretary of State July 11, 2005.

[No. 70]

(SB 167)

AN ACT to provide for occupational regulatory agencies to allow the use of on-line or other electronic continuing education and continuing competency programs under certain circumstances; to provide for certain powers and duties for certain state regulatory agencies; and to provide for the promulgation of rules.

The People of the State of Michigan enact:

338.3701 Short title.

Sec. 1. This act shall be known and may be cited as the “on-line continuing education act”.

338.3702 Definitions.

Sec. 2. As used in this act:

(a) “Continuing education” means instructional courses designed to bring participants up to date on a particular area of knowledge or skills.

(b) “License” means a certificate, registration, accreditation, or license issued by an occupational regulatory agency that allows an individual to engage in a regulated occupation or that allows an individual to use a specific title or professional designation in the practice of an occupation, profession, or vocation.

(c) “Occupational regulatory agency” means a department, bureau, or agency of this state that has regulatory authority over a regulated occupation.

(d) “Regulated occupation” means an occupation, profession, or vocation that requires a license as a predicate for the practice of the occupation, profession, or vocation or that

provides for the use of a specific title or professional designation in the practice of the occupation, profession, or vocation.

338.3703 Continuing education as license renewal requirement; credit earned through on-line or electronic media.

Sec. 3. (1) Except as otherwise provided for in a specific act, or as otherwise required by a rule promulgated before the effective date of this act, concerning a regulated occupation, the occupational regulatory agency requiring a program of continuing education as part of a program of continuing professional competency for renewal of a license shall, to the extent practicable, allow at least 1/2 of the required credit hours of continuing education to be earned through an on-line or electronic media meeting standards acceptable to the occupational regulatory agency.

(2) If the occupational regulatory agency does not allow at least 1/2 of the required credit hours of continuing education to be earned through an on-line or electronic media, the director shall notify the legislative committee of the senate and house of representatives having jurisdiction over licensing matters. The notification shall be in writing and shall explain why on-line or electronic media is not practicable.

(3) This act does not apply to continuing education or training programs offered as part of a licensure, registration, certification, or accreditation program that must be approved by an agency of the federal government.

338.3704 Rules.

Sec. 4. Except as otherwise provided by law, an occupational regulatory agency may promulgate rules or amend existing rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this act.

338.3705 Effective date.

Sec. 5. This act takes effect July 1, 2007.

This act is ordered to take immediate effect.

Approved July 11, 2005.

Filed with Secretary of State July 11, 2005.

[No. 71]

(SB 513)

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 sections 31, 301, 302, 312, 370, 381, 476, 498, 500b, 501, 507, 509m, 509q, 509gg, 523, 552, 641, 642a, 653a, 699, 761, 766, 767, 792a, 961, 961a,

and 963 (MCL 168.31, 168.301, 168.302, 168.312, 168.370, 168.381, 168.476, 168.498, 168.500b, 168.501, 168.507, 168.509m, 168.509q, 168.509gg, 168.523, 168.552, 168.641, 168.642a, 168.653a, 168.699, 168.761, 168.766, 168.767, 168.792a, 168.961, 168.961a, and 168.963), sections 31 and 961a as amended by 1999 PA 220, section 301 as amended by 2004 PA 286, sections 302 and 312 as added and sections 370, 509gg, and 963 as amended by 2003 PA 302, section 381 as amended by 2004 PA 290, sections 476 and 961 as amended by 1999 PA 219, section 498 as amended by 1984 PA 89, sections 500b and 507 as amended by 1989 PA 142, section 509m as amended by 2004 PA 92, section 509q as added by 1994 PA 441, sections 523 and 792a as amended by 1996 PA 583, section 552 as amended by 2003 PA 188, section 641 as amended by 2003 PA 298, section 642a as amended by 2004 PA 294, section 653a as added by 1982 PA 2, section 699 as amended by 2004 PA 297, and section 761 as amended by 1996 PA 207, and by adding sections 302a and 509hh; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

168.31 Secretary of state; duties as to elections; rules.

Sec. 31. (1) The secretary of state shall do all of the following:

(a) Subject to subsection (2), issue instructions and promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the conduct of elections and registrations in accordance with the laws of this state.

(b) Advise and direct local election officials as to the proper methods of conducting elections.

(c) Publish and furnish for the use in each election precinct before each state primary and election a manual of instructions that includes specific instructions on assisting voters in casting their ballots, directions on the location of voting stations in polling places, procedures and forms for processing challenges, and procedures on prohibiting campaigning in the polling places as prescribed in this act.

(d) Publish indexed pamphlet copies of the registration, primary, and election laws and furnish to the various county, city, township, and village clerks a sufficient number of copies for their own use and to enable them to include 1 copy with the election supplies furnished each precinct board of election inspectors under their respective jurisdictions. The secretary of state may furnish single copies of the publications to organizations or individuals who request the same for purposes of instruction or public reference.

(e) Prescribe and require uniform forms, notices, and supplies the secretary of state considers advisable for use in the conduct of elections and registrations.

(f) Prepare the form of ballot for any proposed amendment to the constitution or proposal under the initiative or referendum provision of the constitution to be submitted to the voters of this state.

(g) Require reports from the local election officials the secretary of state considers necessary.

(h) Investigate, or cause to be investigated by local authorities, the administration of election laws, and report violations of the election laws and regulations to the attorney general or prosecuting attorney, or both, for prosecution.

(i) Publish in the legislative manual the vote for governor and secretary of state by townships and wards and the vote for members of the state legislature cast at the preceding November election, which shall be returned to the secretary of state by the county clerks on or before the first day of December following the election. All clerks shall furnish to the secretary of state, promptly and without compensation, any further information requested of them to be used in the compilation of the legislative manual.

(j) Establish a curriculum for comprehensive training and accreditation of all county, city, township, village, and school elections officials.

(k) Establish and require attendance by all new appointed or elected election officials at an initial course of instruction within 6 months before the date of the election.

(l) Establish a comprehensive training curriculum for all precinct inspectors.

(m) Create an election day dispute resolution team that has regional representatives of the department of state, which team shall appear on site, if necessary.

(2) Pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the secretary of state shall promulgate rules establishing uniform standards for state and local nominating, recall, and ballot question petition signatures. The standards for petition signatures may include, but need not be limited to, standards for all of the following:

(a) Determining the validity of registration of a circulator or individual signing a petition.

(b) Determining the genuineness of the signature of a circulator or individual signing a petition, including digitized signatures.

(c) Proper designation of the place of registration of a circulator or individual signing a petition.

168.301 School district election; school district election coordinator; duties; delegation; precincts and polling place locations.

Sec. 301. (1) Unless a particular power or duty of an election official or a particular election procedure is specifically governed by a provision of this chapter, a school district election is governed by the provisions of this act that generally govern elections.

(2) Except as provided in section 305, the school district election coordinator for a school district shall conduct each regular election and each special election that is requested by the school board to submit a ballot question or to fill a vacancy on the school board. In addition to receiving requests from the school board to hold special elections, the school district election coordinator shall do all of the following:

(a) Receive filing fees or nominating petitions and affidavits of identity from candidates for school board and petitions for special elections.

(b) Procure the necessary qualified voter file precinct lists.

(c) Certify candidates.

(d) Receive ballot proposal language.

(e) Issue absent voter ballots.

(3) A school district election coordinator who is a county clerk may delegate, if the city or township clerk agrees, all or a portion of the school district election coordinator's duties to that city or township clerk. The school district election coordinator shall not delegate duties to any person not named in this section.

(4) A school district election coordinator who is a county clerk may delegate the following duties to the city or township clerk, who shall perform the following duties:

(a) Distribute, receive, and process absent voter ballot applications for a school election.

(b) Make voting systems available for the conduct of a school election.

(c) Make available to the school district election coordinator the list of election inspectors for that city or township.

(d) Notify school district electors of precinct and polling place location changes.

(5) If the county clerk is the school district election coordinator for a school district, the county election commission shall establish that school district's election precincts and polling place locations in accordance with this act.

168.302 School board member; eligibility; election; terms; phasing in or out terms; transition plan.

Sec. 302. An individual is eligible for election as a school board member if the individual is a citizen of the United States and is a qualified and registered elector of the school district the individual seeks to represent by the filing deadline. At least 1 school board member for a school district shall be elected at each of the school district's regular elections held as provided in section 642 or 642a. Except as otherwise provided in this section or section 310 or 644g, a school board member's term of office is prescribed by the applicable provision of section 11a, 617, 701, or 703 of the revised school code, 1976 PA 451, MCL 380.11a, 380.617, 380.701, and 380.703, or section 34, 34a, 41, 54, or 83 of the community college act of 1966, 1966 PA 331, MCL 389.34, 389.34a, 389.41, 389.54, and 389.83. Except as provided in section 302a, if a ballot question changing the number of school board members or changing the terms of office for school board members pursuant to section 11a of the revised school code, 1976 PA 451, MCL 380.11a, is proposed and a school district needs a temporary variance from the terms of office provisions in this act and the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, to phase in or out school board members' terms of office, the school board shall submit the proposed ballot question language and a proposed transition plan to the secretary of state at least 30 days before the school board submits the ballot question language to the school district election coordinator pursuant to section 312. The secretary of state shall approve or reject the proposed transition plan within 10 business days of receipt of the proposed transition plan. The secretary of state shall approve the proposed transition plan if the plan provides only temporary relief to the school district from the terms of office provisions in this act and the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, until such time that the terms of office for school board members can be made to comply with this act and the revised school code, 1976 PA 451, MCL 380.1 to 380.1852. The school board shall not submit the proposed ballot question language to the school district election coordinator pursuant to section 312 until the proposed transition plan is approved by the secretary of state. A school board member's term begins on 1 of the following dates:

(a) If elected at an election held on a November regular election date, January 1 immediately following the election.

(b) If elected at an election held on a May regular election date, July 1 immediately following the election.

168.302a Transition plan; compliance.

Sec. 302a. If on or before January 1, 2004 a school district's electors approved a plan to change the number of school board members or change the terms of office for school board members, and if legislation enacted after January 1, 2004 makes implementation of these changes impossible or impractical, the school board may adopt by resolution at a public hearing a transition plan to bring the school district's election schedule back into compliance with the intent of the plan approved by the electors on or before January 1, 2004 without requiring approval of the transition plan by the secretary of state or preparation or passage of a ballot question.

168.312 Ballot question; submission; certification of ballot question language; scheduling of special election date.

Sec. 312. (1) A school board may submit a ballot question to the school electors on a regular election date, on a date when a city or township within the school district's jurisdiction is holding an election by adopting a resolution to that effect not later than the time permitted for certification under section 646a(2), or on a special election date as provided in section 641(4). The school board shall certify the ballot question language to the

school district election coordinator not later than the time permitted for certification under section 646a(2). If the ballot question is submitted on the same date as an election for a state or county office, the school district election coordinator shall send a copy of the ballot question language to the county clerk of each county not less than 68 days before the election.

(2) If a special election is called on a date provided under section 641(4), the school district election coordinating committee shall schedule the special election date.

168.370 Filling vacancy in township office; procedure.

Sec. 370. (1) Except as provided in subsection (2), if a vacancy occurs in an elective or appointive township office, the vacancy shall be filled by appointment by the township board, and the person appointed shall hold the office for the remainder of the unexpired term.

(2) If 1 or more vacancies occur in an elective township office that cause the number of members serving on the township board to be less than the minimum number of board members that is required to constitute a quorum for the transaction of business by the board, the board of county election commissioners shall make temporary appointment of the number of members required to constitute a quorum for the transaction of business by the township board. An official appointed under this subsection shall hold the office only until the official's successor is elected or appointed and qualified. An official who is temporarily appointed under this subsection shall not vote on the appointment of himself or herself to an elective or appointive township office.

(3) If a township official submits a written resignation from an elective township office, for circumstances other than a resignation related to a recall election, that specifies a date and time when the resignation is effective, the township board, within 30 days before that effective date and time, may appoint a person to fill the vacancy at the effective date and time of the resignation. The resigning official shall not vote on the appointment.

(4) Except as provided in subsection (5), if the township board does not make an appointment under subsection (3), or if a vacancy occurs in an elective township office and the vacancy is not filled by the township board or the board of county election commissioners within 45 days after the beginning of the vacancy, the county clerk of the county in which the township is located shall call a special election within 5 calendar days to fill the vacancy. Not later than 4 p.m. on the fifteenth calendar day after the county clerk calls a special election pursuant to this section, the township party committee for each political party in the township shall submit a nominee to fill the vacancy. The special election shall be held on the next regular election date that is not less than 60 days after the deadline for submitting nominees under this section or 70 days after the deadline for submitting nominees under this section if the next regular election date is the even year August primary or the general November election. Notice of the special election shall be given in the same manner required by section 653a. A special election called under this section does not affect the rights of a qualified elector to register for any other election. A person elected to fill a vacancy shall serve for the remainder of the unexpired term.

(5) Subsection (4) does not apply to the office of township constable. If a vacancy occurs in the office of township constable, the township board shall determine if and when the vacancy shall be filled by appointment. If the township board does not fill the vacancy by appointment, the office of township constable shall remain vacant until the next general or special election in which township offices are filled.

168.381 Village officers; qualifications, nomination, election, appointment, term, and removal; temporary appointment of trustees for transaction of business; expiration of appointment; filing for office; election to be held at September primary election.

Sec. 381. (1) Except as provided in subsection (2) and sections 383, 641, 642, and 644g, the qualifications, nomination, election, appointment, term of office, and removal from

office of a village officer shall be as determined by the charter provisions governing the village.

(2) If the membership of the village council of a village governed by the general law village act, 1895 PA 3, MCL 61.1 to 74.25, is reduced to less than a quorum of 4 and a special election for the purpose of filling all vacancies in the office of trustee is called under section 13 of chapter II of the general law village act, 1895 PA 3, MCL 62.13, temporary appointments of trustees shall be made as provided in this subsection. The board of county election commissioners of the county in which the largest portion of the population of the village is situated shall make temporary appointment of the number of trustees required to constitute a quorum for the transaction of business by the village council. A trustee appointed under this subsection shall hold the office only until the trustee's successor is elected and qualified. A trustee who is temporarily appointed under this subsection shall not vote on the appointment of himself or herself to an elective or appointive village office.

(3) Notwithstanding another provision of law or charter to the contrary, an appointment to an elective or appointive village office made by a quorum constituted by temporary appointments under this subsection expires upon the election and qualification of trustees under the special election called to fill the vacancies in the office of trustee.

(4) Filing for a village office shall be with the township clerk if the township is conducting the election or if the village is located in more than 1 township with the township in which the largest number of the registered electors of the village reside.

(5) If a village council adopts a resolution in compliance with section 642(7) to hold its regular election at the September primary election, the nominating petitions for village offices to be filled at the September primary election shall be filed as provided in this subsection. Until January 1, 2006, nominating petitions shall be filed with the village clerk by 4 p.m. on the eighth Tuesday before the September primary election. On and after January 1, 2006, nominating petitions shall be filed with the village clerk by 4 p.m. on the twelfth Tuesday before the September primary election. After a nominating petition is filed for a candidate for a village office, the candidate is not permitted to withdraw unless a written withdrawal notice, signed by the candidate, is filed with the village clerk not later than 4 p.m. of the third day after the last day for filing the nominating petition.

168.476 Petitions; canvass by board of state canvassers; use of qualified voter file; hearing upon complaint; investigations; completion date; disposition of challenges; report.

Sec. 476. (1) Upon receiving notification of the filing of the 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. The qualified voter file shall be used to determine the validity of petition signatures by verifying the registration of signers and the genuineness of signatures on petitions when the qualified voter file contains digitized signatures. 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. If the board is unable to verify the genuineness of a signature on a petition using the digitized signature contained in the qualified voter file, the board may cause any doubtful signatures to be checked against the registration records by the clerk of any political subdivision in which the petitions were circulated, to determine the authenticity of the signatures or to verify the registrations. Upon request, the clerk of any political subdivision shall cooperate fully with the board in determining the validity of doubtful

signatures by rechecking the signature against registration records in an expeditious and proper manner.

(2) The board of state canvassers may hold hearings upon any complaints filed or for any purpose considered necessary by the board to conduct investigations of the petitions. To conduct a hearing, the board may issue subpoenas and administer oaths. The board may also adjourn from time to time awaiting receipt of returns from investigations that are being made or for other necessary purposes, but shall complete the canvass at least 2 months before the election at which the proposal is to be submitted.

(3) 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 bureau of elections 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 pursuant to subsection (1), the board of state canvassers shall make that document available to petitioners and challengers on a daily basis.

168.498 Clerk of township, city, or village; office hours, days, and place for receiving applications for registration; public notice; notice of registration for school millage election; agreement to jointly publish public notice.

Sec. 498. (1) The governing body of a township, city, or village may provide by resolution that in that township, city, or village the clerk shall be at the clerk's office, or in some other convenient place designated by the clerk, during the hours designated by the governing body on the thirtieth day preceding an election or primary election in the township, city, or village, unless the thirtieth day falls on a Saturday, Sunday, or legal holiday, in which event registration shall be accepted during the same hours on the following day.

(2) In a township, city, or village in which the clerk does not maintain regular daily office hours, the township board or the legislative body of the city or village may require that the clerk of the township, city, or village shall be at the clerk's office or other designated place for the purpose of receiving applications for registration on the days which the board or legislative body designates, but not more than 5 days before the last day for registration.

(3) The clerk of each township, city, and village shall give public notice of the days and hours that the clerk will be at the clerk's office or other designated place for the purpose of receiving registrations before an election or primary election by publication of the notice, except as provided in subsection (4) and section 497(2), in a newspaper published or of general circulation in the township, city, or village and, if considered advisable by the township, city, or village clerk, by posting written or printed notices in at least 2 of the most conspicuous places in each election precinct. Except as provided in subsection (4), the publication or posting shall be made not less than 7 days before the last day for receiving registrations. The notice of registration shall include the offices to be filled that will appear on the ballot. If the notice of registration is for an election that includes a ballot proposal, a caption or brief description of the ballot proposal along with the location where an elector can obtain the full text of the ballot proposal shall be stated in the notice.

(4) Notice of registration for a school millage election that will be held pursuant to section 36 of the general property tax act, 1893 PA 206, MCL 211.36, shall be required to be published once and shall be made not less than 5 days before the last day for receiving registrations as provided in section 497a.

(5) A county clerk may enter into an agreement with the clerk of 1 or more townships or cities in the county or the clerks of 1 or more cities or townships in a county may enter into an agreement to jointly publish the notice required in subsection (3). The notice shall

be published in a newspaper of general circulation in the cities and townships listed in the notice.

168.500b Forwarding application for registration to clerk of city or township; compensation of county clerks; obtaining additional information; transmitting application to appropriate clerk; electronic transmission of address change.

Sec. 500b. (1) Not more than 5 business days after receipt of an application for registration, the county clerk shall forward the application for registration to the clerk of the city or township in which the applicant resides.

(2) Compensation to be paid county clerks for transmitting applications shall be appropriated by the legislature to the secretary of state for equitable distribution by the secretary of state to the county clerks. The city or township clerk shall obtain needed additional information on an application that is not completed properly or return to the secretary of state's election division an application needing additional information or not completed properly. An application received by the clerk of a city or township in which the applicant does not reside shall be transmitted promptly to the appropriate county clerk of the county in which the applicant resides. If the city or township clerk knows the city or township in which the applicant resides, the clerk shall inform the county clerk of the county in which the applicant resides and forward the application directly to the clerk of the city or township in which the applicant resides.

(3) The secretary of state may electronically transmit to the qualified voter file voter registration change of address information received from a registered elector who is changing the address on his or her operator's or chauffeur's license issued pursuant to the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or official state personal identification card issued pursuant to 1972 PA 222, MCL 28.291 to 28.300. The secretary of state is not required to transmit a paper copy of an elector's voter registration change of address information if the elector's signature is already captured or reproduced under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, and has been transmitted to the qualified voter file. This subsection applies to address changes made within a city or township and to address changes made from 1 city or township to another city or township.

168.501 Registration cards; master file.

Sec. 501. The original registration cards shall be filed alphabetically hereinafter and shall be termed the "master file". The master file shall contain the signature of each elector registered in the city, township, or village, unless the clerk of the jurisdiction has access to the qualified voter file and the elector has a digitized signature in the qualified voter file.

168.507 Execution of transfer of registration request; comparison of signatures; certification; filing application for transfer; proper name of street or resident house number; notice; eligibility to vote.

Sec. 507. (1) A registered elector who has removed from 1 election precinct of a township, city, or village to another election precinct of the same township, city, or village and has not recorded the removal with the local clerk shall execute a transfer of registration request, listing the new residence address over his or her signature, with the election board in the precinct in which he or she is registered at the next ensuing primary or election.

(2) If an elector's signature contained in the qualified voter file is available in the polling place, the inspector of election in charge of the registration records shall compare the digitized signature provided by the qualified voter file with the signature and, if the

signatures correspond, then the inspector shall certify the fact by affixing his or her initials upon the request. If an elector's signature is not contained in the qualified voter file, the election official shall process the transfer of registration request in the same manner as transfer of registration requests are processed when a voter registration list is used in the polling place. The applicant for transfer, after having signed an application to vote as provided in section 523, shall then be permitted to vote in the precinct for that primary or election only. The application for transfer shall be filed with the township, city, or village clerk who shall transfer the elector's registration pursuant to the application. If the name of a street or resident house number in a township, city, or village is changed, the township, city, or village clerk shall make the change to show the proper name of the street or resident house number in the registration records and notify the county clerk of the change. It is not necessary for the elector to change his or her registration to reflect the change in order to be eligible to vote.

168.509m Purpose of MCL 168.509m to 168.509hh; definitions.

Sec. 509m. (1) The purposes of this section and sections 509n to 509hh are all of the following:

(a) To establish a statewide qualified voter file that consists of all qualified electors who wish to be registered to vote in local, state, and federal elections.

(b) To enhance the uniformity of the administration of elections by creating and maintaining a statewide qualified voter file.

(c) To increase the efficiency and decrease the public cost of maintaining voter registration files and implementing the national voter registration act of 1993.

(d) To increase the integrity of the voting process by creating a single qualified voter file that will permit the name of each citizen of this state to appear only once and that is compiled from other state files that require citizens to verify their identity and residence.

(e) To apply technology and information gathered by principal executive departments, state agencies, and county, city, township, and village clerks in a manner that ensures that accurate and current records of qualified voters are maintained.

(2) As used in sections 509n to 509hh:

(a) "Designated voter registration agency" means an office designated under section 509u to perform voter registration activities in this state.

(b) "Qualified voter file" means the statewide qualified voter file established according to section 509o.

168.509q Qualified voter file; information to be contained for each voter.

Sec. 509q. The qualified voter file shall contain all of the following information for each qualified voter:

(a) The name; residence address including house number and street name or rural route and box number, and the apartment number, if any; city; state; zip code; and date of birth.

(b) The driver's license number or state personal identification card number or similar number issued by a designated voter registration agency.

(c) Jurisdictional information including county and city or township; village, if any; and school district.

(d) Precinct numbers and ward numbers, if any.

(e) Any other information that the secretary of state determines is necessary to assess the eligibility of qualified electors or to administer voter registration or other aspects of the election process.

(f) Voting history for a 5-year period.

(g) The most recent digitized signature of an elector if captured or reproduced by the secretary of state or a county, city, or township clerk from a voter registration application pursuant to section 509hh, or captured or reproduced by the secretary of state pursuant to section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307.

168.509gg Information exempt from freedom of information act.

Sec. 509gg. The information described in this section that is contained in a registration record is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The secretary of state, a designated voter registration agency, or a county, city, township, or village clerk shall not release a copy of that portion of a registration record that contains any of the following:

(a) The record that a person declined to register to vote.

(b) The office that received a registered voter's application.

(c) A registered voter's driver's license or state personal identification card number.

(d) The month and day of birth of a registered voter.

(e) The telephone number provided by the registered voter.

(f) The digitized signature of an elector that is captured or reproduced and transmitted to the qualified voter file by the secretary of state or a county, city, or township clerk under section 509hh or by the secretary of state under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307.

168.509hh Capture or reproduction of signature.

Sec. 509hh. (1) The secretary of state may capture or reproduce the signature of an elector from a voter registration application or pursuant to section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, and transmit the signature to the qualified voter file pursuant to section 509q.

(2) The county, city, or township clerk may capture or reproduce the signature of an elector from a voter registration application and transmit the signature to the qualified voter file pursuant to section 509q.

168.523 Identification of registered elector; presenting official state identification card, operator's or chauffeur's license, or generally recognized picture identification card; execution of application; comparison of signature or other identification; challenge; affidavit; approval, initial, and notation of application; application as poll list; filing application; notations on cards or lists; record of voting participation.

Sec. 523. (1) At each election, before being given a ballot, each registered elector offering to vote shall identify himself or herself by presenting an official state identification card issued to that individual pursuant to Act No. 222 of the Public Acts of 1972, being sections 28.291 to 28.295 of the Michigan Compiled Laws, an operator's or chauffeur's license issued to that individual pursuant to the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, or other generally recognized picture identification card and by executing an application showing his or her signature or mark and address of residence in the presence of an election official. If an elector's signature contained in the qualified voter file is available in the polling place, the election official shall compare the signature upon the application with the digitized signature provided by the qualified voter file. If an elector's signature

is not contained in the qualified voter file, the election official shall process the application in the same manner as applications are processed when a voter registration list is used in the polling place. If voter registration lists are used in the precinct, the election inspector shall determine if the name on the application to vote appears on the voter registration list. If the name appears on the voter registration list, the elector shall provide further identification by giving his or her date of birth or other information stated upon the voter registration list. In precincts using voter registration lists, the date of birth may be required to be placed on the application to vote. If the signature or an item of information does not correspond, the vote of the person shall be challenged, and the same procedure shall be followed as provided in this act for the challenging of an elector. If the person offering to vote has signed the registration card or application by making a mark, the person shall identify himself or herself by giving his or her date of birth, which shall be compared with the date of birth stated upon the registration card or voter registration list, or shall give other identification as may be referred to upon the registration card or voter registration list. If the elector does not have an official state identification card, operator's or chauffeur's license as required in this subsection, or other generally recognized picture identification card, the individual shall sign an affidavit to that effect before an election inspector and be allowed to vote as otherwise provided in this act. However, an elector being allowed to vote without the identification required under this subsection is subject to challenge as provided in section 727.

(2) If, upon a comparison of the signature or other identification as required in subsection (1), it is found that the applicant is entitled to vote, the election officer having charge of the registration list shall approve the application and write his or her initials on the application, after which the number on the ballot issued shall be noted on the application. The application shall serve as 1 of the 2 poll lists required to be kept as a record of a person who has voted. The application shall be filed with the township, city, or village clerk. If voter registration cards are used in the precinct, the date of the election shall be noted by 1 of the election officials upon the precinct registration card of each elector voting at an election. If voter registration lists are used in the precinct, the election official shall clearly indicate upon the list each elector voting at that election. The clerk of a city, village, or township shall maintain a record of voting participation for each registered elector.

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 nominating 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 as required by subsection (13). The county clerk may conduct the signature comparisons as required by subsection (13) using the digitized signatures in the qualified voter file, in lieu of requesting the local clerk to conduct the signature comparison. 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. The county clerk may conduct the signature comparisons as required by subsection (13) using the digitized signatures in the qualified voter file, in lieu of requesting the local clerk to conduct the signature comparison.

(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 deter-

mination 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 qualified voter file or 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 verify the registration or the genuineness of a signature as required by subsection (13). If the board is unable to verify the genuineness of a signature on a petition, the board 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. The qualified voter file shall be used to determine the genuineness of a signature on a petition. Signature comparisons shall be made with the digitized signatures in the qualified voter file. The county clerk or the board of state canvassers shall conduct the signature comparison using digitized signatures contained in the qualified voter file for their respective investigations. If the qualified voter file does not contain a digitized signature of an elector, the city or the township clerk shall compare the petition signature to the signature contained on the master card.

(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.

168.641 Regular election date; special election; report; direction and supervision of election consolidation; short title of section.

Sec. 641. (1) Except as otherwise provided in this section and sections 642 and 642a, beginning January 1, 2005, an election held under this act shall be held on 1 of the following regular election dates:

- (a) The February regular election date, which is the fourth Tuesday in February.
- (b) The May regular election date, which is the first Tuesday after the first Monday in May.
- (c) The August regular election date, which is the first Tuesday after the first Monday in August.
- (d) The November regular election date, which is the first Tuesday after the first Monday in November.

(2) If an elective office is listed by name in section 643, requiring the election for that office to be held at the general election, and if candidates for the office are nominated at a primary election, the primary election shall be held on the August regular election date.

(3) Except as otherwise provided in this subsection and subsection (4), a special election shall be held on a regular election date. A special election called by the governor under section 145, 178, 632, 633, or 634 to fill a vacancy or called by the legislature to submit a proposed constitutional amendment as authorized in section 1 of article XII of the state constitution of 1963 may, but is not required to be, held on a regular election date.

(4) A school district may call a special election to submit a ballot question to borrow money, increase a millage, or establish a bond if an initiative petition is filed with the county clerk. The petition shall be signed by a number of qualified and registered electors of the district equal to not less than 10% of the electors voting in the last gubernatorial election in that district or 3,000 signatures, whichever number is lesser. Section 488 applies to a petition to call a special election for a school district under this section. In addition to the requirements set forth in section 488, the proposed date of the special election shall appear beneath the petition heading, and the petition shall clearly state the amount of the millage increase or the amount of the loan or bond sought and the purpose for the millage increase or the purpose for the loan or bond. The petition shall be filed with the county clerk by 4 p.m. of the twelfth Tuesday before the proposed date of the special election. The petition signatures shall be obtained within 60 days before the filing of the petition. Any signatures obtained more than 60 days before the filing of the petition are not valid. If the special election called by the school district is not scheduled to be held on a regular election date as provided in subsection (1), the special election shall be held on a Tuesday. A special election called by a school district under this subsection shall not be held within 30 days before or 35 days after a regular election date as provided in subsection (1). A school district may only call 1 special election pursuant to this subsection in each calendar year.

(5) The secretary of state shall make a report to the house and senate committees that consider election issues by December 1, 2006. The secretary of state shall report about the special elections held under this subsection, including, but not limited to, all of the following:

(a) The number of times a special election has been held.

(b) Which school districts have held special elections.

(c) Information about the success rate of the ballot question submitted at the special elections.

(d) Information about voter turnout, including the percentage and number of registered voters who voted in each special election.

(6) The secretary of state shall direct and supervise the consolidation of all elections held under this act.

(7) This section shall be known and may be cited as the “Hammerstrom election consolidation law”.

168.642a Change of regular election or regular primary election to odd year.

Sec. 642a. (1) After December 31, 2004, a city council that adopted a resolution so that its regular election is held on the May regular election date may change its regular election to the odd year general election by adopting a resolution in compliance with section 642. If a city council adopts the resolution in compliance with section 642 to hold

its regular election at the odd year general election, after December 31 of the year in which the resolution is adopted, the city's regular election is at the odd year general election.

(2) After December 31, 2004, a city council that holds its regular election for city offices annually or in the even year on the November regular election date may change its regular election schedule to the odd year general election and the odd year primary election by adopting a resolution in compliance with section 642. If a city council adopts the resolution in compliance with section 642, the city's regular election is at the odd year general election and its primary is at the odd year primary election.

(3) After December 31, 2004, a city council that adopted a resolution so that its regular election primary is held at the September primary election may change its regular election primary to the odd year primary election by adopting a resolution in compliance with section 642. If a city council adopts the resolution in compliance with section 642 to hold its regular election primary on the odd year primary election date, after December 31 of the year in which the resolution is adopted, the city's regular election primary is on the odd year primary election date.

(4) After December 31, 2004, a school district's school board that adopted a resolution so that its regular election is held on a date other than at the odd year general election may change its regular election to the odd year general election, the general November election, the November regular election date in both even and odd years, or the odd year May regular election date by adopting a resolution in compliance with section 642. If a school board adopts the resolution in compliance with section 642 to hold its regular election at the odd year general election, the general November election, the November regular election date in both even and odd years, or the odd year May regular election date, after December 31 of the year in which the resolution is adopted, the school board's school district shall hold its regular election on the election date adopted in the resolution.

(5) After December 31, 2004, a village council that adopted a resolution so that its regular election is held on the September primary election date may change its regular election to the November regular election date by adopting a resolution in compliance with section 642. If a village council adopts the resolution in compliance with section 642 to hold its regular election at the November regular election date, after December 31 of the year in which the resolution is adopted, the village's regular election is at the November regular election date.

168.653a Election notice; publication; form; agreement to jointly publish notice.

Sec. 653a. (1) On receipt of the notice from the county clerk pursuant to section 652, the clerk of each city and township shall give notice of the time and place at which the election is to be held, the offices to be filled, and the proposals to be submitted to the voters. The notice shall be published in a newspaper published, or of general circulation, in the city or township. A caption or brief description of the proposal or proposals along with the location where an elector can obtain the full text of the proposal or proposals shall be included in the notice. The publication shall be made not less than 7 days before the election. The notice shall be in substantially the following form:

ELECTION NOTICE

To the qualified electors of the city or township _____ notice
is hereby given that a _____

(indicate whether regular, special, or primary)

election will be held in _____ on _____

(date)

from 7 a.m. to 8 p.m. for the purpose of nominating or electing candidates for the following offices:

(list of offices)

and to vote on the following proposals: _____
 (list all proposals to be submitted to voters)

List of polling place locations: _____ .

(clerk)

(2) A county clerk may enter into an agreement with the clerk of 1 or more townships or cities in the county or the clerks of 1 or more cities or townships in a county may enter into an agreement to jointly publish the notice in subsection (1). The notice shall be published in a newspaper of general circulation in the cities and townships listed in the notice. If certain offices or proposals are to be voted on in less than all of the precincts, the notice shall specify the townships or cities that shall vote on only those offices or proposals.

168.699 Nonpartisan offices; placement on separate portion of ballot; order of listing offices.

Sec. 699. At any regular election, the names of the several nonpartisan offices to be voted for shall be placed on a separate portion of the ballot containing no party designation in the following order: justices of the supreme court, judges of the court of appeals, judges of the circuit court, judges of the probate court, judges of the district court, city officers, the following village officers in substantially the following order in the year in which elections for the offices are held: president, clerk, treasurer, and trustees, and in a year in which an election for the office is held, local school district board member, community college board of trustees member, intermediate school district board member, and district library board member.

168.761 Absent voter ballots; mailing or delivering to applicant; order of issuance; numbering; return envelope; form; statement; false statement as misdemeanor or felony.

Sec. 761. (1) If the clerk of a city, township, or village receives an application for an absent voter ballot from a person registered to vote in that city, township, or village and if the signature on the application agrees with the signature for the person contained in the qualified voter file or on the registration card as required in subsection (2), the clerk immediately upon receipt of the application or, if the application is received before the printing of the absent voter ballots, as soon as the ballots are received by the clerk, shall forward by mail, postage prepaid, or shall deliver personally 1 of the ballots or set of ballots if there is more than 1 kind of ballot to be voted to the applicant. Absent voter ballots may be delivered to an applicant in person at the office of the clerk.

(2) The qualified voter file shall be used to determine the genuineness of a signature on an application for an absent voter ballot. Signature comparisons shall be made with the digitized signature in the qualified voter file. If the qualified voter file does not contain a digitized signature of an elector, or is not accessible to the clerk, the city or township clerk shall compare the signature appearing on the application for an absent voter ballot to the signature contained on the master card.

(3) Notwithstanding section 759, providing that no absent voter applications shall be received by the clerk after 2 p.m. on the Saturday before the election, a person qualified

to vote as an absent voter may apply in person at the clerk’s office before 4 p.m. on a day preceding the election except Sunday or a legal holiday to vote as an absent voter. The applicant shall receive his or her absent voter ballot and vote the ballot in the clerk’s office. All other absent voter ballots, except ballots delivered pursuant to an emergency absent voter ballot application under section 759b, shall be mailed or delivered to the registration address of the applicant unless the application requests delivery to an address outside the city, village, or township or to a hospital or similar institution, in which case the absent voter ballots shall be mailed or delivered to the address given in the application. However, a clerk may mail or deliver an absent voter ballot, upon request of the absent voter, to a post office box if the post office box is where the absent voter normally receives personal mail and the absent voter does not receive mail at his or her registration address.

(4) Absent voter ballots shall be issued in the same order in which applications are received by the clerk of a city, township, or village, as nearly as may be, and each ballot issued shall bear the lowest number of each kind available for this purpose. However, this provision does not prohibit a clerk from immediately issuing an absent voter ballot to an absent voter who applies in person in the clerk’s office for absent voter ballots. The clerk shall enclose with the ballot or ballots a return envelope properly addressed to the clerk and bearing upon the back of the envelope a printed statement in substantially the following form:

TO BE COMPLETED
BY THE CLERK

Name of Voter	Street Address or R.R.
City, Township or Village	County
Ward _____ Precinct _____	Date of Election _____

=====

TO BE COMPLETED BY THE ABSENT VOTER

I assert that I am a qualified and registered elector of the city, township, or village named above. I am voting as an absent voter in conformity with state election law. Unless otherwise indicated below, I personally marked the ballot enclosed in this envelope without exhibiting it to any other person.

I further assert that this absent voter ballot is being returned to the clerk or an assistant of the clerk by me personally; by public postal service, express mail service, parcel post service, or other common carrier; by a member of my immediate family; or by a person residing in my household.

DATE: _____ SIGN HERE: X _____
Signature of Absent Voter

The above form must be signed or your vote will not be counted. AN ABSENT VOTER WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY OF A MISDEMEANOR.

=====

TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING
BY ANOTHER PERSON

I assisted the above named absent voter who is disabled or otherwise unable to mark the ballot in marking his or her absent voter ballot pursuant to his or her directions. The absent voter ballot was inserted in the return envelope without being exhibited to any other person.

Signature of Person Assisting Voter	Street Address or R.R.	City, Twp., or Village
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Printed Name of Person Assisting Voter

A PERSON WHO ASSISTS AN ABSENT VOTER AND WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY OF A FELONY.

=====

WARNING

PERSONS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER; A PERSON WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY OR RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED BY THE ABSENT VOTER TO RETURN THE BALLOT; A PERSON WHOSE JOB IT IS TO HANDLE MAIL BEFORE, DURING, OR AFTER BEING TRANSPORTED BY A PUBLIC POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE, OR COMMON CARRIER, BUT ONLY DURING THE NORMAL COURSE OF HIS OR HER EMPLOYMENT; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER AUTHORIZED ELECTION OFFICIALS OF THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT. ANY OTHER PERSON IN POSSESSION OF AN ABSENT VOTER BALLOT IS GUILTY OF A FELONY.

(5) An absent voter who knowingly makes a false statement on the absent voter ballot return envelope is guilty of a misdemeanor. A person who assists an absent voter and who knowingly makes a false statement on the absent voter ballot return envelope is guilty of a felony.

168.766 Absent voters' ballots; verification by election inspectors.

Sec. 766. (1) Upon receipt from the city, township or village clerk of any envelope containing the marked ballot or ballots of an absent voter, the board of inspectors of election shall verify the legality of such vote by an examination of a digitized signature for the absent voter included in the qualified voter file under section 509q or the registration record as provided in subsection (2) to see that the person has not voted in person, that he is a registered voter, and that the signature on the statement agrees with the signature on the registration record; and by an examination of the statement of such voter to see that it is properly executed.

(2) The qualified voter file shall be used to determine the genuineness of a signature on an envelope containing an absent voter ballot. Signature comparisons shall be made with the digitized signature in the qualified voter file. If the qualified voter file does not contain a digitized signature of an elector, or is not accessible to the clerk, the city or township clerk shall compare the signature appearing on an envelope containing an absent voter ballot to the signature contained on the master card.

168.767 Absent voters' ballots; illegal vote; rejection of ballot; marking; preservation.

Sec. 767. If upon an examination of the envelope containing an absent voter's ballot or ballots, it is determined that the signature on the envelope does not agree sufficiently with the signature on the registration card or the digitized signature contained in the qualified voter file as provided under section 766 so as to identify the voter or if the board shall have knowledge that the person voting the ballot or ballots has died, or if it is determined by a majority of the board that such vote is illegal for any other reason, then such vote shall be rejected, and thereupon some member of the board shall, without opening the envelope, mark across the face of such envelope, "rejected as illegal", and the reason therefor. The statement shall be initialed by the chairman of the board of election inspectors. Said envelope and the ballot or ballots contained therein shall be returned to the city, township or village clerk and retained and preserved in the manner now provided by law for the retention and preservation of official ballots voted at such election.

168.792a Absent voter counting boards.

Sec. 792a. (1) Except as otherwise provided in this subsection, the absent voter ballots in a city, township, or village that uses voting machines shall be counted by absent voter counting boards. The board of election commissioners of a city, township, or village that has 2 precincts or less or of a city that has 500,000 or more in population may decide that the absent voter ballots shall be counted in the manner provided in section 791. In a city, township, or village that does not use voting machines, the absent voter ballots may be counted by absent voter counting boards or in the same manner as is otherwise provided for precincts in which voting is not done on voting machines.

(2) The board of election commissioners shall establish the absent voter counting boards. The board of election commissioners shall determine the number of absent voter counting boards to be established and shall appoint the election inspectors to those absent voter counting boards 10 days or more before the election at which they are to be used. Sections 673a and 674 apply to the appointment of election inspectors to absent voter counting boards under this section. The board of election commissioners shall determine the number of ballots that may be expeditiously counted by an absent voter counting board in a reasonable period of time, taking into consideration the size and complexity of the ballot to be counted pursuant to the guidelines of the secretary of state. Combined ballots shall be regarded as the number of ballots as there are sections to the ballot.

(3) If more than 1 absent voter counting board is to be used, the city, township, or village clerk shall determine the number of voting machines or the number of ballot boxes and the number of election inspectors to be used in each of the absent voter counting boards and to which absent voter counting board the absent voter ballots for each precinct shall be assigned for counting. The clerk shall make the determination under this subsection 2 days or more before the election and shall not assign an absent voter counting board more ballots than the maximum number authorized by the board of election commissioners under subsection (2). The clerk is not required to use all of the absent voter counting boards authorized by the board of election commissioners under subsection (2).

(4) In a city, township, or village that uses absent voter counting boards under this section, absent voter ballots shall be counted in the manner provided in this section and absent voter ballots shall not be delivered to the polling places. The board of election commissioners shall provide a place for each absent voter counting board to count the absent voter ballots. Section 662 applies to the designation and prescribing of the absent voter counting place or places in which the absent voter counting board performs its duties under this section. The places shall be designated as absent voter counting places. Except as otherwise provided in this section, laws relating to paper ballot precincts,

including laws relating to the appointment of election inspectors, apply to absent voter counting places. If a counting place uses voting machines, the provisions of this section relating to placing of absent voter ballots on voting machines apply. More than 1 absent voter counting board may be located in 1 building.

(5) The clerk of a city, township, or village that uses absent voter counting boards shall supply each absent voter counting board with supplies necessary to carry out their duties under this act. The supplies shall be furnished to the city, township, or village clerk in the same manner and by the same persons or agencies as for other precincts.

(6) Absent voter ballots received by the clerk before election day shall be delivered to the absent voter counting board by the clerk at the time the election inspectors of the absent voter counting boards report for duty, which time shall be established by the board of election commissioners. Absent voter ballots received by the clerk on election day shall be delivered to the absent voter counting boards before the time set for the closing of the polls. Absent voter ballots shall be delivered to the absent voter counting boards in the sealed absent voter ballot return envelopes in which they were returned to the clerk. Written or stamped on each of the return envelopes shall be the time and the date that the envelope was received by the clerk and a statement by the clerk that the signatures of the absent voters on the envelopes have been checked and found to agree with the signatures of the voters on the registration cards or the digitized signatures of voters contained in the qualified voter file as provided under section 766. If a signature on the registration card or a digitized signature contained in the qualified voter file and on the absent voter ballot return envelope does not agree as provided under section 766, if the absent voter failed to sign the envelope, or if the statement of the absent voter is not properly executed, the clerk shall mark the envelope “rejected” and the reason for the rejection and shall place his or her name under the notation. An envelope marked “rejected” shall not be delivered to the absent voter counting board but shall be preserved by the clerk until other ballots are destroyed in the manner provided in this act. The clerk shall also comply with section 765(5).

(7) At the time of issuing or mailing absent voter ballots to qualified applicants, the clerk of a city, township, or village that uses absent voter counting boards shall mark the letters “A.V.” and the date of election on the registration card of the applicant in the precinct registration file.

(8) This chapter does not prohibit an absent voter from voting in person within the voter’s precinct at an election, notwithstanding that the voter may have applied for an absent voter ballot and the ballot may have been mailed or otherwise delivered to the voter. The voter, the election inspectors, and other election officials shall proceed in the manner prescribed in section 769. The clerk shall preserve the canceled ballots for 2 years.

(9) The absent voter counting boards shall process the ballots and returns in as nearly as possible the same manner as ballots are processed in paper ballot precincts. The poll book may be combined with the absent voter list or record required by section 760, and the applications for absent voter ballots may be used as the poll list. The processing and tallying of absent voter ballots may commence at 7 a.m. on the day of the election.

(10) An election inspector, challenger, or any other person in attendance at an absent voter counting place at any time after the processing of ballots has begun shall take and sign the following oath that may be administered by the chairperson or a member of the absent voter counting board:

“I (name of person taking oath) do solemnly swear (or affirm) that I shall not communicate in any way any information relative to the processing or tallying of votes that may come to me while in this counting place until after the polls are closed.”

(11) The oaths administered under subsection (10) shall be placed in an envelope provided for the purpose and sealed with the red state seal. Following the election the oaths shall be delivered to the city, township, or village clerk. Except as otherwise provided in subsection (16), a person in attendance at the absent voter counting place shall not leave the counting place after the tallying has begun until the polls close. A person who causes the polls to be closed or who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a voting precinct before the time the polls can be legally closed on election day is guilty of a felony.

(12) At the time the board of election commissioners provide for the use of absent voter counting boards, the board of election commissioners may provide that the absent voter counting boards shall record the votes contained on absent voter ballots on voting machines. In that case, the recording of ballots shall be done by the chairperson of the absent voter counting board or another member designated by the chairperson. The act of casting the votes shall be performed in the presence of and under the careful observation and full view of all members of the absent voter counting board, party challengers, and any other persons lawfully present at the absent voter counting place. The vote as indicated by the voting pointers shall not be recorded until each member of the absent voter counting board is satisfied that the arrangement of the voting pointers fully carries out the intent of the absent voter as shown by the cross marks or check marks on the absent voter ballot. A certificate that the requirements of this subsection were met shall be made on the election inspectors' statement of returns.

(13) As soon as absent voter ballots have been cast on a voting machine pursuant to subsection (12), but not before 8 p.m., the election inspectors shall seal the operating lever of the machine against voting and shall then proceed to determine and record the votes cast in the manner provided in this act.

(14) Voted absent voter ballots shall be placed in a ballot box and the ballot bag and ballot box shall be sealed in the manner provided by this act for paper ballot precincts. The seal numbers shall be recorded on the statement sheet and in the poll book.

(15) In a city, township, or village where challenged voters are required to vote on absent voter ballots, each challenged voter ballot and application for ballot, after having been voted and properly identified, shall be placed by the voter in an absent voter ballot return envelope. The applicable information required on the back of the envelope shall be completed by the board of election inspectors. The envelope shall be signed by the challenged voter and by the chairperson of the precinct board of election inspectors. The word "challenged" shall be written across the front of the envelope. The envelope and application for ballot shall be sealed and delivered to the absent voter counting place by the clerk of the city, township, or village. Immediately after the closing of the polls, the chairperson of the precinct board of election inspectors shall notify the clerk of the city, township, or village of remaining challenged voter ballots to be delivered to the absent voter counting place. In a city, township, or village that uses voting machines where absent voter counting boards are not used, challenged ballots shall be counted and tallied in the precincts, in the same manner that absent voter ballots are tallied and counted as provided in section 791.

(16) Subject to this subsection, a local election official who has established an absent voter counting board, the deputy or employee of that local election official, or an employee of the state bureau of elections may enter and leave an absent voter counting board after the tally has begun but before the polls close. A person described in this subsection may enter an absent voter counting board only for the purpose of responding to an inquiry from an election inspector or a challenger or to provide instructions on the operation of the counting board. Before entering an absent voter counting board, a person described in

this subsection shall take and sign the oath prescribed in subsection (10). The chairperson of the absent voter counting board shall record in the poll book the name of a person described in this subsection who enters the absent voter counting board. A person described in this subsection who enters an absent voter counting board and who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a precinct before the time the polls can be legally closed on election day is guilty of a felony. As used in this subsection, “local election official” means a county, city, township, or village clerk, the secretary of a school board, or an employee of a school district designated to conduct a school election.

(17) The secretary of state shall develop instructions consistent with this act for the conduct of absent voter counting boards. The secretary of state shall distribute the instructions developed under this subsection to city and township clerks 40 days or more before a general election in which absent voter counting boards will be used. A city or township clerk shall make the instructions developed under this subsection available to the public and shall distribute the instructions to each challenger in attendance at an absent voter counting board. The instructions developed under this subsection are binding upon the operation of an absent voter counting board used in an election conducted by a county, city, township, village, school district, or any other jurisdiction empowered to conduct an election under this act.

168.961 Recall petition; filing; receipt; duties of filing official; duties of city or township clerk; certificate; duties of village clerk; use of qualified voter file.

Sec. 961. (1) A recall petition shall be filed with the filing officer provided in section 959 or 960. The filing official shall give a receipt showing the date of filing, the number of petition sheets filed, and the number of signatures claimed by the filer. This shall constitute the total filing, and additional petition sheets for this filing shall not be accepted by the filing official.

(2) Within 7 days after a recall petition is filed, the filing official with whom the petition was filed shall examine the recall petition. The filing official shall determine if the recall petition is in proper form and shall determine the number of signatures of the petition. In determining the number of signatures, the filing official shall not count signatures on a petition sheet if 1 or more of the following apply:

(a) The execution of the certificate of circulator is not in compliance with this act.

(b) The heading of the petition sheet is improperly completed.

(c) The reasons for recall are different than those determined by the board of county election commissioners to be of sufficient clarity to enable the officer whose recall is sought and the electors to identify the course of conduct which is the basis for this recall.

(d) The signature was obtained before the date of determination by the board of county election commissioners or more than 90 days before the filing of the petition.

(3) If the filing official determines that the form of the petition is improper or that the number of signatures is less than the minimum number required in section 955, the filing official shall proceed as provided in section 963(1).

(4) If the filing official determines that the number of signatures is in excess of the minimum number required in section 955, the filing official shall determine the validity of the signatures by verifying the registration of signers pursuant to subsection (6) and may determine the genuineness of signatures pursuant to subsection (7) or shall forward each petition sheet to the clerk of the city or township appearing on the head of the petition sheet. However, the petition shall not be forwarded to the secretary of a school district.

(5) The city or township clerk shall determine the validity of the signatures by verifying the registration of signers pursuant to subsection (6) and may determine the genuineness of signatures pursuant to subsection (7). Within 15 days after receipt of the petition, the city or township clerk shall attach to the petition a certificate indicating the number of signers on each petition sheet that are registered electors in the city or township and in the governmental unit for which the recall is sought. The certificate shall be on a form approved by the secretary of state and may be a part of the petition sheet. If the recall petition is for the recall of a village official, the county clerk shall forward the petition to the clerk of the village, and the duties and responsibilities of the city or township clerk as set forth in this section shall be performed by the village clerk.

(6) The qualified voter file shall 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.

(7) The qualified voter file shall be used to determine the genuineness of a challenged petition signature appearing on a recall petition. Signature comparisons shall be made with the digitized signature in the qualified voter file. If the qualified voter file does not contain a digitized signature of an elector, the official with whom the recall petition was filed shall compare the challenged signature to the signature on the master card.

168.961a Notice to officer whose recall is sought; challenge; checking signatures; verifying challenged signature; use of qualified voter file.

Sec. 961a. (1) Not later than the business day following the filing of a recall petition, the official with whom the recall was filed shall notify in writing the officer whose recall is sought that the recall petition has been filed.

(2) An officer whose recall is sought may challenge the validity of the registration or the validity and genuineness of the signature of a circulator or person signing the recall petition. A challenge shall be in writing, specifying the challenged signature, and shall be delivered to the filing official within 30 days after the filing of the petitions. The officer whose recall is sought shall have not less than 8 days after the clerk has examined the signatures to check signatures on the original registration records.

(3) Subject to subsections (4) and (5), a challenged signature shall be verified by the official with whom the recall was filed.

(4) The qualified voter file may be used to determine the validity of a challenged petition signature appearing on a recall petition by verifying the registration of the signer. 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.

(5) The qualified voter file shall be used to determine the genuineness of a challenged petition signature appearing on a recall petition. Signature comparisons shall be made with the digitized signature in the qualified voter file. If the qualified voter file does not contain a digitized signature of an elector, the official with whom the recall petition was filed shall compare the challenged signature to the signature on the master card.

168.963 Sufficiency or insufficiency of recall petition; determination; notice; special election.

Sec. 963. (1) Within 35 days after the filing of the recall petition, the filing official with whom the recall petition is filed shall make an official declaration of the sufficiency or insufficiency of the petition. If the recall petition is determined to be insufficient, the filing official shall notify the person or organization sponsoring the recall of the insufficiency of the petition. It is not necessary to give notification unless the person or organization sponsoring the recall files with the filing official a written notice of sponsorship and a mailing address.

(2) Immediately upon determining that the petition is sufficient, but not later than 35 days after the date of filing of the petition, the county clerk with whom the petition is filed shall call the special election to determine whether the electors will recall the officer whose recall is sought. The election shall be held on the next regular election date that is not less than 95 days after the date the petition is filed.

(3) If a petition is filed under section 959, the filing official with whom the petition is filed shall call the special election. The election shall be held on the next regular election date that is not less than 95 days after the petition is filed.

Repeal of MCL 168.500g and 168.501a.

Enacting section 1. Sections 500g and 501a of the Michigan election law, 1954 PA 116, MCL 168.500g and 168.501a, are repealed.

Effective date of MCL 168.641(4).

Enacting section 2. Section 641(4) of the Michigan election law, 1954 PA 116, MCL 168.641, as amended by this amendatory act, takes effect 70 days after the date this amendatory act is enacted.

Effective date of certain sections.

Enacting section 3. Sections 31, 476, 501, 507, 523, 552, 961, and 961a of the Michigan election law, 1954 PA 116, MCL 168.31, 168.476, 168.501, 168.507, 168.523, 168.552, 168.961, and 168.961a, as amended by this amendatory act take effect January 1, 2007.

Severability.

Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable.

This act is ordered to take immediate effect.

Approved July 14, 2005.

Filed with Secretary of State July 14, 2005.

[No. 72]

(HB 4434)

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

to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding section 17753.

The People of the State of Michigan enact:

333.17753 Centralized prescription processing; conditions for performing or contracting; maintenance of policy and procedures manual; definition.

Sec. 17753. (1) A pharmacy may perform centralized prescription processing services or outsource those services to another pharmacy if each of the following conditions is satisfied:

(a) The pharmacies have the same owner or have a written contract outlining the services to be provided and the responsibilities and accountabilities of each pharmacy in fulfilling the terms of the contract in compliance with federal and state laws and regulations.

(b) The pharmacies share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to prepare a prescription drug order.

(c) The pharmacies comply with federal and state laws and regulations.

(2) A pharmacy that performs, or contracts for, centralized prescription processing services shall maintain a policy and procedures manual, along with documentation that implementation is occurring, and each shall be made available to the board for inspection and review upon request and the manual shall include, but is not limited to, a detailed description of how the pharmacies will do all of the following:

(a) Maintain appropriate records to identify the responsible pharmacist, or pharmacists, in the various stages of the drug product preparation, dispensing, and counseling process.

(b) Track the prescription drug order during each step in the drug product preparation, dispensing, and counseling process.

(c) Identify on the prescription label each pharmacy involved in the preparation and dispensing of the prescription drug order.

(d) Provide adequate security to protect the confidentiality and integrity of a patient's protected health information.

(e) Implement and maintain a quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.

(3) As used in this section, “centralized prescription processing” means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, performing drug utilization review, completing claims adjudication, obtaining refill authorizations, initiating therapeutic interventions, and other functions related to the practice of pharmacy.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 352 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved July 19, 2005.

Filed with Secretary of State July 19, 2005.

Compiler's note: Senate Bill No. 352, referred to in enacting section 1, was filed with the Secretary of State July 19, 2005, and became 2005 PA 73, Imd. Eff. July 19, 2005.

[No. 73]

(SB 352)

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 17752 (MCL 333.17752).

The People of the State of Michigan enact:

333.17752 Prescription or equivalent record; preservation; disclosure; providing copies; refilling copy; applicability of subsection (3) to pharmacies sharing real-time, on-line database.

Sec. 17752. (1) A prescription, or an equivalent record of the prescription approved by the board, shall be preserved by a licensee or dispensing prescriber for not less than 5 years.

(2) A prescription or equivalent record on file in a pharmacy is not a public record. A person having custody of or access to prescriptions shall not disclose their contents or provide copies without the patient's authorization, to any person except to any of the following:

(a) The patient for whom the prescription was issued, or another pharmacist acting on behalf of the patient.

(b) The authorized prescriber who issued the prescription, or a licensed health professional who is currently treating the patient.

(c) An agency or agent of government responsible for the enforcement of laws relating to drugs and devices.

(d) A person authorized by a court order.

(e) A person engaged in research projects or studies with protocols approved by the board.

(3) A pharmacist may refill a copy of a prescription from another pharmacy if the original prescription has remaining authorized refills, and the copy is issued according to the following procedure:

(a) The pharmacist issuing a written or oral copy of a prescription shall cancel the original prescription and record the cancellation. The record of cancellation shall include the date the copy was issued, to whom issued, and the identification of the pharmacist who issued the copy.

(b) The written or oral copy issued shall be a duplicate of the original prescription except that it shall also include the prescription number, the name of the pharmacy issuing the copy, the date the copy was issued, and the number of authorized refills remaining available to the patient.

(c) The pharmacist receiving a written or oral copy of the prescription shall exercise reasonable diligence to determine whether it is a valid copy, and having done so may treat the copy as an original prescription.

(d) Except as described in this part, all other copies furnished shall be used for information purposes only and clearly marked "for informational or reference purposes only".

(4) Subsection (3) does not apply to pharmacies that share a real-time, on-line database or other equivalent means of communication or to pharmacies that transfer prescriptions pursuant to a written contract for centralized prescription processing services as provided under section 17753.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4434 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved July 19, 2005.

Filed with Secretary of State July 19, 2005.

[No. 74]**(HB 4714)**

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 section 41321; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.41321 Invasive species advisory council; creation; membership; meetings; quorum; public meeting; writings; compensation; staff and services; consultants; repeal of section.

Sec. 41321. (1) The invasive species advisory council is created in the department.

(2) The council shall consist of all of the following members:

(a) The director of the department of natural resources, or his or her designee.

(b) The director of the department of agriculture, or his or her designee.

(c) The director of the department of environmental quality, or his or her designee.

(3) The first meeting of the council shall be called by the director of the department of natural resources. At the first meeting, the council shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the council shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by a member.

(4) A majority of the members of the council constitute a quorum for the transaction of business at a meeting of the council. A majority of the members of the council are required for official action of the council.

(5) The business that the council may perform shall be conducted at a public meeting of the council held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) A writing prepared, owned, used, in the possession of, or retained by the council in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) Members of the council shall serve without additional compensation. However, members of the council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the council.

(8) The department of natural resources, the department of agriculture, and the department of environmental quality shall provide staff and services to the council.

(9) The council shall consult with representatives of businesses affected by this part, academic experts, public interest group representatives, government officials, and others as necessary for the exercise of its powers and performance of its duties under this part.

(10) This section is repealed 5 years after the effective date of the amendatory act that added this section.

Conditional effective date.

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

- (a) Senate Bill No. 211 or House Bill No. 4710.
- (b) Senate Bill No. 212 or House Bill No. 4711.
- (c) Senate Bill No. 213 or House Bill No. 4712.
- (d) Senate Bill No. 214 or House Bill No. 4716.
- (e) Senate Bill No. 215 or House Bill No. 4713.
- (f) Senate Bill No. 217 or House Bill No. 4715.

This act is ordered to take immediate effect.

Approved July 19, 2005.

Filed with Secretary of State July 19, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 211 was filed with the Secretary of State July 19, 2005, and became 2005 PA 77, Imd. Eff. July 19, 2005.

Senate Bill No. 212 was filed with the Secretary of State July 19, 2005, and became 2005 PA 78, Imd. Eff. July 19, 2005.

Senate Bill No. 213 was filed with the Secretary of State July 19, 2005, and became 2005 PA 79, Imd. Eff. July 19, 2005.

House Bill No. 4716 was filed with the Secretary of State July 19, 2005, and became 2005 PA 76, Imd. Eff. July 19, 2005.

Senate Bill No. 215 was filed with the Secretary of State July 19, 2005, and became 2005 PA 80, Imd. Eff. July 19, 2005.

House Bill No. 4715 was filed with the Secretary of State July 19, 2005, and became 2005 PA 75, Imd. Eff. July 19, 2005.

[No. 75]**(HB 4715)**

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 section 41323; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.41323 Duties of council; repeal of section.

Sec. 41323. (1) The council shall do all of the following:

(a) Within 6 months after the effective date of the amendatory act that added this section, submit to the governor and the legislature a report that makes recommendations on additions to or deletions from the list of prohibited species and restricted species.

(b) By March 1 of each year, beginning in 2006, submit to the governor and the legislature a report that makes recommendations on all of the following:

(i) The adoption of lists for classes of prohibited and restricted organisms other than fish, insects, and aquatic plants.

(ii) The status of various prohibited species and other problematic invasive organisms in this state, including, but not limited to, a list of infested waterbodies by species.

(iii) Preventing the introduction of and controlling or eradicating invasive or genetically engineered fish, insects, and aquatic plants.

(iv) Restoration or remediation of habitats or species damaged by invasive species or genetically engineered organisms.

(v) Prioritizing efforts to prevent violations of and otherwise further the purposes of this part.

(vi) The specific areas of responsibility for various state departments under this part and the sharing of information on permits under this part among responsible state departments.

(vii) Educating citizens about their responsibilities under this part and their role in preventing the introduction of and controlling or eradicating prohibited species, restricted species, and invasive or genetically engineered fish, insects, or aquatic plants.

(viii) Simplifying citizen access to state government for compliance with this part.

(ix) Legislation and funding to carry out the council's recommendations and otherwise further the purposes of this part.

(x) Other matters that the council considers pertinent to the purposes of this part.

(c) Establish criteria for identifying waterbodies infested by prohibited species.

(d) Monitor and promote efforts to rescind the exemption under 40 CFR 122.3(a) for ballast water discharges.

(2) The council shall carry out its reporting and other duties in cooperation with the aquatic nuisance species council created under Executive Order No. 2002-21.

(3) This section is repealed effective 5 years after the effective date of the amendatory act that added this section.

Conditional effective date.

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

- (a) Senate Bill No. 211 or House Bill No. 4710.
- (b) Senate Bill No. 212 or House Bill No. 4711.
- (c) Senate Bill No. 213 or House Bill No. 4712.
- (d) Senate Bill No. 214 or House Bill No. 4716.
- (e) Senate Bill No. 215 or House Bill No. 4713.
- (f) Senate Bill No. 216 or House Bill No. 4714.

This act is ordered to take immediate effect.

Approved July 19, 2005.

Filed with Secretary of State July 19, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 211 was filed with the Secretary of State July 19, 2005, and became 2005 PA 77, Imd. Eff. July 19, 2005.
Senate Bill No. 212 was filed with the Secretary of State July 19, 2005, and became 2005 PA 78, Imd. Eff. July 19, 2005.
Senate Bill No. 213 was filed with the Secretary of State July 19, 2005, and became 2005 PA 79, Imd. Eff. July 19, 2005.
House Bill No. 4716 was filed with the Secretary of State July 19, 2005, and became 2005 PA 76, Imd. Eff. July 19, 2005.
Senate Bill No. 215 was filed with the Secretary of State July 19, 2005, and became 2005 PA 80, Imd. Eff. July 19, 2005.
House Bill No. 4714 was filed with the Secretary of State July 19, 2005, and became 2005 PA 74, Imd. Eff. July 19, 2005.

[No. 76]

(HB 4716)

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,” by amending section 41309 (MCL 324.41309), as added by 2003 PA 270.

The People of the State of Michigan enact:

324.41309 Restricted species; violation; penalties; liability for damages to natural resources.

Sec. 41309. (1) A person who violates section 41303(2) is subject to a civil fine of not more than \$100.00.

(2) A person who violates section 41303(1), or a condition of a permit issued under this part, with respect to a restricted species is subject to a civil fine of not more than \$5,000.00. A person who violates section 41303(1), or a condition of a permit issued under this part, with respect to a prohibited species is subject to a civil fine of not more than \$10,000.00.

(3) A person who violates section 41303(1) knowing the possession is unlawful or who willfully or in a grossly negligent manner violates a condition of a permit issued under this part is guilty as follows:

(a) For a violation involving a restricted species, the person is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(b) For a violation involving a prohibited species, the person is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$2,000.00 or more than \$20,000.00.

(4) A person who, with intent to damage natural, agricultural, or silvicultural resources:

(a) Violates section 41303(1) with respect to a restricted species or possesses a nonnative fish or aquatic plant is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$1,000.00 or more than \$250,000.00.

(b) Violates section 41303(1) with respect to a prohibited species or possesses a genetically engineered fish or aquatic plant is guilty of a felony and may be imprisoned for not more than 4 years and shall be fined not less than \$2,000.00 or more than \$500,000.00.

(5) A person who sells or offers to sell a restricted species is subject to a civil fine of not less than \$1,000.00 or more than \$10,000.00. A person who sells or offers to sell a prohibited species is subject to a civil fine of not less than \$2,000.00 or more than \$20,000.00.

(6) A person who violates section 41305 is guilty as follows:

(a) For a violation involving a restricted species or a nonnative fish or aquatic plant, the person is guilty of a misdemeanor and may be imprisoned for not more than 6 months and shall be fined not less than \$500.00 or more than \$5,000.00.

(b) For a violation involving a prohibited species or a genetically engineered fish or aquatic plant, the person is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(7) A person who violates section 41305 with respect to a restricted species or nonnative fish or aquatic plant and who knows or should know the identity of the restricted species or that the organism, whether a restricted species or other fish or aquatic plant, is nonnative is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(8) A person who violates section 41305 with respect to a prohibited species or a genetically engineered fish or aquatic plant and who knows or should know the identity of the prohibited species or that the fish or aquatic plant is genetically engineered, respectively,

is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$2,000.00 or more than \$20,000.00.

(9) A person who violates section 41305 knowing the introduction is unlawful, is guilty as follows:

(a) For a violation involving a restricted species or nonnative fish or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$1,000.00 or more than \$250,000.00.

(b) For a violation involving a prohibited species or a genetically engineered fish or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 4 years and shall be fined not less than \$2,000.00 or more than \$500,000.00.

(10) A person who, with intent to damage natural, agricultural, or silvicultural resources, violates section 41305 is guilty as follows:

(a) For a violation involving a restricted species or nonnative fish or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 3 years and shall be fined not less than \$1,000.00 or more than \$500,000.00.

(b) For a violation involving a prohibited species or a genetically engineered fish or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 5 years and shall be fined not less than \$2,000.00 or more than \$1,000,000.00.

(11) Subsections (3), (4), and (9) do not apply before November 1, 2005 to violations involving species other than fish. Subsections (6), (7), (8), and (10) do not apply before November 1, 2005.

(12) In addition to any other civil or criminal sanction imposed under this section, a person who violates this part is liable for any damages to natural resources resulting from the violation, including, but not limited to, costs incurred to prevent or minimize such damages.

(13) This part does not apply to activities authorized under the Michigan aquaculture development act, 1996 PA 199, MCL 286.871 to 286.884.

Conditional effective date.

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

- (a) Senate Bill No. 211 or House Bill No. 4710.
- (b) Senate Bill No. 212 or House Bill No. 4711.
- (c) Senate Bill No. 213 or House Bill No. 4712.
- (d) Senate Bill No. 215 or House Bill No. 4713.
- (e) Senate Bill No. 216 or House Bill No. 4714.
- (f) Senate Bill No. 217 or House Bill No. 4715.

This act is ordered to take immediate effect.

Approved July 19, 2005.

Filed with Secretary of State July 19, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 211 was filed with the Secretary of State July 19, 2005, and became 2005 PA 77, Imd. Eff. July 19, 2005.

Senate Bill No. 212 was filed with the Secretary of State July 19, 2005, and became 2005 PA 78, Imd. Eff. July 19, 2005.

Senate Bill No. 213 was filed with the Secretary of State July 19, 2005, and became 2005 PA 79, Imd. Eff. July 19, 2005.

Senate Bill No. 215 was filed with the Secretary of State July 19, 2005, and became 2005 PA 80, Imd. Eff. July 19, 2005.

House Bill No. 4714 was filed with the Secretary of State July 19, 2005, and became 2005 PA 74, Imd. Eff. July 19, 2005.

House Bill No. 4715 was filed with the Secretary of State July 19, 2005, and became 2005 PA 75, Imd. Eff. July 19, 2005.

[No. 77]**(SB 211)**

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,” by amending section 41301 (MCL 324.41301), as added by 2003 PA 270.

The People of the State of Michigan enact:

324.41301 Definitions; possession of live organism.

Sec. 41301. (1) As used in this part:

- (a) “Council” means the invasive species advisory council created in section 41321.
- (b) “Department” means the department of natural resources.
- (c) “Genetically engineered” refers to an organism whose genome, chromosomal or extrachromosomal, is modified permanently and heritably, using recombinant nucleic acid techniques, or the progeny thereof.
- (d) “Introduce”, with reference to an organism, means to knowingly and willfully stock, place, plant, release, or allow the release of the organism in this state at any specific location where the organism is not already naturalized.
- (e) “Prohibited aquatic plant species” means any of the following or fragments or seeds thereof:
 - (i) African oxygen weed (*Lagarosiphon major*) or a hybrid or genetically engineered variant thereof.
 - (ii) Brazilian elodea (*Egeria densa*) or a hybrid or genetically engineered variant thereof.
 - (iii) European frogbit (*Hydrocharis morsus-ranae*) or a hybrid or genetically engineered variant thereof.
 - (iv) Giant hogweed (*Heracleum mantegazzianum*) or a hybrid or genetically engineered variant thereof.
 - (v) Giant salvinia (*Salvinia molesta*, *auriculata*, *biloba*, or *herzogii*) or a hybrid or genetically engineered variant thereof.
 - (vi) Hydrilla (*Hydrilla verticillata*) or a hybrid or genetically engineered variant thereof.
 - (vii) Japanese knotweed (*Fallopia japonica*) or a hybrid or genetically engineered variant thereof.
 - (viii) Parrot’s feather (*Myriophyllum aquaticum*) or a hybrid or genetically engineered variant thereof.
 - (ix) Water chestnut (*Trapa natans*) or a hybrid or genetically engineered variant thereof.
 - (x) Yellow flag iris (*Iris pseudacorus*) or a hybrid or genetically engineered variant thereof.
 - (xi) Yellow floating heart (*Nymphoides peltata*) or a hybrid or genetically engineered variant thereof.

(f) “Prohibited fish species” means any of the following or the eggs thereof:

(i) Bighead carp (*Hypophthalmichthys nobilis*) or a hybrid or genetically engineered variant thereof.

(ii) Bitterling (*Rhodeus sericeus*) or a hybrid or genetically engineered variant thereof.

(iii) Black carp (*Mylopharyngodon piceus*) or a hybrid or genetically engineered variant thereof.

(iv) Grass carp (*Ctenopharyngodon idellus*) or a hybrid or genetically engineered variant thereof.

(v) Ide (*Leuciscus idus*) or a hybrid or genetically engineered variant thereof.

(vi) Japanese weatherfish (*Misgurnus anguillicaudatus*) or a hybrid or genetically engineered variant thereof.

(vii) Rudd (*Scardinius erythrophthalmus*) or a hybrid or genetically engineered variant thereof.

(viii) Silver carp (*Hypophthalmichthys molitrix*) or a hybrid or genetically engineered variant thereof.

(ix) A fish of the snakehead family (family Channidae) or a genetically engineered variant thereof.

(x) Tench (*Tinca tinca*) or a hybrid or genetically engineered variant thereof.

(g) “Prohibited insect species” means any of the following or the eggs thereof:

(i) Asian longhorned beetle (*Anoplophora glabripennis*) or a hybrid or genetically engineered variant thereof.

(ii) Emerald ash borer (*Agrilus planipennis*) or a hybrid or genetically engineered variant thereof.

(h) “Prohibited species” means any of the following:

(i) A prohibited aquatic plant species.

(ii) A prohibited fish species.

(iii) A prohibited insect species.

(i) “Recombinant nucleic acid techniques” means laboratory techniques through which genetic material is isolated and manipulated *in vitro* and then inserted into an organism.

(j) “Restricted aquatic plant species” means any of the following or fragments or seeds thereof:

(i) Curly leaf pondweed (*Potamogeton crispus*) or a hybrid or genetically engineered variant thereof.

(ii) Eurasian watermilfoil (*Myriophyllum spicatum*) or a hybrid or genetically engineered variant thereof.

(iii) Flowering rush (*Butomus umbellatus*) or a hybrid or genetically engineered variant thereof.

(iv) Phragmites or common reed (*Phragmites australis*) or a hybrid or genetically engineered variant thereof.

(v) Purple loosestrife (*Lythrum salicaria*) or a hybrid or genetically engineered variant thereof, except for cultivars developed and recognized to be sterile and approved by the director of agriculture under section 16a of the insect pest and plant disease act, 1931 PA 189, MCL 286.216a.

(k) “Restricted species” means a restricted aquatic plant species.

(2) For the purposes of this part:

(a) A person is not considered to possess a live organism simply because the organism is present on land or in waters owned by that person unless the person has knowingly introduced that live organism on that land or in those waters.

(b) A person is not considered to possess a live organism if the organism was obtained from the environment and the person only possesses the organism at the specific location at which it was obtained from the environment.

(c) A person is not considered to possess a live organism if the possession is for the purpose of promptly destroying the organism.

Conditional effective date.

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

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 213.
- (c) Senate Bill No. 215.
- (d) House Bill No. 4714.
- (e) House Bill No. 4715.
- (f) House Bill No. 4716.

This act is ordered to take immediate effect.

Approved July 19, 2005.

Filed with Secretary of State July 19, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 212 was filed with the Secretary of State July 19, 2005, and became 2005 PA 78, Imd. Eff. July 19, 2005.

Senate Bill No. 213 was filed with the Secretary of State July 19, 2005, and became 2005 PA 79, Imd. Eff. July 19, 2005.

Senate Bill No. 215 was filed with the Secretary of State July 19, 2005, and became 2005 PA 80, Imd. Eff. July 19, 2005.

House Bill No. 4714 was filed with the Secretary of State July 19, 2005, and became 2005 PA 74, Imd. Eff. July 19, 2005.

House Bill No. 4715 was filed with the Secretary of State July 19, 2005, and became 2005 PA 75, Imd. Eff. July 19, 2005.

House Bill No. 4716 was filed with the Secretary of State July 19, 2005, and became 2005 PA 76, Imd. Eff. July 19, 2005.

[No. 78]

(SB 212)

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," by amending section 41303 (MCL 324.41303), as added by 2003 PA 270.

The People of the State of Michigan enact:

324.41303 Possession of live prohibited or restricted organism; prohibition; exceptions; notification of location where found.

Sec. 41303. (1) Subject to subsection (2), a person shall not knowingly possess a live organism if the organism is a prohibited species or restricted species, except under 1 or more of the following circumstances:

(a) The person intends to present a specimen of the prohibited species or restricted species, for identification or similar purposes, to a person who is a certified applicator or

registered applicator under part 83, to a public or private institution of higher education, or to the department or any other state, local, or federal agency with responsibility for the environment or natural resources.

(b) The person has been presented with a specimen of a prohibited species or restricted species for identification or similar purposes under subdivision (a).

(c) The person possesses the prohibited species or restricted species in conjunction with otherwise lawful activity to eradicate or control the prohibited species or restricted species.

(d) If the prohibited species or restricted species is not an insect species, the possession is pursuant to a permit issued for education or research purposes by the department under section 41306. If the prohibited species or restricted species is an insect species, the possession is pursuant to a permit issued for education or research purposes by the department of agriculture under section 41306 or by the United States department of agriculture.

(2) A person described in subsection (1)(b) or (c) shall notify the department, the department of agriculture, or the department of environmental quality if the prohibited species or restricted species was found at a location where it was not previously known to be present.

Conditional effective date.

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

- (a) Senate Bill No. 211.
- (b) Senate Bill No. 213.
- (c) Senate Bill No. 215.
- (d) House Bill No. 4714.
- (e) House Bill No. 4715.
- (f) House Bill No. 4716.

This act is ordered to take immediate effect.

Approved July 19, 2005.

Filed with Secretary of State July 19, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 211 was filed with the Secretary of State July 19, 2005, and became 2005 PA 77, Imd. Eff. July 19, 2005.

Senate Bill No. 213 was filed with the Secretary of State July 19, 2005, and became 2005 PA 79, Imd. Eff. July 19, 2005.

Senate Bill No. 215 was filed with the Secretary of State July 19, 2005, and became 2005 PA 80, Imd. Eff. July 19, 2005.

House Bill No. 4714 was filed with the Secretary of State July 19, 2005, and became 2005 PA 74, Imd. Eff. July 19, 2005.

House Bill No. 4715 was filed with the Secretary of State July 19, 2005, and became 2005 PA 75, Imd. Eff. July 19, 2005.

House Bill No. 4716 was filed with the Secretary of State July 19, 2005, and became 2005 PA 76, Imd. Eff. July 19, 2005.

[No. 79]

(SB 213)

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,” by amending section 41305 (MCL 324.41305), as added by 2003 PA 270, and by adding section 41306.

The People of the State of Michigan enact:

324.41305 Introduction of prohibited or restricted species, or genetically engineered or nonnative fish; prohibition; exceptions.

Sec. 41305. A person shall not introduce a prohibited species, a restricted species, or a genetically engineered or nonnative fish or aquatic plant unless the introduction is authorized by 1 of the following, as applicable:

- (a) For a fish, by a permit issued by the department under section 48735.
- (b) For a prohibited species or restricted species that is an insect, by a permit issued by the department of agriculture under section 41306.
- (c) For an aquatic plant, by a permit issued by the department under section 41306.

324.41306 Permit; application; fee; approval; revocation; modification; hearing.

Sec. 41306. (1) A person shall apply for a permit that section 41303 or 41305 describes as being issued by the department or the department of agriculture under this section on a form developed by the department or the department of agriculture, respectively. The application shall be accompanied by a fee based on the cost of administering this part. The department or the department of agriculture, respectively, shall either grant an administratively complete application and issue a permit or deny the application.

(2) The department or the department of agriculture may revoke or modify a permit issued by the department or the department of agriculture, respectively, under subsection (1) after providing an opportunity for a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Conditional effective date.

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

- (a) Senate Bill No. 211.
- (b) Senate Bill No. 212.
- (c) Senate Bill No. 215.
- (d) House Bill No. 4714.
- (e) House Bill No. 4715.
- (f) House Bill No. 4716.

This act is ordered to take immediate effect.

Approved July 19, 2005.

Filed with Secretary of State July 19, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 211 was filed with the Secretary of State July 19, 2005, and became 2005 PA 77, Imd. Eff. July 19, 2005.
Senate Bill No. 212 was filed with the Secretary of State July 19, 2005, and became 2005 PA 78, Imd. Eff. July 19, 2005.
Senate Bill No. 215 was filed with the Secretary of State July 19, 2005, and became 2005 PA 80, Imd. Eff. July 19, 2005.
House Bill No. 4714 was filed with the Secretary of State July 19, 2005, and became 2005 PA 74, Imd. Eff. July 19, 2005.
House Bill No. 4715 was filed with the Secretary of State July 19, 2005, and became 2005 PA 75, Imd. Eff. July 19, 2005.
House Bill No. 4716 was filed with the Secretary of State July 19, 2005, and became 2005 PA 76, Imd. Eff. July 19, 2005.

[No. 80]**(SB 215)**

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 sections 41311 and 41313.

The People of the State of Michigan enact:

324.41311 Invasive species fund; creation; disposition of funds; money remaining in fund; expenditures; purposes.

Sec. 41311. (1) The invasive species fund is created within the state treasury.

(2) The department shall forward to the state treasurer and the state treasurer shall deposit into the fund civil fines and permit fees collected under this part. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) 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) The department shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

(a) The administration of this part.

(b) Public education about preventing the introduction of, controlling, or eradicating prohibited species, restricted species, and other nonnative species and genetically engineered fish, insects, and aquatic plants.

324.41313 Posting on department website; requirements.

Sec. 41313. The department shall post on its website all of the following:

(a) Information on the requirements of this part applicable to the public.

(b) The penalties for violating the requirements of this part.

(c) A list of prohibited species and restricted species along with a description and a photograph or drawing of each of those species.

(d) Each annual report of the council under section 41323, for not less than 3 years after its issuance.

Conditional effective date.

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

(a) Senate Bill No. 211.

(b) Senate Bill No. 212.

(c) Senate Bill No. 213.

(d) House Bill No. 4714.

(e) House Bill No. 4715.

(f) House Bill No. 4716.

This act is ordered to take immediate effect.
 Approved July 19, 2005.
 Filed with Secretary of State July 19, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
 Senate Bill No. 211 was filed with the Secretary of State July 19, 2005, and became 2005 PA 77, Imd. Eff. July 19, 2005.
 Senate Bill No. 212 was filed with the Secretary of State July 19, 2005, and became 2005 PA 78, Imd. Eff. July 19, 2005.
 Senate Bill No. 213 was filed with the Secretary of State July 19, 2005, and became 2005 PA 79, Imd. Eff. July 19, 2005.
 House Bill No. 4714 was filed with the Secretary of State July 19, 2005, and became 2005 PA 74, Imd. Eff. July 19, 2005.
 House Bill No. 4715 was filed with the Secretary of State July 19, 2005, and became 2005 PA 75, Imd. Eff. July 19, 2005.
 House Bill No. 4716 was filed with the Secretary of State July 19, 2005, and became 2005 PA 76, Imd. Eff. July 19, 2005.

[No. 81]
(SB 507)

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 13e of chapter XVII (MCL 777.13e), as amended by 2003 PA 269.

The People of the State of Michigan enact:

CHAPTER XVII

777.13e Applicability of chapter to certain felonies; MCL 324.40118(11) to 324.52908(1)(d).

Sec. 13e. This chapter applies to the following felonies enumerated in chapter 324 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
324.40118(11)	Pub ord	G	Wildlife conservation — buying/ selling protected animals — subsequent offense	4

324.41309(3)(b)	Property	G	Possession of prohibited species	2
324.41309(4)(a)	Property	G	Possession of restricted or nonnative species — intent to damage resources	2
324.41309(4)(b)	Property	F	Possession of prohibited or genetically engineered species — intent to damage resources	4
324.41309(8)	Property	G	Introduction of prohibited or genetically engineered species — knowing identity of organism	2
324.41309(9)(a)	Property	G	Introduction of restricted or nonnative species — knowing introduction is unlawful	2
324.41309(9)(b)	Property	F	Introduction of prohibited or genetically engineered species — knowing introduction is unlawful	4
324.41309(10)(a)	Property	F	Introduction of restricted or nonnative species — intent to damage resources	3
324.41309(10)(b)	Property	E	Introduction of prohibited or genetically engineered species — intent to damage resources	5
324.48738(4)	Property	E	Possession, importation, or planting of genetically engineered fish	5
324.51120(2)	Property	H	Removing forest products over \$2,500	3
324.51512	Pub saf	D	Willfully setting forest fires	10
324.52908(1)(c)	Property	E	Damage to plant involving \$1,000 to \$20,000 or with prior convictions	5
324.52908(1)(d)	Property	D	Damage to plant involving \$20,000 or more or with prior convictions	10

Effective date.

Enacting section 1. This amendatory act takes effect September 1, 2005.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4716 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved July 19, 2005.

Filed with Secretary of State July 19, 2005.

Compiler's note: House Bill No. 4716, referred to in enacting section 2, was filed with the Secretary of State July 19, 2005, and became 2005 PA 76, Imd. Eff. July 19, 2005.

[No. 82]

(HB 4826)

AN ACT to amend 1982 PA 250, entitled "An act to establish the state child abuse and neglect prevention board; to provide the powers and duties of the state child abuse and

neglect prevention board; and to prescribe the powers and duties of certain state departments,” by amending section 4 (MCL 722.604).

The People of the State of Michigan enact:

722.604 State board; composition; appointment, qualifications, and terms of public members; chairperson; election of officers and committees; compensation, reimbursement, salaries, and operating expenses.

Sec. 4. (1) The state board shall be composed of the following members:

(a) The director of human services, the director of community health, the superintendent of public instruction, and the director of the department of state police, or designees authorized to speak on their behalf.

(b) Eleven public members appointed by the governor with the advice and consent of the senate. As a group, the public members shall do all of the following:

(i) Demonstrate knowledge in the area of child abuse and neglect prevention.

(ii) Be representative of the demographic composition of this state.

(iii) To the extent practicable, be representative of all of the following categories: parents, organized labor, the business community, the religious community, the legal community, professional providers of child abuse and neglect prevention services, and volunteers in child abuse and neglect prevention services.

(2) The term of each public member shall be 3 years, except that of the public members first appointed, 3 shall serve for 3 years, 3 for 2 years, and 4 for 1 year. A public member shall not serve more than 2 consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The governor shall designate a chairperson of the state board from among the public members. The chairperson shall serve in that position at the pleasure of the governor. The state board may elect other officers and committees as it considers appropriate.

(4) The actual and necessary per diem compensation and the schedule for reimbursement of expenses for the public members of the state board shall be the same as is established annually by the legislature for similar boards that are reimbursed from the general fund. The compensation and reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, according to an authorization as provided in section 9.

This act is ordered to take immediate effect.

Approved July 19, 2005.

Filed with Secretary of State July 19, 2005.

[No. 83]

(SB 446)

AN ACT to amend 1956 PA 218, entitled “An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or

formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 224b (MCL 500.224b), as amended by 2002 PA 621.

The People of the State of Michigan enact:

500.224b Quality assurance assessment fee; use; circumstances; definitions.

Sec. 224b. (1) The department of community health shall assess a quality assurance assessment fee as follows:

(a) On each health maintenance organization that has a medicaid managed care contract awarded by the state and administered by the department of community health, a quality assurance assessment fee that equals 6% of non-medicare premiums collected by that health maintenance organization.

(b) On each medicaid managed care organization that is a specialty prepaid health plan under section 109f of the social welfare act, 1939 PA 280, MCL 400.109f, and that has a medicaid managed care contract awarded by the state and administered by the department

of community health, a quality assurance assessment fee that equals 6% of non-medicare capitation payments collected by that medicaid managed care organization.

(2) The quality assurance assessment fee collected under subsection (1) and all federal matching funds attributed to that fee shall be used for the following purposes and under the following specific circumstances:

(a) The quality assurance assessment fee shall be implemented on May 10, 2002 for health maintenance organizations described in subsection (1)(a) and on August 1, 2005 for medicaid managed care organizations described in subsection (1)(b).

(b) The quality assurance assessment fee shall be assessed on the non-medicare premiums collected by each health maintenance organization described in subsection (1)(a) based on the health maintenance organization's most recent statement filed with the commissioner pursuant to sections 438 and 438a. Except as otherwise provided, the quality assurance assessment fee shall be payable on a quarterly basis with the first payment due 90 days after the date the fee is assessed. If a health maintenance organization does not have non-medicare premium revenue listed in a filing under section 438 or 438a, the assessment shall be based on an estimate by the department of community health of the health maintenance organization's non-medicare premiums for the quarter and shall be payable upon receipt.

(c) The quality assurance assessment fee shall be assessed on the non-medicare capitation payments collected by each medicaid managed care organization described in subsection (1)(b) based on the medicaid managed care organization's most recent financial status report filed with the department of community health. Except as otherwise provided, the quality assurance assessment fee shall be payable on a quarterly basis with the first payment due 90 days after the date the fee is assessed.

(d) The quality assurance assessment fee shall only be assessed on an organization described in subsection (1)(a) or (b) that has in effect a medicaid managed care contract awarded by the state and administered by the department of community health at the time of the assessment.

(e) Beginning October 1, 2007, the quality assurance assessment fee shall no longer be assessed or collected.

(f) The department of community health shall implement this section in a manner that complies with federal requirements. If the department of community health is unable to comply with the federal requirements for federal matching funds under this section for organizations described in subsection (1)(a) or is unable to use the fiscal year 2001-2002 level of support for federal matching dollars other than for a change in covered benefits or covered population required under the state's medicaid contract with health maintenance organizations, the quality assurance assessment fee under subsection (1)(a) shall no longer be assessed or collected.

(g) If the department of community health is unable to comply with the federal requirements for federal matching funds under this section for organizations described in subsection (1)(b) or is unable to use the centers for medicare and medicaid services approved fiscal year 2004-2005 level of support for federal matching dollars other than for a change in covered benefits or covered population required under the state's medicaid contract with the managed care organization, the quality assurance assessment fee under subsection (1)(b) shall no longer be assessed or collected.

(h) If an organization fails to pay the quality assurance assessment fee required under subsection (1), the department of community health may assess the organization a penalty of 5% of the assessment for each month that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department of community health may also

refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(i) The medicaid health maintenance organization quality assurance assessment fund is established as a separate fund in the state treasury. The designated medicaid managed care organization quality assurance assessment fund is established as a separate fund in the state treasury. The department of community health shall deposit the revenue raised through the quality assurance assessment fee under subsection (1)(a) with the state treasurer for deposit in the medicaid health maintenance organization quality assurance assessment fund. The department of community health shall deposit the revenue raised through the quality assurance assessment fee under subsection (1)(b) with the state treasurer for deposit in the designated medicaid managed care organization quality assurance assessment fund.

(j) In all fiscal years governed by this section, medicaid reimbursement rates shall not be reduced below the medicaid payment rates in effect on April 1, 2002 for organizations described in subsection (1)(a) or below the medicaid payment rates in effect on July 1, 2005 for organizations described in subsection (1)(b) as a direct result of the quality assurance assessment fee assessed under this section. This subdivision does not apply to a change in medicaid reimbursement rates caused by a change in covered benefits or change in covered populations required under the state's medicaid contract with organizations described in subsection (1)(a) or (b).

(3) As used in this section:

(a) "Medicaid" means title XIX of the social security act, 42 USC 1396 to 1396v.

(b) "Medicare" means title XVIII of the social security act, 42 USC 1395 to 1395hhh.

This act is ordered to take immediate effect.

Approved July 19, 2005.

Filed with Secretary of State July 19, 2005.

[No. 84]

(SB 447)

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," by amending section 109f (MCL 400.109f), as added by 2000 PA 410.

The People of the State of Michigan enact:

400.109f Medicaid-covered specialty services and supports; management and delivery; specialty prepaid health plans.

Sec. 109f. (1) The department of community health shall support the use of medicaid funds for specialty services and supports for eligible medicaid beneficiaries with a serious mental illness, developmental disability, serious emotional disturbance, or substance abuse disorder. Medicaid-covered specialty services and supports shall be managed and delivered by specialty prepaid health plans chosen by the department of community health with advice and recommendations from the specialty services panel created in section 109g. The specialty services and supports shall be carved out from the basic medicaid health care benefits package.

(2) Specialty prepaid health plans shall be considered medicaid managed care organizations as described in section 1903(m)(1)(A) of title XIX of the social security act, 42 USC 1396b, and shall be responsible for providing defined inpatient services, outpatient hospital services, physician services, other specified medicaid state plan services, and additional services approved by the centers for medicare and medicaid services under section 1915(b)(3) of title XIX of the social security act, 42 USC 1396n. As medicaid managed care organizations, specialty prepaid health plans are subject to the quality assurance assessment fee described in section 224b of the insurance code of 1956, 1956 PA 218, MCL 500.224b.

This act is ordered to take immediate effect.

Approved July 19, 2005.

Filed with Secretary of State July 19, 2005.

[No. 85]

(HB 4405)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 17708, 17751, and 17763 (MCL 333.17708, 333.17751, and 333.17763), sections 17708 and 17751 as amended by 1997 PA 153 and section 17763 as amended by 2004 PA 536.