

Act No. 59  
Public Acts of 2005  
Approved by the Governor  
July 7, 2005  
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July 7, 2005  
EFFECTIVE DATE: July 7, 2005

**STATE OF MICHIGAN**  
**93RD LEGISLATURE**  
**REGULAR SESSION OF 2005**

Introduced by Reps. Nitz, Mayes, Kathleen Law, Hune and Ball

# **ENROLLED HOUSE BILL No. 4623**

AN ACT to amend 1970 PA 29, entitled "An act relating to potatoes; to create a potato commission; to prescribe its powers and duties and authority; to impose an assessment on the privilege of introducing potatoes into the channels of trade and commerce; to provide for the collection of the assessment; to provide for penalties; and to repeal certain acts and parts of acts," by amending section 2 (MCL 290.422), as amended by 2000 PA 5.

*The People of the State of Michigan enact:*

Sec. 2. (1) The state potato industry commission is created within the department. The commission shall be composed of the director or a person designated by the director from the director's staff, who shall serve ex officio, without vote; a staff member of Michigan state university appointed by the dean of agriculture of that university to serve at the pleasure of the dean, ex officio, without vote; and 10 growers, 2 processors, 2 shippers, and 1 retailer appointed by the governor with the advice and consent of the senate. A member appointed by the governor shall be a citizen and resident of this state and of the district from which appointed, shall be 18 years of age or older, and shall be in compliance with this act. A commission member in the grower category shall be engaged and have been engaged in growing potatoes within this state for a period of not less than 2 years immediately before appointment, and shall have derived a substantial portion of his or her income from this activity.

(2) Eight growers shall be appointed to serve on the commission, representing 7 districts throughout the state as follows: District 1—Upper Peninsula counties shall be represented by 2 members. The following districts shall be represented by 1 member each: district 2—Antrim, Manistee, Wexford, Missaukee, Roscommon, Mason, Lake, Osceola, Clare, Benzie, Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Kalkaska, Leelanau, and Otsego; district 3—Alcona, Alpena, Montmorency, Oscoda, Presque Isle, Iosco, and Ogemaw; district 4—Kent, Montcalm, Newaygo, Isabella, Mecosta, and Oceana; district 5—Bay, Arenac, Midland, Tuscola, Huron, Sanilac, Gratiot, Gladwin, and Saginaw; district 6—Allegan, Barry, Eaton, Van Buren, Kalamazoo, Calhoun, Berrien, Cass, Clinton, Ionia, Ottawa, Muskegon, St. Joseph, and Branch; district 7—Ingham, Livingston, Oakland, Macomb, Jackson, Washtenaw, Wayne, Hillsdale, Lenawee, Shiawassee, Genesee, Lapeer, St. Clair, and Monroe. The ninth and tenth growers shall serve at large. The other members of the commission, except the ex officio members, shall have been associated with the potato industry for not less than 2 years immediately before appointment.

(3) The term of office of an appointed member shall be 3 years. The term of an appointed member shall expire on July 1, except that a term shall continue until a successor is appointed and qualified. If during a term a member ceases to possess any of the qualifications prescribed in this act, that member's office shall be vacated. A person appointed to fill a vacancy shall serve for the remainder of the unexpired term and until a successor is appointed and qualified.

(4) The commission shall conduct a meeting of growers and shippers annually.

(5) The commission may conduct a meeting of growers in the district where a vacancy will occur by expiration of a term, to elect nominees for appointment to the commission. Instead of a meeting, nominees may be selected by a vote of growers in the district by mail ballot, providing ballots are mailed by the commission to all growers of record, and in compliance with this act. Not more than 2 nominees for each vacancy on the commission shall be selected. The names of all nominees shall be placed on a list of nominees recommended to the governor, and the governor shall make appointments from that list. The growers at large shall be nominated by a majority of the 8 growers representing the districts. A majority of the 10 grower members shall nominate the processor, shipper, and retail candidates for appointment to the commission. Vacancies on the commission, except from the expiration of term, shall be filled by the governor from nominees selected by the commission. A person appointed as a commission member shall qualify by filing a written acceptance and oath of office within 10 days after being notified by the governor of the appointment.

(6) Annually, the commission members shall elect a chairperson from among its appointed members. A majority of the voting members of the commission constitutes a quorum for the transaction of business and the carrying out of the duties of the commission. The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Meetings of the commission shall be called by the chairperson, except that special meetings shall be called by the chairperson on petition of 8 members no later than 7 days after receiving the petition.

(7) The commission, with the advice and consent of the director and the commission of agriculture, may reapportion either the number of commission members or member districts, or both. Reapportionment of the districts shall be on the basis of production or industry representation. Reapportionment may be commenced not earlier than 30 days after the effective date of the amendatory act that added this subsection. Reapportionment of either members or districts shall not occur more than twice in any 5-year period and shall not occur within 6 months before a referendum. After reapportionment under this subsection, if the residence of a member of the commission falls outside the district for which he or she serves on the commission and falls within the district for which another member serves on the commission, then both members shall continue to serve on the commission for a term equal to the remaining term of the member who served for the longest period of time. After the reapportionment described in this subsection, if a district is created within which no member serving on the commission resides, then a member shall be selected in the manner as prescribed in this section. After a reapportionment or redistricting, the commission may temporarily have more members than prescribed by this section until the expiration of the term of the longest-serving member from that district. In the case of a reapportionment conducted under this subsection, the provisions of this subsection prevail over any other conflicting provisions of this section.

(8) The per diem compensation of the appointed members of the commission shall not exceed \$75.00 plus the reimbursement of expenses incurred in attending a commission meeting.

(9) All funds of the commission shall be handled by the commission and all funds received by it shall be used to implement this act. Money received by the commission shall be deposited in banks or other forms of security as may be designated by the commission.

(10) Retailers, processors, and others may support the programs of the commission by paying an annual fee of \$100.00.

(11) The commission may accept gifts and grants.

(12) The commission shall maintain accurate books, records, and accounts of its transactions, which books, records, and accounts shall be open to inspection by the public and shall be subject to audit by the auditor general or a certified public accountant. A document prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except as otherwise provided in section 4a.

(13) The commission may borrow money in anticipation of the receipt of assessments if all of the following conditions are met:

(a) The loan will not be requested or authorized, or will not mature, within 90 days before a resubmittal or termination referendum regarding an assessment under this act.

(b) The amount of the loan does not exceed 50% of the annual average assessment revenue during the previous 3 years.

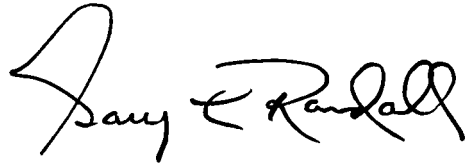
(c) The loan repayment period does not exceed the time period during which the assessment is made or the time period during which the assessment can reasonably be expected to be imposed.

(d) The loan has the prior written consent of the director. The director may request an audit of the commission by the auditor general before approving the loan.

(14) The director shall assess against the growers and shippers all outstanding loans approved under subsection (13), including interest, if the assessment is terminated.

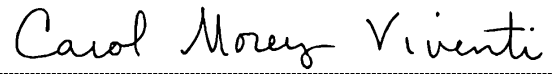
(15) A financial report shall be prepared annually and made available upon request.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved \_\_\_\_\_

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Governor