

No. 63  
STATE OF MICHIGAN  
**Journal of the Senate**  
92nd Legislature  
REGULAR SESSION OF 2003

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Senate Chamber, Lansing, Wednesday, June 25, 2003.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor John D. Cherry, Jr.

The roll was called by the Secretary of the Senate, who announced that a quorum was present.

Allen—present  
Barcia—present  
Basham—present  
Bernero—present  
Birkholz—present  
Bishop—present  
Brater—present  
Brown—present  
Cassis—present  
Cherry—present  
Clark-Coleman—present  
Clarke—present  
Cropsey—present

Emerson—present  
Garcia—present  
George—present  
Gilbert—present  
Goschka—present  
Hammerstrom—present  
Hardiman—present  
Jacobs—excused  
Jelinek—present  
Johnson—present  
Kuipers—present  
Leland—present  
McManus—present

Olshove—present  
Patterson—present  
Prusi—present  
Sanborn—present  
Schauer—present  
Scott—present  
Sikkema—present  
Stamas—present  
Switalski—present  
Thomas—present  
Toy—present  
Van Woerkom—present

Bishop Earl J. Wright, Jurisdictional Bishop of the 2nd Jurisdiction of Church of God in Christ Churches of Detroit, offered the following invocation:

Almighty God, the Creator and the maker of Heaven and earth, the giver of all spiritual benefits, the author and finisher of our faith: We give Thee thanks for this day, this life, our health, and our strength. We thank Thee for this opportunity that we have to work for Thee on this occasion. We thank Thee for rulers and governors, especially for these Senators, and all those who are in authority in our state. We ask, dear God, that Thou would be with us, and bless this august body in this session today, that they may be diligent, alert, visionary, and courageous in all of their deliberations.

Please, Lord, continue to use this legislative body to guide this, Thy people, and help to build our state into the strong union that we so desire and deserve. We pray, O God, that You would enable us to meet the challenges that are before us. Please continue to bless every city, county, hamlet, and village of this great state. O God, if we pray alone for our state, it would be a selfish prayer, but we also pray for our nation, our President, for the United States, and for the world everywhere, that peace may abide.

This we ask through Jesus Christ our Lord and for his sake. Amen.

The President, Lieutenant Governor Cherry, led the members of the Senate in recital of the *Pledge of Allegiance*.

### Motions and Communications

Senator Cropsey moved that rule 2.106 be suspended to allow all conference committees to meet during Senate session.

The motion prevailed, a majority of the members serving voting therefor.

### Recess

Senator Cropsey moved that the Senate recess subject to the call of the Chair.

The motion prevailed, the time being 10:04 a.m.

10:10 a.m.

The Senate was called to order by the President, Lieutenant Governor Cherry.

During the recess, Senators Toy, Bishop, Emerson, Hammerstrom, Patterson, Kuipers, McManus and Garcia entered the Senate Chamber.

Senator Hammerstrom moved that Senator Jelinek be temporarily excused from today's session.

The motion prevailed.

Senator Schauer moved that Senator Jacobs be excused from today's session.

The motion prevailed.

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, June 24:

**House Bill Nos. 4052 4192 4283 4478 4644 4660 4677 4704 4710 4712 4715**

The Secretary announced the enrollment printing and presentation to the Governor on Tuesday, June 24, for her approval the following bills:

**Enrolled Senate Bill No. 246 at 3:18 p.m.**

**Enrolled Senate Bill No. 362 at 3:20 p.m.**

**Enrolled Senate Bill No. 23 at 3:51 p.m.**

The Secretary announced that the following bill was available at the legislative Web site on Tuesday, June 24:

**Senate Bill No. 596**

By unanimous consent the Senate proceeded to the order of  
**Messages from the House**

Senator Hammerstrom moved that consideration of the following bills be postponed for today:

**Senate Bill No. 239**

**Senate Bill No. 395**

**House Bill No. 4238**

**Senate Bill No. 236**

**Senate Bill No. 237**

**Senate Bill No. 238**

The motion prevailed.

**House Bill No. 4393, entitled**

A bill to make appropriations for the department of environmental quality for the fiscal year ending September 30, 2004; to provide for the expenditure of those appropriations; to create certain funds and accounts; to require certain reports; to prescribe the powers and duties of certain state agencies and officials; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by the various state agencies.

The House of Representatives has nonconcurred in the Senate substitute (S-1) and appointed Reps. Pastor, Newell and Brown as conferees.

The message was referred to the Secretary for record.

**House Bill No. 4400, entitled**

A bill to make appropriations for the department of natural resources for the fiscal year ending September 30, 2004; to provide for the expenditure of those appropriations; to create funds and accounts; to require reports; to prescribe certain powers and duties of certain state agencies and officials; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by the various state agencies.

The House of Representatives has nonconcurred in the Senate substitute (S-1) and appointed Reps. Pastor, Shaffer and Brown as conferees.

The message was referred to the Secretary for record.

Senator Jelinek entered the Senate Chamber.

**Senate Bill No. 293, entitled**

A bill to amend 1929 PA 152, entitled "An act to provide for the state-owned and operated Michigan public safety communications system for police and public safety purposes; to provide for acquisition, construction, implementation, operation, and maintenance of the property and equipment necessary to operate the system; and to prescribe the powers and duties of certain state agencies and officials," by amending section 3 (MCL 28.283), as amended by 1996 PA 538. (For Conference Report, see Senate Journal No. 61, p. 937.)

The House of Representatives has adopted the report of the Committee of Conference.

Senator Hammerstrom moved that the bill be given immediate effect.

The motion prevailed, 2/3 of the members serving voting therefor.

The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

By unanimous consent the Senate proceeded to the order of  
**General Orders**

Senator Hammerstrom moved that the Senate resolve itself into the Committee of the Whole for consideration of the General Orders calendar.

The motion prevailed, and the President, Lieutenant Governor Cherry, designated Senator Thomas as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Cherry, having resumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bills:

**House Bill No. 4133, entitled**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 628 (MCL 257.628), as amended by 2000 PA 167.

**House Bill No. 4224, entitled**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 628 (MCL 257.628), as amended by 2000 PA 167.

**House Bill No. 4524, entitled**

A bill to amend 1984 PA 431, entitled "The management and budget act," by amending section 361 (MCL 18.1361).

**House Bill No. 4125, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 10102 and 10104 (MCL 333.10102 and 333.10104).

**House Bill No. 4479, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 10102a (MCL 333.10102a), as added by 1986 PA 186.

**House Bill No. 4516, entitled**

A bill to amend 1982 PA 415, entitled "Correctional officers' training act of 1982," by amending the title and sections 2, 3, 4, 5, and 15 (MCL 791.502, 791.503, 791.504, 791.505, and 791.515); and to repeal acts and parts of acts.

**House Bill No. 4818, entitled**

A bill to amend 1927 PA 372, entitled "An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act," by amending section 5b (MCL 28.425b), as amended by 2002 PA 719.

The bills were placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

**House Bill No. 4126, entitled**

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending sections 1106, 5506, 5507, and 5510 (MCL 700.1106, 700.5506, 700.5507, and 700.5510), section 1106 as amended by 2000 PA 463.

Substitute (S-1).

The Senate agreed to the substitute recommended by the Committee of the Whole, and the bill as substituted was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

**House Bill No. 4515, entitled**

A bill to improve the training and education of local corrections officers; to provide for the certification of local corrections officers and the development of standards and requirements for local corrections officers; to provide for the creation of a sheriffs coordinating and training office and a local corrections advisory board; and to prescribe the powers and duties of certain local and state officers and agencies.

Substitute (S-1).

The Senate agreed to the substitute recommended by the Committee of the Whole, and the bill as substituted was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

**House Bill No. 4517, entitled**

A bill to amend 1846 RS 171, entitled "Of county jails and the regulation thereof," (MCL 801.1 to 801.27) by adding section 4b.

Substitute (S-1).

The following is the amendment to the substitute recommended by the Committee of the Whole:

1. Amend page 1, line 1, after “Beginning” by striking out “**January 1, 2004**” and inserting “**August 1, 2003**”.

The Senate agreed to the substitute, as amended, recommended by the Committee of the Whole, and the bill as substituted was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with amendment, the following bill:

**House Bill No. 4154, entitled**

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” by amending sections 719 and 720 (MCL 257.719 and 257.720), section 719 as amended by 2002 PA 453 and section 720 as amended by 2002 PA 535.

The following is the amendment recommended by the Committee of the Whole:

1. Amend page 3, line 27, after “**feet.**” by inserting “**A crib vehicle and semitrailer or trailer designed to and used to transport saw logs shall not exceed a gross vehicle weight of 164,000 pounds.**”.

The Senate agreed to the amendment recommended by the Committee of the Whole, and the bill as amended was placed on the order of Third Reading of Bills.

By unanimous consent the Senate returned to the order of

**Third Reading of Bills**

Senator Hammerstrom moved that the rules be suspended and that the following bill, now on the order of Third Reading of Bills, be placed on its immediate passage:

**House Bill No. 4818**

The motion prevailed, majority of the members serving voting therefor.

The following bill was read a third time:

**House Bill No. 4657, entitled**

A bill to amend 1984 PA 44, entitled “Motor fuels quality act,” by amending section 4 (MCL 290.644), as amended by 1986 PA 127.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

**Roll Call No. 290**

**Yeas—28**

Allen	Cropsey	Jelinek	Schauer
Barcia	Garcia	Johnson	Sikkema
Bernero	George	Kuipers	Stamas
Birkholz	Gilbert	McManus	Switalski
Bishop	Goschka	Olshove	Thomas
Brown	Hammerstrom	Patterson	Toy
Cassis	Hardiman	Sanborn	Van Woerkom

**Nays—9**

Basham	Clark-Coleman	Emerson	Prusi
Brater	Clarke	Leland	Scott
Cherry			

**Excused—1**

Jacobs

**Not Voting—0**

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,  
The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

“An act to provide purity and quality standards for motor fuels; to regulate the transfer, sale, dispensing, or offering motor fuels for sale; to provide for an inspection and testing program; to provide for the powers and duties of certain state agencies; to provide for the licensing of certain persons engaged in the transfer, sale, dispensing, or offering of motor fuels for sale; to regulate stage I and stage II vapor-recovery systems at certain facilities; to provide for fees; and to provide remedies and prescribe penalties.”.

The Senate agreed to the full title.

The following bill was read a third time:

**Senate Bill No. 535, entitled**

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending section 80115 (MCL 324.80115), as added by 1995 PA 58, and by adding section 80124b.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

**Roll Call No. 291****Yeas—37**

Allen	Clark-Coleman	Hardiman	Sanborn
Barcia	Clarke	Jelinek	Schauer
Basham	Cropsey	Johnson	Scott
Bernero	Emerson	Kuipers	Sikkema
Birkholz	Garcia	Leland	Stamas
Bishop	George	McManus	Switalski
Brater	Gilbert	Olshove	Thomas
Brown	Goschka	Patterson	Toy
Cassia	Hammerstrom	Prusi	Van Woerkom
Cherry			

**Nays—0****Excused—1**

Jacobs

**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

**Senate Bill No. 536, entitled**

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” (MCL 324.101 to 324.90106) by adding section 80124a.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

**Roll Call No. 292**

**Yeas—37**

Allen	Clark-Coleman	Hardiman	Sanborn
Barcia	Clarke	Jelinek	Schauer
Basham	Cropsey	Johnson	Scott
Bernero	Emerson	Kuipers	Sikkema
Birkholz	Garcia	Leland	Stamas
Bishop	George	McManus	Switalski
Brater	Gilbert	Olshove	Thomas
Brown	Goschka	Patterson	Toy
Cassis	Hammerstrom	Prusi	Van Woerkom
Cherry			

**Nays—0**

**Excused—1**

Jacobs

**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

**House Bill No. 4818, entitled**

A bill to amend 1927 PA 372, entitled “An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,” by amending section 5b (MCL 28.425b), as amended by 2002 PA 719.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

**Roll Call No. 293**

**Yeas—37**

Allen	Clark-Coleman	Hardiman	Sanborn
Barcia	Clarke	Jelinek	Schauer
Basham	Cropsey	Johnson	Scott

Bernero  
Birkholz  
Bishop  
Brater  
Brown  
Cassis  
Cherry

Emerson  
Garcia  
George  
Gilbert  
Goschka  
Hammerstrom

Kuipers  
Leland  
McManus  
Olshove  
Patterson  
Prusi

Sikkema  
Stamas  
Switalski  
Thomas  
Toy  
Van Woerkom

**Nays—0**

**Excused—1**

Jacobs

**Not Voting—0**

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor. The Senate agreed to the title of the bill.

### **Resolutions**

The question was placed on the adoption of the following resolution consent calendar:

**Senate Resolution No. 118**

**Senate Resolution No. 119**

The resolution consent calendar was adopted.

Senator Schauer offered the following resolution:

**Senate Resolution No. 118.**

A resolution honoring the Michigan Shakespeare Festival.

Whereas, The Michigan Shakespeare Festival has entertained audiences in Jackson since 1995. It has developed into an extraordinary event, attracting actors and audiences from numerous states to enjoy the excitement of Shakespeare in live performances of numerous Shakespearean plays; and

Whereas, The festival has embraced three commendable purposes: to provide attractive entertainment in an outdoor summer venue to people throughout Michigan and surrounding states; to heighten the awareness of live theater in the mid-Michigan area; and to provide youngsters interested in theater as a career an opportunity to get involved in an introductory, professional level; and

Whereas, The education outreach programs of the festival give students a chance to watch and interact with theater productions throughout the year. *Playaround Shakespeare* helps young students comprehend the Elizabethan slang and pentameter of Shakespearean plays through a fun-filled rendition of scenes from Shakespeare's best-known works. The High School Monologue Contest is an event that allows high school students to present Shakespeare monologues and have an opportunity to win prizes, scholarships, and performance opportunities; now, therefore, be it

Resolved by the Senate, That we hereby honor the Michigan Shakespeare Festival, held annually in Jackson, Michigan, and declare it to be the "Official Shakespeare Festival of Michigan"; and be it further

Resolved, That a copy of this resolution be transmitted to the Michigan Shakespeare Festival as a token of our esteem.

Senators Bernero, Cherry, Clark-Coleman, Clarke, Cropsey, Kuipers, Olshove, Scott, Switalski, Thomas and Toy were named co-sponsors of the resolution.



Senator Schauer offered the following resolution:

**Senate Resolution No. 119.**

A resolution honoring Courtney Weathers upon her appointment to the National Campaign to Prevent Teen Pregnancy.

Whereas, Courtney Weathers is one of twenty-four students chosen nationwide by the National Campaign to Prevent Teen Pregnancy to serve on a youth leadership team dedicated to cut the rate of teenage pregnancies throughout the country; and

Whereas, Courtney understands the growing problem of teenage pregnancy and is committed to speaking with her peers about pregnancy prevention and counseling teenage mothers and fathers; and

Whereas, Courtney's exemplary leadership and her ability to communicate have been recognized both in her home of Jackson and nationally. Her talents and hard work have led to her selection to represent Michigan in the campaign to lower the national teen pregnancy rate by one-third by 2005; now, therefore, be it

Resolved by the Senate, That we hereby honor and thank Courtney Weathers for her dedication to reducing teen pregnancy and her service representing the entire state of Michigan in the National Campaign to Prevent Teen Pregnancy; and be it further

Resolved, That a copy of this resolution be transmitted to Courtney Weathers as a small token of the appreciation for the selfless work she does on behalf of all of us.

Senators Bernero, Cherry, Clark-Coleman, Clarke, Olshove, Scott, Switalski, Thomas and Toy were named co-sponsors of the resolution.

**Senate Resolution No. 82.**

A resolution to recommend the designation of US-23 from Standish to Mackinaw City as a heritage route under the provisions of the Michigan Heritage Routes Act, 1993 PA 69.

The question being on the adoption of the resolution,

The resolution was adopted.

Senator Van Woerkom was named co-sponsor of the resolution.

### **Introduction and Referral of Bills**

Senators Toy, Birkholz, Patterson, Brown, Kuipers, Cherry, Hardiman, McManus, Thomas and Scott introduced

**Senate Bill No. 598, entitled**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding sections 217p and 217q.

The bill was read a first and second time by title and referred to the Committee on Transportation.

Senators Basham, Clark-Coleman, Bishop and Allen introduced

**Senate Bill No. 599, entitled**

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending section 6 (MCL 388.1606), as amended by 2002 PA 521.

The bill was read a first and second time by title and referred to the Committee on Education.

Senators Basham, Bishop and Allen introduced

**Senate Bill No. 600, entitled**

A bill to amend 1927 PA 372, entitled "An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act," by amending section 12a (MCL 28.432a), as amended by 2002 PA 719.

The bill was read a first and second time by title and referred to the Committee on Judiciary.

**House Bill No. 4052, entitled**

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding section 3408a.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Banking and Financial Institutions.

**House Bill No. 4192, entitled**

A bill to amend 1973 PA 186, entitled "Tax tribunal act," by amending sections 35, 37, 43, and 62a (MCL 205.735, 205.737, 205.743, and 205.762a), section 35 as amended by 2000 PA 165, section 37 as amended by 1996 PA 505, and section 43 as amended and section 62a as added by 1994 PA 254.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Finance.

**House Bill No. 4283, entitled**

A bill to amend 1991 PA 179, entitled "Michigan telecommunications act," (MCL 484.2101 to 484.2701) by adding section 314a.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Technology and Energy.

**House Bill No. 4478, entitled**

A bill to amend 1990 PA 211, entitled "The parental rights restoration act," by amending sections 3 and 4 (MCL 722.903 and 722.904).

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Families and Human Services.

**House Bill No. 4644, entitled**

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," (MCL 550.1101 to 550.1704) by adding section 406a.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Banking and Financial Institutions.

**House Bill No. 4660, entitled**

A bill to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," (MCL 460.1 to 460.10cc) by adding section 9c.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Technology and Energy.

**House Bill No. 4677, entitled**

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending section 91 (MCL 38.1391), as amended by 1998 PA 85.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Education.

**House Bill No. 4704, entitled**

A bill to amend 1945 PA 327, entitled "Aeronautics code of the state of Michigan," by amending section 85 (MCL 259.85), as amended by 2002 PA 258; and to repeal acts and parts of acts.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Transportation.

**House Bill No. 4710, entitled**

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 311 (MCL 206.311), as amended by 1987 PA 254.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Finance.

**House Bill No. 4712, entitled**

A bill to amend 1964 PA 284, entitled "City income tax act," by amending section 32 of chapter 2 (MCL 141.632).

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Finance.

**House Bill No. 4715, entitled**

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

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Judiciary.

**Recess**

Senator Hammerstrom moved that the Senate recess until 2:30 p.m.

The motion prevailed, the time being 10:51 a.m.

The Senate reconvened at the expiration of the recess and was called to order by the President, Lieutenant Governor Cherry.

By unanimous consent the Senate returned to the order of

**Conference Reports**

Senator Hammerstrom submitted the following:

**FIRST CONFERENCE REPORT**

The Committee of Conference on the matters of difference between the two Houses concerning

**Senate Bill No. 234, entitled**

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," by amending sections 204, 206, 207, 211, 401, 502, 602, 606, and 609 (MCL 550.1204, 550.1206, 550.1207, 550.1211, 550.1401, 550.1502, 550.1602, 550.1606, and 550.1609), section 207 as amended by 1999 PA 210, section 211 as amended by 1993 PA 127, section 401 as amended by 2000 PA 26, section 502 as amended by 1998 PA 446, and section 609 as amended by 1991 PA 61, and by adding sections 204a, 205a, 219, and 401j; and to repeal acts and parts of acts.

Recommends:

First: That the Senate and House agree to the Substitute of the House as passed by the House, amended to read as follows:

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," by amending sections 204, 206, 207, 211, 401, 502, 602, 606, and 609 (MCL 550.1204, 550.1206, 550.1207, 550.1211, 550.1401, 550.1502, 550.1602, 550.1606, and 550.1609), section 207 as amended by 1999 PA 210, section 211 as amended by 1993 PA 127, section 401 as amended by 2000 PA 26, section 502 as amended by 1998 PA 446, and section 609 as amended by 1991 PA 61, and by adding sections 204a, 205a, 219, 401j, 403b, and 422c; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

Sec. 204. (1) Before entering into contracts or securing applications of subscribers, the persons incorporating a health care corporation shall file all of the following in the office of the commissioner:

(a) Three copies of the articles of incorporation, with the certificate of the attorney general required under section 202(3) attached.

(b) A statement showing in full detail the plan upon which the corporation proposes to transact business.

(c) A copy of all certificates to be issued to subscribers.

(d) A copy of the financial statements of the corporation.

(e) Proposed advertising to be used in the solicitation of certificates for subscribers.

(f) A copy of the bylaws.

(g) A copy of all proposed contracts and reimbursement methods.

(2) The commissioner shall examine the statements and documents filed under subsection (1), may conduct any investigation ~~which that~~ he or she considers necessary, may request additional oral and written information from the incorporators, and may examine under oath any persons interested in or connected with the proposed health care corporation. The commissioner shall ascertain whether all of the following conditions are met:

(a) The solicitation of certificates will not work a fraud upon the persons solicited by the corporation.

(b) The rates to be charged and the benefits to be provided are adequate, equitable, and not excessive, as defined in section 609.

(c) The amount of money actually available for working capital is sufficient to carry all acquisition costs and operating expenses for a reasonable period of time from the date of issuance of the certificate of authority, and is not less than \$500,000.00 or a greater amount, if the commissioner considers it necessary.

(d) The amounts contributed as the working capital of the corporation are payable only out of amounts in excess of minimum required reserves of the corporation.

(e) Adequate and ~~reasonable reserves are provided, as defined in section 205~~ **unimpaired surplus is provided, as determined under section 204a.**

(3) If the commissioner finds that the conditions prescribed in subsection (2) are met, the commissioner shall do all of the following:

(a) Return to the incorporators 1 copy of the articles of incorporation, certified for filing with the ~~chief officer~~ **director** of the department of ~~commerce~~ **consumer and industry services** or of any other agency or department authorized by law to administer ~~Act No. 284 of the Public Acts of 1972, as amended, being sections 450.1101 to 450.2099 of the Michigan Compiled Laws~~ **the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098**, or his or her designated representative, and 1 copy of the articles of incorporation certified for the records of the corporation itself.

(b) Retain 1 copy of the articles of incorporation for the commissioner's office files.

(c) Deliver to the corporation a certificate of authority to commence business and to issue certificates ~~which that~~ have been approved by the commissioner, or ~~which that~~ are exempted from prior approval pursuant to section 607(2) or ~~(7)~~ (8), entitling subscribers to certain health care benefits.

**Sec. 204a. (1) A health care corporation shall possess and maintain unimpaired surplus in an amount determined adequate by the commissioner to comply with section 403 of the insurance code of 1956, 1956 PA 218, MCL 500.403. The commissioner shall follow the risk-based capital requirements as developed by the national association of insurance commissioners in order to determine whether a health care corporation is in adequate compliance with section 403 of the insurance code of 1956, 1956 PA 218, MCL 500.403.**

(2) If a health care corporation files a risk-based capital report that indicates that its surplus is less than the amount determined adequate by the commissioner under subsection (1), the health care corporation shall prepare and submit a plan for remedying the deficiency in accordance with risk-based capital requirements adopted by the commissioner. Among the remedies that a health care corporation may employ are planwide viability contributions to surplus by subscribers.

(3) If contributions for planwide viability under subsection (2) are employed, those contributions shall be made in accordance with the following:

(a) If the health care corporation's surplus is less than 200% but more than 150% of the authorized control level under risk-based capital requirements, the maximum contribution rate shall be 0.5% of the rate charged to subscribers for the benefits provided.

(b) If the health care corporation's surplus is 150% or less than the authorized control level under risk-based capital requirements, the maximum contribution rate shall be 1% of the rate charged to subscribers for the benefits provided.

(c) The actual contribution rate charged is subject to the commissioner's approval.

(4) As used in subsection (3), "authorized control level" means the number determined under the risk-based capital formula in accordance with the instructions developed by the national association of insurance commissioners and adopted by the commissioner.

(5) Subject to this subsection, a health care corporation shall not maintain surplus in an amount that equals or is greater than 200% of the authorized control level under risk-based capital requirements multiplied by 5. If a health care corporation files a risk-based capital report that indicates that its surplus is more than the allowable maximum surplus permitted under this subsection for 2 successive calendar years, the health care corporation shall file a plan for approval by the commissioner to adjust its surplus to a level below the allowable maximum surplus. If the commissioner disapproves the health care corporation's plan, the commissioner shall formulate an alternate plan and forward the alternate plan to the health care corporation. The health care corporation shall begin implementation of the plan immediately upon receipt of approval of its plan by the commissioner or upon receipt of the commissioner's alternate plan.

**Sec. 205a.** A health care corporation shall report financial information in conformity with sound actuarial practices and statutory accounting principles in the same manner as designated by the commissioner for other carriers pursuant to section 438(2) of the insurance code of 1956, 1956 PA 218, MCL 500.438. Approved permitted practices for the sole purpose of effectuating the transfer to statutory accounting principles under this section may be used by a health care corporation until January 1, 2007.

Sec. 206. (1) The funds and property of a health care corporation shall be acquired, held, and disposed of only for the lawful purposes of the corporation and for the benefit of the subscribers of the corporation as a whole. A health care corporation shall only transact ~~such~~ business, receive, collect, and disburse ~~such~~ money, and acquire, hold, protect, and convey ~~such~~ property, ~~as are~~ that is properly within the scope of the purposes of the corporation as specifically set forth in section 202(1)(d), for the benefit of the subscribers of the corporation as a whole, and consistent with this act.

(2) The funds of a health care corporation shall be invested only in securities permitted by the laws of this state for the investments of assets of life insurance companies, as described in chapter 9 of ~~Act No. 218 of the Public Acts of 1956, as amended, being sections 500.901 to 500.947 of the Michigan Compiled Laws~~ the insurance code of 1956, 1956 PA 218, MCL 500.901 to 500.947.

(3) Without regard to the limitation in subsection (2), up to 2% of the assets of the health care corporation may be invested in venture-type investments. For purposes of calculating ~~the contingency reserve pursuant to section 205~~ adequate and unimpaired surplus under section 204a, a venture-type investment shall be carried on the books of a health care corporation at the original acquisition cost, and losses may only be realized as an offset against gains from venture-type investments. All venture-type investments under this subsection shall provide employment or capital investment primarily within this state. Each investment under this subsection ~~shall be~~ is subject to prior approval by the board of directors. As used in this subsection, "venture-type investments" include:

(a) Common stock, preferred stock, limited partnerships, or similar equity interests acquired from the issuer subject to a provision barring resale without consent of the issuer for 5 years from the date of acquisition by the corporation.

(b) Unsecured debt instruments ~~which that~~ are either convertible into equity or have equity acquisition rights. These debt instruments shall be subordinated by their terms to all borrowings of the issuer from other institutional lenders and shall have no part amortized during the first 5 years.

(4) A health care corporation shall not market or transact, as defined in sections 402a and 402b of ~~Act No. 218 of the Public Acts of 1956, being sections 500.402a and 500.402b of the Michigan Compiled Laws~~ the insurance code of 1956, 1956 PA 218, MCL 500.402a and 500.402b, any type of insurance described in chapter 6 of ~~Act No. 218 of the Public Acts of 1956, as amended, being sections 500.600 to 500.644 of the Michigan Compiled Laws~~ the insurance code of 1956, 1956 PA 218, MCL 500.600 to 500.644. This subsection shall not be construed to prohibit the provision of prepaid health care benefits.

Sec. 207. (1) A health care corporation, subject to any limitation provided in this act, in any other statute of this state, or in its articles of incorporation, may do any or all of the following:

(a) Contract to provide computer services and other administrative consulting services to 1 or more providers or groups of providers, if the services are primarily designed to result in cost savings to subscribers.

(b) Engage in experimental health care projects to explore more efficient and economical means of implementing the corporation's programs, or the corporation's goals as prescribed in section 504 and the purposes of this act, to develop incentives to promote alternative methods and alternative providers, including nurse midwives, nurse anesthetists, and nurse practitioners, for delivering health care, including preventive care and home health care.

(c) For the purpose of providing health care services to employees of this state, the United States, or an agency, instrumentality, or political subdivision of this state or the United States, or for the purpose of providing all or part of the costs of health care services to disabled, aged, or needy persons, contract with this state, the United States, or an agency, instrumentality, or political subdivision of this state or the United States.

(d) For the purpose of administering any publicly supported health benefit plan, accept and administer funds, directly or indirectly, made available by a contract authorized under subdivision (c), or made available by or received from any private entity.

(e) For the purpose of administering any publicly supported health benefit plan, subcontract with any organization that has contracted with this state, the United States, or an agency, instrumentality, or political subdivision of this state or the United States, for the administration or furnishing of health services or any publicly supported health benefit plan.

(f) Provide administrative services only and cost-plus arrangements for the federal medicare program established by parts A and B of title XVIII of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. ~~1395 to 1395b, 1395b-2, 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to 1395t, 1395u to 1395w, and 1395w-2 to 1395w-4; 1395w-21 to 1395w-28, 1395x to 1395yy, and 1395bbb to 1395ggg;~~ for the federal medicaid program established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to ~~1396f, 1396g-1 to 1396r-6,~~ and 1396r-8 to 1396v; for title V of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 701 to 704 and 705 to 710; for the program of medical and dental care established by the military medical benefits amendments of 1966, Public Law 85-861, 80 Stat. 862; for the Detroit maternity and infant care—preschool, school, and adolescent project; and for any other health benefit program established under state or federal law.

(g) Provide administrative services only and cost-plus arrangements for any noninsured health benefit plan, subject to the requirements of sections 211 and 211a.

(h) Establish, own, and operate a health maintenance organization, subject to the requirements of the ~~public health code, 1978 PA 368, MCL 333.1101 to 333.2521~~ **insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.**

(i) Guarantee loans for the education of persons who are planning to enter or have entered a profession that is licensed, certified, or registered under parts 161 to 182 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18237, and has been identified by the commissioner, with the consultation of the office of health and medical affairs in the department of management and budget, as a profession whose practitioners are in insufficient supply in this state or specified areas of this state and who agree, as a condition of receiving a guarantee of a loan, to work in this state, or an area of this state specified in a listing of shortage areas for the profession issued by the commissioner, for a period of time determined by the commissioner.

(j) Receive donations to assist or enable the corporation to carry out its purposes, as provided in this act.

(k) Bring an action against an officer or director of the corporation.

(l) Designate and maintain a registered office and a resident agent in that office upon whom service of process may be made.

(m) Sue and be sued in all courts and participate in actions and proceedings, judicial, administrative, arbitral, or otherwise, in the same cases as natural persons.

(n) Have a corporate seal, alter the seal, and use it by causing the seal or a facsimile to be affixed, impressed, or reproduced in any other manner.

(o) ~~Invest~~ **Subject to chapter 9 of the insurance code of 1956, 1956 PA 218, MCL 500.901 to 500.947, invest** and reinvest its funds and, for investment purposes only, purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, use, and otherwise deal in and with, bonds and other obligations, shares, or other securities or interests issued by entities other than domestic, foreign, or alien insurers, as defined in sections 106 and 110 of the insurance code of 1956, 1956 PA 218, MCL 500.106 and 500.110, whether engaged in a similar or different business, or governmental or other activity, including banking corporations or trust companies. However, a health care corporation may purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of bonds or other obligations, shares, or other securities or interests issued by a domestic, foreign, or alien insurer, so long as the activity meets all of the following:

(i) Is determined by the attorney general to be lawful under section 202.

(ii) Is approved in writing by the commissioner as being in the best interests of the health care corporation and its subscribers.

(iii) ~~Will~~ **For an activity that occurred before the effective date of the amendatory act that added subparagraph (iv), will not result in the health care corporation owning or controlling 10% or more of the voting securities of the insurer or will not otherwise result in the health care corporation having control of the insurer, either before or after the effective date of the amendatory act that added subparagraph (iv). Nothing in this subdivision shall be interpreted as expanding the lawful purposes of a health care corporation under this act. Except where expressly authorized by statute, a health care corporation shall not indirectly engage in any investment activity that it may not engage in directly. A health care corporation shall not guarantee or become surety upon a bond or other undertaking securing the deposit of public money. As used in this subparagraph and subparagraph (iv), "control" means that term as defined in section 115 of the insurance code of 1956, 1956 PA 218, MCL 500.115.**

(iv) **Subject to section 218 and beginning on the effective date of the amendatory act that added this subparagraph, will not result in the health care corporation owning or controlling part or all of the insurer unless the transaction satisfies chapter 13 of the insurance code of 1956, 1956 PA 218, MCL 500.1301 to 500.1379, and the insurer being acquired is only authorized to sell disability insurance as defined under section 606 of the insurance code of 1956, 1956 PA 218, MCL 500.606, or under a statute or regulation in the insurer's domiciliary jurisdiction that is substantially similar to section 606 of the insurance code of 1956, 1956 PA 218, MCL 500.606.**

(p) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with, real or personal property, or an interest therein, wherever situated.

(q) Sell, convey, lease, exchange, transfer or otherwise dispose of, or mortgage or pledge, or create a security interest in, any of its property, or an interest therein, wherever situated.

(r) Borrow money and issue its promissory note or bond for the repayment of the borrowed money with interest.

(s) Make donations for the public welfare, including hospital, charitable, or educational contributions that do not significantly affect rates charged to subscribers.

(t) Participate with others in any joint venture with respect to any transaction that the health care corporation would have the power to conduct by itself.

(u) Cease its activities and dissolve, subject to the commissioner's authority under section 606(2).

(v) Make contracts, transact business, carry on its operations, have offices, and exercise the powers granted by this act in any jurisdiction, to the extent necessary to carry out its purposes under this act.

(w) Have and exercise all powers necessary or convenient to effect any purpose for which the corporation was formed.

(x) Notwithstanding subdivision (o) or any other provision of this act, establish, own, and operate a domestic stock insurance company only for the purpose of acquiring, owning, and operating the state accident fund pursuant to chapter 51 of the insurance code of 1956, 1956 PA 218, MCL 500.5100 to 500.5114, so long as all of the following are met:

(i) For insurance products and services the insurer whether directly or indirectly only transacts worker's compensation insurance and employer's liability insurance, transacts disability insurance limited to replacement of loss of earnings, and acts as an administrative services organization for an approved self-insured worker's compensation plan or a disability insurance plan limited to replacement of loss of earnings and does not transact any other type of insurance notwithstanding the authorization in chapter 51 of the insurance code of 1956, 1956 PA 218, MCL 500.5100 to 500.5114. This subparagraph does not preclude the insurer from providing either directly or indirectly noninsurance products and services as otherwise provided by law.

(ii) The activity is determined by the attorney general to be lawful under section 202.

(iii) The health care corporation does not directly or indirectly subsidize the use of any provider or subscriber information, loss data, contract, agreement, reimbursement mechanism or arrangement, computer system, or health care provider discount to the insurer.

(iv) Members of the board of directors, employees, and officers of the health care corporation are not, directly or indirectly, employed by the insurer unless the health care corporation is fairly and reasonably compensated for the services rendered to the insurer if those services were paid for by the health care corporation.

(v) Health care corporation and subscriber funds are used only for the acquisition from the state of Michigan of the assets and liabilities of the state accident fund.

(vi) Health care corporation and subscriber funds are not used to operate or subsidize in any way the insurer including the use of such funds to subsidize contracts for goods and services. This subparagraph does not prohibit joint undertakings between the health care corporation and the insurer to take advantage of economies of scale or arm's-length loans or other financial transactions between the health care corporation and the insurer.

(2) In order to ascertain the interests of senior citizens regarding the provision of medicare supplemental coverage, as described in section 202(1)(d)(v), and to ascertain the interests of senior citizens regarding the administration of the federal medicare program when acting as fiscal intermediary in this state, as described in section 202(1)(d)(vi), a health care corporation shall consult with the office of services to the aging and with senior citizens' organizations in this state.

(3) An act of a health care corporation, otherwise lawful, is not invalid because the corporation was without capacity or power to do the act. However, the lack of capacity or power may be asserted:

(a) In an action by a director or a member of the corporate body against the corporation to enjoin the doing of an act.

(b) In an action by or in the right of the corporation to procure a judgment in its favor against an incumbent or former officer or director of the corporation for loss or damage due to an unauthorized act of that officer or director.

(c) In an action or special proceeding by the attorney general to enjoin the corporation from the transacting of unauthorized business, to set aside an unauthorized transaction, or to obtain other equitable relief.

**(4) A health care corporation shall not condition the sale or vary the terms or conditions of any product sold by the corporation or by a subsidiary of the corporation by requiring the purchase of any other product from the corporation or from a subsidiary of the corporation.**

Sec. 211. (1) Pursuant to section 207(1)(g), a health care corporation may enter into service contracts containing an administrative services only or cost-plus arrangement. Except as otherwise provided in this section, a corporation shall not enter into a service contract containing an administrative services only or cost-plus arrangement for a noninsured benefit plan covering a group of less than 500 individuals, except that a health care corporation may continue an administrative services only or cost-plus arrangement with a group of less than 500, which arrangement is in existence in September of 1980. A corporation may enter into contracts containing an administrative services only or cost-plus

arrangement for a noninsured benefit plan covering a group of less than 500 individuals if either the corporation makes arrangements for excess loss coverage or the sponsor of the plan that covers the individuals is liable for the plan's liabilities and is a sponsor of 1 or more plans covering a group of 500 or more individuals in the aggregate. The commissioner, upon obtaining the advice of the corporations subject to this act, shall establish the standards for the manner and amount of the excess loss coverage required by this subsection. It is the intent of the legislature that the excess loss coverage requirements be uniform as between corporations subject to this act and other persons authorized to provide similar services. The corporation shall offer in connection with a noninsured benefit plan a program of specific or aggregate excess loss coverage.

(2) Relative to actual administrative costs, fees for administrative services only and cost-plus arrangements shall be set in a manner that precludes cost transfers between subscribers subject to either of these arrangements and other subscribers of the health care corporation. Administrative costs for these arrangements shall be determined in accordance with the administrative costs allocation methodology and definitions filed and approved under part 6, and shall be expressed clearly and accurately in the contracts establishing the arrangements, as a percentage of costs rather than charges. This subsection shall not be construed to prohibit the inclusion, in fees charged, of contributions to ~~the contingency reserve of the corporation, consistent with section 205~~ **adequate and unimpaired surplus as provided in section 204a.**

(3) Before a health care corporation may enter into contracts containing administrative services only or cost-plus arrangements pursuant to section 207(1)(g), the board of directors of the corporation shall approve a marketing policy ~~with respect to such~~ **for these** arrangements that is consistent with ~~the provisions of~~ this section. The marketing policy may contain other provisions as the board considers necessary. The marketing policy shall be carried out by the corporation consistent with this act.

(4) A corporation providing services under a contract containing an administrative services only or cost-plus arrangement in connection with a noninsured benefit plan shall provide in its service contract a provision that the person contracting for the services in connection with a noninsured benefit plan shall notify each covered individual **of** what services are being provided; the fact that individuals are not insured or are not covered by a certificate from the corporation, or are only partially insured or are only partially covered by a certificate from the corporation, as the case may be; which party is liable for payment of benefits; and of future changes in benefits.

(5) A service contract containing an administrative services only arrangement between a corporation and a governmental entity not subject to the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829, whose plan provides coverage under a collective bargaining agreement utilizing a policy or certificate issued by a carrier before the signing of the service contract, is void unless the governmental entity has provided the notice described in subsection (4) to the collective bargaining agent and to the members of the collective bargaining unit not less than 30 days before signing the service contract. The voiding of a service contract under this subsection shall not relieve the governmental entity of any obligations to the corporation under the service contract.

(6) Nothing in this section shall be construed to permit an actionable interference by a corporation with the rights and obligations of the parties under a collective bargaining agreement.

(7) An individual covered under a noninsured benefit plan for which services are provided under a service contract authorized under subsection (1) ~~shall is not be~~ liable for that portion of claims incurred and subject to payment under the plan if the service contract is entered into between an employer and a corporation, unless that portion of the claim has been paid directly to the covered individual.

(8) A corporation shall report with its annual statement the amount of business it has conducted as services provided under subsection (1) that are performed in connection with a noninsured benefit plan, and the commissioner shall transmit annually this information to the state ~~commissioner of revenue~~ **treasurer**. The commissioner shall submit to the legislature on April 1, 1994, a report detailing the impact of this section on employers and covered individuals, and similar activities under other provisions of law, and in consultation with the ~~revenue commissioner~~ **state treasurer** the total financial impact on the state for the preceding legislative biennium.

(9) As used in this section, "noninsured benefit plan" or "plan" means a health benefit plan without coverage by a health care corporation, health maintenance organization, or insurer or the portion of a health benefit plan without coverage by a health care corporation, health maintenance organization, or insurer that has a specific or aggregate excess loss coverage.

**Sec. 219. A nonprofit health care corporation is subject to chapter 37 of the insurance code of 1956, 1956 PA 218, MCL 500.3701 to 500.3723. To the extent that a provision of this act concerning health coverage, including, but not limited to, premiums, rates, filings, and coverages, conflicts with chapter 37 of the insurance code of 1956, 1956 PA 218, MCL 500.3701 to 500.3723, chapter 37 of the insurance code of 1956, 1956 PA 218, MCL 500.3701 to 500.3723, supersedes this act.**

Sec. 401. (1) A health care corporation established, maintained, or operating in this state shall offer health care benefits to all residents of this state, and may offer other health care benefits as the corporation specifies with the approval of the commissioner.

(2) A health care corporation may limit the health care benefits that it will furnish, except as provided in this act, and may divide the health care benefits that it elects to furnish into classes or kinds.



(3) A health care corporation shall not do any of the following:

(a) Refuse to issue or continue a certificate to 1 or more residents of this state, except while the individual, based on a transaction or occurrence involving a health care corporation, is serving a sentence arising out of a charge of fraud, is satisfying a civil judgment, or is making restitution pursuant to a voluntary payment agreement between the corporation and the individual.

(b) Refuse to continue in effect a certificate with 1 or more residents of this state, other than for failure to pay amounts due for a certificate, except as allowed for refusal to issue a certificate under subdivision (a).

(c) Limit the coverage available under a certificate, without the prior approval of the commissioner, unless the limitation is as a result of: an agreement with the person paying for the coverage; an agreement with the individual designated by the persons paying for or contracting for the coverage; or a collective bargaining agreement.

(d) Rate, cancel benefits on, refuse to provide benefits for, or refuse to issue or continue a certificate solely because a subscriber or applicant is or has been a victim of domestic violence. A health care corporation shall not be held civilly liable for any cause of action that may result from compliance with this subdivision. This subdivision applies to all health care corporation certificates issued or renewed on or after June 1, 1998. As used in this subdivision, "domestic violence" means inflicting bodily injury, causing serious emotional injury or psychological trauma, or placing in fear of imminent physical harm by threat or force a person who is a spouse or former spouse of, has or has had a dating relationship with, resides or has resided with, or has a child in common with the person committing the violence.

(e) Require a member or his or her dependent or an applicant for coverage or his or her dependent to do either of the following:

(i) Undergo genetic testing before issuing, renewing, or continuing a health care corporation certificate.

(ii) Disclose whether genetic testing has been conducted or the results of genetic testing or genetic information.

(4) Subsection (3) does not prevent a health care corporation from denying to a resident of this state coverage under a certificate for any of the following grounds:

(a) That the individual was not a member of a group that had contracted for coverage under this certificate.

(b) That the individual is not a member of a group with a size greater than a minimum size established for a certificate pursuant to sound underwriting requirements.

(c) That the individual does not meet requirements for coverage contained in a certificate.

**(d) For groups of under 100 subscribers and except as otherwise provided in section 3709 of the insurance code of 1956, 1956 PA 218, MCL 500.3709, that the group that the individual is a member of has failed to enroll enough of its eligible members with the health care corporation. A denial under this subdivision shall be made only if the health care corporation determines that the cost for the portion of the group applying for coverage would be at least 50% more on a per subscriber basis than the per subscriber cost for the whole group. A denial under this subdivision shall not be based on the health status of any individual in the group or his or her dependent. A denial under this subdivision shall be based on sound actuarial principles and may be based on 1 or more of the following:**

**(i) That the contract holder for the group applying for coverage is also offering a self-funded health benefit plan.**

**(ii) That the group applying for coverage is composed entirely of the contract holder's retiree business segment.**

**(iii) That the average individual age of the members of the group applying for coverage is either 50% higher or 10 years higher than the average individual age for the whole group.**

(5) A certificate may provide for the coordination of benefits, subrogation, and the nonduplication of benefits. Savings realized by the coordination of benefits, subrogation, and nonduplication of benefits shall be reflected in the rates for those certificates. If a group certificate issued by the corporation contains a coordination of benefits provision, the benefits shall be payable pursuant to the coordination of benefits act, 1984 PA 64, MCL 550.251 to 550.255.

(6) A health care corporation shall have the right to status as a party in interest, whether by intervention or otherwise, in any judicial, quasi-judicial, or administrative agency proceeding in this state for the purpose of enforcing any rights it may have for reimbursement of payments made or advanced for health care services on behalf of 1 or more of its subscribers or members.

(7) A health care corporation shall not directly reimburse a provider in this state who has not entered into a participating contract with the corporation.

(8) A health care corporation shall not limit or deny coverage to a subscriber or limit or deny reimbursement to a provider on the ground that services were rendered while the subscriber was in a health care facility operated by this state or a political subdivision of this state. A health care corporation shall not limit or deny participation status to a health care facility on the ground that the health care facility is operated by this state or a political subdivision of this state, if the facility meets the standards set by the corporation for all other facilities of that type, government-operated or otherwise. To qualify for participation and reimbursement, a facility shall, at a minimum, meet all of the following requirements, which shall apply to all similar facilities:

- (a) Be accredited by the joint commission on accreditation of hospitals.
- (b) Meet the certification standards of the medicare program and the medicaid program.
- (c) Meet all statutory requirements for certificate of need.
- (d) Follow generally accepted accounting principles and practices.
- (e) Have a community advisory board.
- (f) Have a program of utilization and peer review to assure that patient care is appropriate and at an acute level.
- (g) Designate that portion of the facility that is to be used for acute care.

**(9) Not later than the close of business on the seventh business day after denying coverage under subsection (4)(d), the health care corporation shall notify the commissioner of this denial and shall supply the commissioner with the information used in determining the denial. The commissioner shall determine whether he or she will approve or disapprove the health care corporation denial not later than the close of business on the seventh business day after receipt of the notice and shall promptly notify the health care corporation of his or her determination. The commissioner shall base his or her determination under this subsection on whether the health care corporation met the standards in subsection (4)(d). The health care corporation or the denied contract holder may appeal the commissioner's decision in circuit court. The commissioner shall report to the senate and house of representatives standing committees on insurance issues by May 15, 2005 and biennially thereafter all of the following:**

- (a) The number of denials made each calendar year by a health care corporation under subsection (4)(d).**
- (b) The number of denials under subdivision (a) that were approved by the commissioner under this subsection and a summary of the type of group approved.**
- (c) The number of denials under subdivision (a) that were disapproved by the commissioner under this subsection and a summary of the type of group disapproved.**
- (d) The number of decisions by the commissioner under this subsection that have been appealed and the results of the appeals.**

**(10) (9)** As used in this section:

- (a) "Clinical purposes" includes all of the following:
  - (i) Predicted risk of diseases.
  - (ii) Identifying carriers for single-gene disorders.
  - (iii) Establishing prenatal and clinical diagnosis or prognosis.
  - (iv) Prenatal, newborn, and other carrier screening, as well as testing in high-risk families.
  - (v) Tests for metabolites if undertaken with high probability that an excess or deficiency of the metabolite indicates or suggests the presence of heritable mutations in single genes.
  - (vi) Other tests if their intended purpose is diagnosis of a presymptomatic genetic condition.
- (b) "Genetic information" means information about a gene, gene product, or inherited characteristic derived from a genetic test.
- (c) "Genetic test" means the analysis of human DNA, RNA, chromosomes, and those proteins and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. A genetic test must be generally accepted in the scientific and medical communities as being specifically determinative for the presence, absence, or mutation of a gene or chromosome in order to qualify under this definition. Genetic test does not include a routine physical examination or a routine analysis, including, but not limited to, a chemical analysis, of body fluids, unless conducted specifically to determine the presence, absence, or mutation of a gene or chromosome.

**Sec. 401j. The rates charged to nongroup and group conversion subscribers for a certificate that includes prescription drug coverage pursuant to section 401i may include rate differentials based on age, with not more than 8 separate age bands. The health care corporation shall file its rates for the prescription drug coverage in this section in the same manner and under the same requirements as provided in section 607.**

**Sec. 403b. A health care corporation shall not include in any bill for services or products any advertising material for any other service or product sold by a subsidiary of the corporation.**

**Sec. 422c. A health care corporation subsidiary may condition the granting of long-term care coverage based on answers given on an application under section 422a and pursuant to underwriting standards established by the subsidiary of the corporation.**

**Sec. 502. (1) A health care corporation may enter into participating contracts for reimbursement with professional health care providers practicing legally in this state for health care services or with health practitioners practicing legally in any other jurisdiction for health care services that the professional health care providers or practitioners may legally perform. A participating contract may cover all members or may be separate and individual contract on a per claim basis, as set forth in the provider class plan, if, in entering into a separate and individual contract on a per claim basis, the participating provider certifies to the health care corporation:**

- (a) That the provider will accept payment from the corporation as payment in full for services rendered for the specified claim for the member indicated.

(b) That the provider will accept payment from the corporation as payment in full for all cases involving the procedure specified, for the duration of the calendar year. As used in this subdivision, provider does not include a person licensed as a dentist under part 166 of the public health code, 1978 PA 368, MCL 333.16601 to 333.16648.

(c) That the provider will not determine whether to participate on a claim on the basis of the race, color, creed, marital status, sex, national origin, residence, age, disability, or lawful occupation of the member entitled to health care benefits.

(2) A contract entered into pursuant to subsection (1) shall provide that the private provider-patient relationship shall be maintained to the extent provided for by law. A health care corporation shall continue to offer a reimbursement arrangement to any class of providers with which it has contracted prior to August 27, 1985 and that continues to meet the standards set by the corporation for that class of providers.

(3) A health care corporation shall not restrict the methods of diagnosis or treatment of professional health care providers who treat members. Except as otherwise provided in section 502a, each member of the health care corporation shall at all times have a choice of professional health care providers. This subsection does not apply to limitations in benefits contained in certificates, to the reimbursement provisions of a provider contract or reimbursement arrangement, or to standards set by the corporation for all contracting providers. A health care corporation may refuse to reimburse a health care provider for health care services that are overutilized, including those services rendered, ordered, or prescribed to an extent that is greater than reasonably necessary.

(4) A health care corporation may provide to a member, upon request, a list of providers with whom the corporation contracts, for the purpose of assisting a member in obtaining a type of health care service. However, except as otherwise provided in section 502a, an employee, agent, or officer of the corporation, or an individual on the board of directors of the corporation, shall not make recommendations on behalf of the corporation with respect to the choice of a specific health care provider. Except as otherwise provided in section 502a, an employee, agent, or officer of the corporation, or a person on the board of directors of the corporation who influences or attempts to influence a person in the choice or selection of a specific professional health care provider on behalf of the corporation, is guilty of a misdemeanor.

(5) A health care corporation shall provide a symbol of participation, which can be publicly displayed, to providers who participate on all claims for covered health care services rendered to subscribers.

(6) This section does not impede the lawful operation of, or lawful promotion of, a health maintenance organization owned by a health care corporation.

(7) Contracts entered into under this section **with professional health care providers licensed in this state** are subject to the provisions of sections 504 to 518.

(8) A health care corporation shall not deny participation to a freestanding surgical outpatient facility on the basis of ownership if the facility meets the reasonable standards set by the health care corporation for similar facilities, is licensed under part 208 of the public health code, 1978 PA 368, MCL 333.20801 to 333.20821, and complies with part 222 of the public health code, 1978 PA 368, MCL 333.22201 to 333.22260.

(9) Notwithstanding any other provision of this act, if a certificate provides for benefits for services that are within the scope of practice of optometry, a health care corporation is not required to provide benefits or reimburse for a practice of optometric service unless that service was included in the definition of practice of optometry under section 17401 of the public health code, 1978 PA 368, MCL 333.17401, as of May 20, 1992.

(10) Notwithstanding any other provision of this act, a health care corporation is not required to reimburse for services otherwise covered under a certificate if the services were performed by a member of a health care profession, which health care profession was not licensed or registered by this state on or before January 1, 1998 but that becomes a health care profession licensed or registered by this state after January 1, 1998. This subsection does not change the status of a health care profession that was licensed or registered by this state on or before January 1, 1998.

Sec. 602. (1) Not later than March 1 each year, subject to a 30-day extension ~~which that~~ may be granted by the commissioner, a health care corporation shall file in the office of the commissioner a sworn statement verified by at least 2 of the principal officers of the corporation showing its condition as of the preceding December 31. The statement shall be in a form ~~;~~ and contain those matters ~~, which that~~ the commissioner prescribes for a health care corporation, including those matters contained in section ~~205~~ **204a**. The statement shall include the number of members and the number of subscribers' certificates issued by the corporation and outstanding.

(2) The commissioner, by order, may require a health care corporation to submit statistical, financial, and other reports for the purpose of monitoring compliance with this act.

Sec. 606. (1) The commissioner shall have the same authority regarding the officers and directors of a health care corporation as the commissioner has with respect to the officers and directors of insurers under sections 249 and 250 of ~~Act No. 218 of the Public Acts of 1956, being sections 500.249 and 500.250 of the Michigan Compiled Laws~~ **the insurance code of 1956, 1956 PA 218, MCL 500.249 and 500.250**.

(2) The commissioner shall have the same authority with respect to the dissolution, taking over, or liquidation of corporations formed or doing business under this act as is provided in chapter ~~78 of Act No. 218 of the Public Acts of 1956, as amended, being sections 500.7800 to 500.7868 of the Michigan Compiled Laws~~ **81 of the insurance code of 1956, 1956 PA 218, MCL 500.8101 to 500.8159**. For purposes of this subsection, a health care corporation shall be

considered to be insolvent if its liabilities exceed its assets, unless otherwise defined in chapter ~~78 of Act No. 218 of the Public Acts of 1956, as amended~~ **81 of the insurance code of 1956, 1956 PA 218, MCL 500.8101 to 500.8159.**

Sec. 609. (1) A rate is not excessive if the rate is not unreasonably high relative to the following elements, individually or collectively; provision for anticipated benefit costs; provision for administrative expense; provision for cost transfers, if any; provision for a contribution to or from ~~the corporate contingency reserve that is consistent with the attainment or maintenance of the target contingency reserve level prescribed in section 205~~ **surplus that is consistent with the attainment or maintenance of adequate and unimpaired surplus as provided in section 204a;** and provision for adjustments due to prior experience of groups, as defined in the group rating system. A determination as to whether a rate is excessive relative to ~~the these~~ **these** elements, ~~listed above,~~ individually or collectively, shall be based on the following: reasonable evaluations of recent claim experience; projected trends in claim costs; the allocation of administrative expense budgets; and the present and anticipated ~~contingency reserve positions~~ **unimpaired surplus** of the health care corporation. To the extent that any of these elements are considered excessive, the provision in the rates for these elements shall be modified accordingly.

(2) The administrative expense budget must be reasonable, as determined by the commissioner after examination of material and substantial administrative and acquisition expense items.

(3) A rate is equitable if the rate can be compared to any other rate offered by the health care corporation to its subscribers, and the observed rate differences can be supported by differences in anticipated benefit costs, administrative expense cost, differences in risk, or any identified cost transfer provisions.

(4) A rate is adequate if the rate is not unreasonably low relative to the elements prescribed in subsection (1), individually or collectively, based on reasonable evaluations of recent claim experience, projected trends in claim costs, the allocation of administrative expense budgets, and the present and anticipated ~~contingency reserve positions~~ **unimpaired surplus** of the health care corporation.

(5) Except for identified cost transfers, each line of business, over time, shall be self-sustaining. However, there may be cost transfers for the benefit of senior citizens and group conversion subscribers. Cost transfers for the benefit of senior citizens, in the aggregate, annually shall not exceed 1% of the earned subscription income of the health care corporation as reported in the most recent annual statement of the corporation. Group conversion subscribers are those who have maintained coverage with the health care corporation on an individual basis after leaving a subscriber group. ~~The Michigan caring program created in section 436 is not subject to any assessment or surcharge for cost transfer under this subsection.~~

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 460 of the 92nd Legislature is enacted into law.

Enacting section 2. Section 205 of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1205, is repealed.

Second: That the Senate and House agree to the title of the bill to read as follows:

A bill to amend 1980 PA 350, entitled "An act to provide for the incorporation of nonprofit health care corporations; to provide their rights, powers, and immunities; to prescribe the powers and duties of certain state officers relative to the exercise of those rights, powers, and immunities; to prescribe certain conditions for the transaction of business by those corporations in this state; to define the relationship of health care providers to nonprofit health care corporations and to specify their rights, powers, and immunities with respect thereto; to provide for a Michigan caring program; to provide for the regulation and supervision of nonprofit health care corporations by the commissioner of insurance; to prescribe powers and duties of certain other state officers with respect to the regulation and supervision of nonprofit health care corporations; to provide for the imposition of a regulatory fee; to regulate the merger or consolidation of certain corporations; to prescribe an expeditious and effective procedure for the maintenance and conduct of certain administrative appeals relative to provider class plans; to provide for certain administrative hearings relative to rates for health care benefits; to provide for certain causes of action; to prescribe penalties and to provide civil fines for violations of this act; and to repeal certain acts and parts of acts," by amending sections 204, 206, 207, 211, 401, 502, 602, 606, and 609 (MCL 550.1204, 550.1206, 550.1207, 550.1211, 550.1401, 550.1502, 550.1602, 550.1606, and 550.1609), section 207 as amended by 1999 PA 210, section 211 as amended by 1993 PA 127, section 401 as amended by 2000 PA 26, section 502 as amended by 1998 PA 446, and section 609 as amended by 1991 PA 61, and by adding sections 204a, 205a, 219, 401j, 403b, and 422c; and to repeal acts and parts of acts.

Beverly S. Hammerstrom  
Bruce Patterson  
Robert L. Emerson  
Conferees for the Senate

Rick Johnson  
Dianne Byrum  
Conferees for the House

Pending the order that, under joint rule 9, the conference report be laid over one day,  
Senator Hammerstrom moved that the rule be suspended.

The motion prevailed, a majority of the members serving voting therefor.  
The question being on the adoption of the conference report,  
The first conference report was adopted, a majority of the members serving voting therefor, as follows:

**Roll Call No. 294**

**Yeas—34**

Allen	Cherry	Jelinek	Schauer
Barcia	Clark-Coleman	Kuipers	Scott
Basham	Clarke	Leland	Sikkema
Bernero	Cropsey	McManus	Stamas
Birkholz	Emerson	Olshove	Switalski
Bishop	Gilbert	Patterson	Thomas
Brater	Goschka	Prusi	Toy
Brown	Hammerstrom	Sanborn	Van Woerkom
Cassis	Hardiman		

**Nays—3**

Garcia	George	Johnson
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**Excused—1**

Jacobs

**Not Voting—0**

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,  
The recommendation was concurred in, 2/3 of the members serving voting therefor.

**Protests**

Senators Garcia and George, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the first conference report on Senate Bill No. 234 and moved that the statements they made during the discussion of the conference report be printed as their reasons for voting “no.”

The motion prevailed.

Senator Garcia’s statement is as follows:

I have just received the conference report and have not had a chance to take a look at, to read it, to see what the subsequent changes are. It is my understanding that Representative Ehardt, the primary sponsor of this legislation over in the House, did not sign the conference committee report. I understand all the Senate members signed it, but not Representative Ehardt. I had some questions about the previous legislation.

Again, it’s not that I don’t want small group reform, and I certainly want to help reduce the cost of small businesses. I am just not sure that this is the case, and I don’t have enough information, having just received the bill, to feel comfortable voting on it. So if we go to vote in the next 30-60 seconds, I am afraid I am going to have to vote “no” on this just for the simple lack of information. I am reluctant to do so because I am sure there are some good things in this bill, but I have not had a chance to look at it.

Senator George’s statement is as follows:

I would just like to speak for a moment and explain why I am going to vote “no” on this conference report. I do have serious concerns about this and the other piece of legislation that is related to it. If taken together, that would result in raising health care costs in our state and also decrease the availability of insurance, and that’s because as costs go up, purchasers go with individuals. Businesses are less likely to buy health insurance for themselves and their employees. Michigan has a lot at stake here because we are one of the leaders in having a high number of insured patients. I am very concerned that the number of uninsured will rise related to this legislation, especially when taken with its companion piece.

In regards to this bill, in particular, I have specific concerns about the way it allows Blue Cross to raise its surplus. Currently, there is a mechanism that keeps that surplus—which the company must maintain to pay claims—there is a mechanism to keep that within a narrow window. This raises the cap on the surplus so that the company can accrue more and more resources. The problem with that is then the bill also allows them now to divest those resources into a long-term care company, which will be for-profit subsidiaries.

We heard during the last campaign, the gubernatorial campaign, how one candidate was going to do everything she could to prevent the privatization of Blue Cross. Here we found a way to allow at least some of their reserves to be privatized through the purchase of for-profit companies. We’ve allowed that capital that is raised in part by being tax-exempt. We have allowed a mechanism to be created, whereby that can be diverted into for-profit companies. I know, Mr. President, that during many of the campaigns last fall this was an issue. In campaigns neighboring my district, I saw mailing pieces, I saw television ads, really from both sides of the aisle, saying that, no, we would never allow Blue Cross to be privatized. I hear Ernie Harwell on the radio every morning as I drive to Lansing talking about the importance of Blue Cross remaining nonprofit. Sure, they will remain nonprofit in name, according to this bill, but their reserves will now be allowed to be used for for-profit entities. So I would like to ask those members who were so concerned about this privatization issue last session, where are they now? Why don’t they rise in opposition to this bill, and join me in voting “no?”

Senator Brown submitted the following:

FIRST CONFERENCE REPORT

The Committee of Conference on the matters of difference between the two Houses concerning **Senate Bill No. 266, entitled**

A bill to make appropriations for the department of military and veterans affairs for the fiscal year ending September 30, 2004; to provide for the expenditure of the appropriations; to provide for certain powers and duties of the department of military and veterans affairs, other state agencies, and local units of government related to the appropriations; and to provide for the preparation of certain reports related to the appropriations.

Recommends:

First: That the House recede from the Substitute of the House as passed by the House.

Second: That the Senate and House agree to the Substitute of the Senate as passed by the Senate, amended to read as follows:

A bill to make appropriations for the department of military and veterans affairs for the fiscal year ending September 30, 2004; to provide for the expenditure of the appropriations; to provide for certain powers and duties of the department of military and veterans affairs, other state agencies, and local units of government related to the appropriations; and to provide for the preparation of certain reports related to the appropriations.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

PART 1

LINE-ITEM APPROPRIATIONS

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of military and veterans affairs for the fiscal year ending September 30, 2004, from the funds indicated in this part. The following is a summary of the appropriations in this part:

**DEPARTMENT OF MILITARY AND VETERANS AFFAIRS**

Full-time equated unclassified positions .....	7.0	
Full-time equated classified positions .....	1,072.0	
<b>GROSS APPROPRIATION .....</b>		<b>\$ 103,097,500</b>
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers .....		\$ 200,000
<b>ADJUSTED GROSS APPROPRIATION .....</b>		<b>\$ 102,897,500</b>
Federal revenues:		
Total federal revenues .....		40,627,900

For Fiscal Year  
Ending Sept. 30,  
2004

Special revenue funds:	
Total local revenues .....	\$ 0
Total private revenues .....	530,000
Total other state restricted revenues .....	23,800,100
State general fund/general purpose .....	\$ 37,939,500
<b>Sec. 102. HEADQUARTERS AND ARMORIES</b>	
Full-time equated unclassified positions .....	7.0
Full-time equated classified positions .....	140.0
Headquarters and armories—99.5 FTE positions .....	\$ 8,941,200
Unclassified military personnel.....	660,300
Military appeals tribunal.....	900
Michigan emergency volunteers.....	5,000
State active duty.....	70,100
Challenge program—40.5 FTE positions .....	3,296,900
GROSS APPROPRIATION .....	\$ 12,974,400
Appropriated from:	
IDG-challenge grant.....	200,000
Federal revenues:	
DOD-DOA-NGB.....	3,542,500
Special revenue funds:	
Rental fees.....	350,000
Mackinac Bridge authority.....	40,000
Private donations.....	105,000
State general fund/general purpose .....	\$ 8,736,900
<b>Sec. 103. MILITARY TRAINING SITES AND SUPPORT FACILITIES</b>	
Full-time equated classified positions .....	229.0
Military training sites and support facilities—229.0 FTE positions .....	\$ 14,860,200
Military training sites and support facilities test projects.....	100,000
GROSS APPROPRIATION .....	\$ 14,960,200
Appropriated from:	
Federal revenues:	
DOD-DOA-NGB.....	12,140,400
Special revenue funds:	
Test project fees.....	100,000
State general fund/general purpose .....	\$ 2,719,800
<b>Sec. 104. DEPARTMENTWIDE APPROPRIATIONS</b>	
Departmentwide accounts .....	\$ 1,741,100
Special maintenance-state .....	351,200
Special maintenance-federal.....	4,300,000
Military retirement.....	2,500,000
Counternarcotic operations .....	50,000
Starbase grant .....	600,000
GROSS APPROPRIATION .....	\$ 9,542,300
Appropriated from:	
Federal revenues:	
DOD-DOA-NGB.....	6,170,600
Federal counternarcotic revenues .....	50,000
Special revenue funds:	
State general fund/general purpose .....	\$ 3,321,700
<b>Sec. 105. VETERANS SERVICE ORGANIZATIONS</b>	
American legion.....	\$ 886,000
Disabled American veterans.....	732,400
Marine corps league.....	336,300
American veterans of World War II and Korea.....	464,800
Veterans of foreign wars .....	886,000
Michigan paralyzed veterans of America .....	165,700
Purple heart.....	157,900

	For Fiscal Year Ending Sept. 30, 2004
Veterans of World War I.....	\$ 100
Polish legion of American veterans.....	41,200
Jewish veterans of America.....	41,200
State of Michigan council Vietnam veterans of America.....	159,500
Catholic war veterans.....	41,200
<b>GROSS APPROPRIATION</b> .....	<b>\$ 3,912,300</b>
Appropriated from:	
State general fund/general purpose .....	\$ 3,912,300
<b>Sec. 106. GRAND RAPIDS VETERANS' HOME</b>	
Full-time equated classified positions .....	536.0
Grand Rapids veterans' home—536.0 FTE positions .....	\$ 42,096,700
Board of managers.....	300,000
<b>GROSS APPROPRIATION</b> .....	<b>\$ 42,396,700</b>
Appropriated from:	
Federal revenues:	
DVA-VHA .....	13,050,600
HHS-Medicaid .....	350,600
HHS-Medicare .....	689,100
Special revenue funds:	
Private-veterans' home post and posthumous funds .....	300,000
Income and assessments.....	14,146,600
Lease revenue .....	35,000
State general fund/general purpose .....	\$ 13,824,800
<b>Sec. 107. D.J. JACOBETTI VETERANS' HOME</b>	
Full-time equated classified positions .....	151.0
D.J. Jacobetti veterans' home—151.0 FTE positions .....	\$ 12,945,600
Board of managers.....	125,000
<b>GROSS APPROPRIATION</b> .....	<b>\$ 13,070,600</b>
Appropriated from:	
Federal revenues:	
DVA-VHA .....	3,867,100
HHS-Medicare .....	206,600
Special revenue funds:	
Private-veterans' home post and posthumous funds .....	125,000
Income and assessments.....	4,191,500
State general fund/general purpose .....	\$ 4,680,400
<b>Sec. 108. VETERANS' AFFAIRS DIRECTORATE</b>	
Full-time equated classified positions .....	16.0
Veterans' affairs directorate administration—3.0 FTE positions.....	\$ 294,200
Veterans' trust fund administration—13.0 FTE positions .....	1,030,000
Veterans' trust fund grants .....	3,746,500
<b>GROSS APPROPRIATION</b> .....	<b>\$ 5,070,700</b>
Appropriated from:	
Special revenue funds:	
Michigan veterans' trust fund.....	4,776,500
State general fund/general purpose .....	\$ 294,200
<b>Sec. 109. INFORMATION TECHNOLOGY</b>	
Information technology services and projects .....	\$ 1,170,300
<b>GROSS APPROPRIATION</b> .....	<b>\$ 1,170,300</b>
Appropriated from:	
Federal revenues:	
DOD-DOA-NGB.....	416,900
DVA-VHA .....	135,700
HHS-Medicare .....	7,800



For Fiscal Year  
Ending Sept. 30,  
2004

Special revenue funds:		
Income and assessments.....	\$	160,500
State general fund/general purpose .....	\$	449,400

**PART 2  
PROVISIONS CONCERNING APPROPRIATIONS**

**GENERAL SECTIONS**

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2003-2004 is \$61,739,600.00 and state spending from state resources to be paid to local units of government for fiscal year 2003-2004 is \$120,000.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

**DEPARTMENT OF MILITARY AND VETERANS AFFAIRS  
MILITARY TRAINING SITES AND SUPPORT FACILITIES**

Payments in lieu of taxes .....	\$	70,000
<b>MICHIGAN VETERANS' TRUST FUND</b>		
County counselor travel expenses .....	\$	50,000
<b>TOTAL.....</b>	<b>\$</b>	<b>120,000</b>

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Sec. 203. As used in this act:

- (a) "Department" means the department of military and veterans affairs.
- (b) "Director" means the director of the department of military and veterans affairs.
- (c) "DOD" means the United States department of defense.
- (d) "DOD-DOA-NGB" means the DOD department of the army, national guard bureau.
- (e) "DVA" means the United States department of veterans' affairs.
- (f) "DVA-VHA" means the DVA veterans' health administration.
- (g) "FTE" means full-time equated.
- (h) "HHS" means the United States department of health and human services.
- (i) "IDG" means interdepartmental grant.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Sec. 205. (1) Beginning October 1, a hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause loss of revenue to the state, result in the inability of the state to receive federal funds, or necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report by the last business day of each month to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous month and the justification for the exception.

Sec. 207. Sixty days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Sec. 208. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on an Internet or Intranet site.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available.

Sec. 210. The director of each department receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Sec. 211. The departments and agencies receiving appropriations in part 1 shall receive and retain copies of all reports funded from appropriations in part 1. The department shall follow all federal guidelines and state laws regarding short-term and long-term retention of records.

Sec. 212. (1) Of the funds appropriated in section 103 for military training sites and support facilities, there shall be established a Michigan national guard education assistance program. Disbursements to the educational assistance program shall not exceed \$1,300,000.00 without legislative approval. Under the program, a member of the national guard who is in active service and who enrolls as a full- or part-time student at a public or private state college or university may be eligible to receive up to an equivalent of 50% of the total cost of tuition not to exceed \$2,000.00, as education assistance, in any academic year.

(2) As used in this section, an eligible person means a member of the Michigan national guard who is in active service, as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505. An eligible person does not include a member of the Michigan national guard or air national guard who is absent without leave or who is under charges as described in the Michigan code of military justice of 1980, 1980 PA 523, MCL 32.1001 to 32.1148.

(3) The department of military and veterans affairs, office of the adjutant general shall administer the education assistance program and prescribe forms and procedures to effectively carry out the education assistance program.

(4) An eligible person shall apply to the department of military and veterans affairs, office of the adjutant general for education assistance and shall provide evidence of attendance and completion of the course of study with a grade of at least 2.0 on a 4.0 scale, or its equivalent. The adjutant general shall approve the application for reimbursement if the applicant meets the definition of an eligible person under subsection (2) and other criteria as established by the adjutant general.

(5) The education assistance program applies to any course of instruction that is included in an associate, undergraduate, or postgraduate degree program offered by a college or university of this state.

(6) The education assistance program applies to an eligible person notwithstanding any other educational incentive or benefit received by the eligible person under any other educational assistance program provided by any other state.

(7) An eligible person who successfully completes the course of study with a grade of at least 2.0 on a 4.0 scale, or its equivalent, shall be eligible for reimbursement.

(8) The department of military and veterans affairs may use funds from the appropriated funds to administer the education assistance program.

(9) Reimbursed members who do not complete their national guard obligation shall pay the state for money received from the state for tuition. Members who fail to repay the state within the time limits established by the adjutant general shall be indebted to the state. The department shall work in conjunction with the department of treasury for inclusion in the tax intercept program for amounts due the state.

(10) A portion of the funds for the Michigan national guard education assistance program may be used by the department for the purpose of promoting the program and for encouraging those persons the department wishes to have enlist or reenlist in the Michigan national guard.

Sec. 213. The department shall consult with the house and senate appropriations subcommittees on military and veterans affairs regarding the projected closing or consolidation of any national guard armories.

Sec. 214. It is the intent of the legislature that, should the necessary legislation be enacted and funding become available, funds be appropriated for state military cemeteries in Crawford and Dickinson Counties.

Sec. 221. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology-related services and projects. User fees shall be subject to provisions of an interagency agreement between the department and the department of information technology.

Sec. 223. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

#### **HEADQUARTERS AND ARMORIES**

Sec. 301. The department may charge reasonable rental and equipment usage fees for renting an armory or using the distance learning network. The fee shall include the cost of overtime compensation, insurance coverage, and any maintenance required.

Sec. 302. (1) The funds appropriated in this act for private donations to the challenge program shall be considered state restricted revenue, and unexpended funds remaining at the close of the fiscal year shall not lapse to the general fund but shall be carried forward to the subsequent fiscal year.

(2) It is the intent of the legislature that the department make every effort to identify alternative sources of revenue to replace the \$1,340,700.00 in state general fund/general purpose funding provided in this act for the challenge program.

(3) The department may charge a parent or guardian of a participant in the challenge program a fee for participating in the program if the participant is a member of a family with an income that exceeds 200% of the federal poverty guidelines as published by the United States department of health and human services. The amount charged the parent or guardian shall not exceed the per student state share cost of administering the program. The parent or guardian shall be notified of any charge to be assessed under this subsection prior to enrollment of the child in the program.

Sec. 303. The state family program office shall promote and inform private individuals, businesses, and organizations regarding the distribution of prepaid phone cards and other services to national guard members and military reservists deployed overseas on active duty.

Sec. 304. The department will partner with the family independence agency to identify youth who may be eligible for the challenge program from those youth served by family independence agency programs. Such eligible youth shall be given priority for enrollment in the program.

#### **VETERANS SERVICE ORGANIZATIONS**

Sec. 501. (1) Money appropriated in section 105 for grants to veterans service organizations shall be used only for salaries, wages, related personnel costs, training, and equipment for accredited veteran service advocacy officers and necessary support and managerial staff. Training shall be provided for service advocacy officers and shall be conducted by accredited advocacy officers.

(2) To receive a grant from the money appropriated in section 105, a veterans service organization shall meet the following eligibility requirements:

(a) Be congressionally chartered by the United States Congress.

(b) Be an active participating member of the Michigan veterans organizations' rehabilitation and veterans service committee and abide by its rules, guidelines, and programs.

(c) Demonstrate the receipt of monetary or service support from its own organization.

(d) Comply with the department's and the legislature's requirements of accounting audits, service work activity, accounting of recoveries, listing of volunteer hours, budget requests, and other requirements specified in subsection (3).

(e) For a veterans service organization founded after September 30, 1989, be in operation and providing service to Michigan veterans for not less than 2 years before receiving an initial state grant. During this 2-year period of time, the organization shall file a listing of service work activity and an accounting of recoveries with the department, the senate and house fiscal agencies, the senate and house of representatives appropriations subcommittees on military affairs, and the state budget office on forms as prescribed by the department.

(3) A veterans service organization receiving a grant from the money appropriated in section 105 shall file with the department an accounting of its expenditures, audited and certified by a certified public accountant, within 120 days after the organization's fiscal year end. Each organization shall provide a detailed budget request for the fiscal year ending September 30, 2005, to the department by November 15, 2003, within the format as prescribed by the department to be used in the development of the budget for the fiscal year ending September 30, 2005. Each veterans service organization shall provide 5 copies of a listing of all service activity, an accounting of recoveries, and a listing of volunteer hours for the fiscal year ending September 30, 2003, to the department by January 31, 2004. The listing of volunteer hours shall include the hours, services, and donations provided to residents of the Grand Rapids veterans' home and the D.J. Jacobetti veterans' home. Each veterans service organization shall provide a copy of the most recent and completed internal revenue service form 990 to the department at the end of the fiscal year ending September 30, 2003. A veterans service organization receiving a grant from the money appropriated in section 105 shall use the forms recommended by the Michigan veterans organizations' rehabilitation and veterans service committee for filing reports required by this act. The department shall forward information required under this section to the senate and house fiscal agencies, the senate and house of representatives appropriations subcommittees on military affairs, and the state budget office.

#### **VETERANS' HOMES**

Sec. 601. Appropriations in this act for the Grand Rapids veterans' home and the D.J. Jacobetti veterans' home shall not be used for any purpose other than for veterans and veterans' families.

Sec. 602. The Grand Rapids veterans' home and the D.J. Jacobetti veterans' home, together with the department and the department of management and budget, shall produce and deliver to the senate and house of representatives appropriations subcommittees on state police and military affairs an annual written report. The report shall include an accounting of member populations and bed space available; a description and accounting of services and activities provided to members; financial information; current state nursing home licensure status; the steps required for Medicaid certification, including a listing of any personnel, equipment, supplies, or budgetary increases required; and whether or not steps are being taken toward Medicaid certification. The annual report shall be submitted to the senate and house of representatives appropriations subcommittees on military affairs no later than February 1, 2004.

Sec. 603. The money appropriated in this act for the boards of managers may be expended for facility improvements, the purchase and repair of equipment and furnishings, member services, and other purposes that benefit the Grand Rapids veterans' home and the D.J. Jacobetti veterans' home.

#### **VETERANS' TRUST FUND**

Sec. 703. (1) By April 1, 2004, the department shall submit to the senate and house of representatives appropriations subcommittees on military affairs and the state budget office a detailed annual report of the Michigan veterans' trust fund for fiscal year 2002-2003. The report shall include information on grants provided from the emergency grant program and the veterans survivor tuition program, including details concerning the methodology of allocations, the selection of emergency grant program authorized agents, and a detailed breakdown of trust fund expenditures for that year. The report shall also provide an update on the department's efforts to reduce program administrative costs.

(2) The annual report required under subsection (1) shall provide detailed information on the number of emergency grant applications denied during fiscal year 2002-2003, including an accounting of the reasons for denial. This information also shall include the number of persons denied an emergency grant because of individual ineligibility, because of insufficient funds, and because the applicant's request did not meet minimum program criteria.

(3) The annual report required under subsection (1) shall contain information on the veterans survivors tuition program, including the number of participants, where the participants attended school, payments made to each school, the average grade point and number of college credits earned by each participant, the number of participants suspended by the program, and the number of participants who earned a degree during fiscal year 2002-2003.

Sec. 704. The Michigan veterans affairs directorate administration and the Michigan veterans' trust fund administration shall take steps to assist the county veterans counselors of the state to obtain training necessary for the execution of their duties.

Third: That the Senate and House agree to the title of the bill to read as follows:

A bill to make appropriations for the department of military and veterans affairs for the fiscal year ending September 30, 2004; to provide for the expenditure of the appropriations; to provide for certain powers and duties of the department of military and veterans affairs; other state agencies, and local units of government related to the appropriations; and to provide for the preparation of certain reports related to the appropriations.

Cameron Brown  
Tony Stamas  
Conferees for the Senate

Sandy Caul  
David Farhat  
Conferees for the House

Pursuant to joint rule 9, the conference report was laid over one day.

Senator Brown submitted the following:

FIRST CONFERENCE REPORT

The Committee of Conference on the matters of difference between the two Houses concerning **Senate Bill No. 277, entitled**

A bill to make appropriations for the department of state police and certain other state purposes for the fiscal year ending September 30, 2004; to provide for the expenditure of those appropriations; to provide for certain reports and the consideration of those reports; to provide for the disposition of other income received by the various state agencies; to provide for the testing of certain persons; to provide for certain emergency powers; and to provide for the powers and duties of certain committees, certain state agencies, and certain employees.

Recommends:

First: That the Senate and House agree to the Substitute of the House as passed by the House, amended to read as follows:

A bill to make appropriations for the department of state police and certain other state purposes for the fiscal year ending September 30, 2004; to provide for the expenditure of those appropriations; to provide for certain reports and the consideration of those reports; to provide for the disposition of other income received by the various state agencies; to provide for the testing of certain persons; to provide for certain emergency powers; and to provide for the powers and duties of certain committees, certain state agencies, and certain employees.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

PART 1

LINE-ITEM APPROPRIATIONS

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of state police for the fiscal year ending September 30, 2004, from the funds indicated in this part. The following is a summary of the appropriations in this part:

**DEPARTMENT OF STATE POLICE**

APPROPRIATION SUMMARY:

Full-time equated unclassified positions .....	3.0	
Full-time equated classified positions .....	2,987.0	
GROSS APPROPRIATION .....		\$ 460,996,000

	For Fiscal Year Ending Sept. 30, 2004
Interdepartmental grant revenues:	
Total interdepartmental grants and intradepartmental transfers .....	\$ 17,885,100
ADJUSTED GROSS APPROPRIATION .....	\$ 443,110,900
Federal revenues:	
Total federal revenues .....	103,892,300
Special revenue funds:	
Total local revenues .....	4,506,600
Total private revenues .....	10,000
Total other state restricted revenues .....	66,963,400
State general fund/general purpose .....	\$ 267,738,600
<b>Sec. 102. EXECUTIVE DIRECTION</b>	
Full-time equated unclassified positions .....	3.0
Full-time equated classified positions .....	36.0
Unclassified positions .....	\$ 258,500
Executive direction—29.0 FTE positions .....	3,148,900
Auto theft prevention program—7.0 FTE positions .....	7,065,000
GROSS APPROPRIATION .....	\$ 10,472,400
Appropriated from:	
Special revenue funds:	
Auto theft prevention fund .....	7,065,000
State general fund/general purpose .....	\$ 3,407,400
<b>Sec. 103. DEPARTMENTWIDE APPROPRIATIONS</b>	
Special maintenance and utilities .....	\$ 479,400
Rent and building occupancy charges .....	8,216,000
Worker's compensation .....	3,174,000
Fleet leasing .....	15,169,200
In-service training .....	850,000
Narcotics investigation funds .....	265,000
GROSS APPROPRIATION .....	\$ 28,153,600
Appropriated from:	
Interdepartmental grant revenues:	
IDT, Michigan justice training fund .....	850,000
Federal revenues:	
Federal narcotics investigation revenues .....	95,000
Special revenue funds:	
Narcotics investigation revenues .....	170,000
State general fund/general purpose .....	\$ 27,038,600
<b>Sec. 104. SUPPORT SERVICES</b>	
Full-time equated classified positions .....	130.0
Human resources—34.0 FTE positions .....	\$ 2,183,800
Management services—46.0 FTE positions .....	3,416,000
Training administration—41.0 FTE positions .....	4,544,200
Communications—9.0 FTE positions .....	5,968,300
GROSS APPROPRIATION .....	\$ 16,112,300
Appropriated from:	
Interdepartmental grant revenues:	
IDT, auto theft funds .....	21,000
IDG, training academy charges .....	2,726,400
Special revenue funds:	
Local - LEIN fees .....	31,900
Precision driving track fees .....	264,100
Narcotics investigation revenues .....	40,600
Motor carrier fees .....	125,500
State general fund/general purpose .....	\$ 12,902,800
<b>Sec. 105. HIGHWAY SAFETY PLANNING</b>	
Full-time equated classified positions .....	23.0

	For Fiscal Year Ending Sept. 30, 2004
State program planning and administration—12.0 FTE positions.....	\$ 1,111,000
Grants to local governments and nonprofit organizations.....	4,500,000
Secondary road patrol program—1.0 FTE positions.....	14,006,600
Truck safety program—2.0 FTE positions .....	2,983,800
Highway traffic safety coordination—8.0 FTE positions.....	5,949,700
<b>GROSS APPROPRIATION</b> .....	<b>\$ 28,551,100</b>
Appropriated from:	
Federal revenues:	
DOT .....	10,492,000
DOJ .....	560,000
Special revenue funds:	
Truck driver safety fund.....	2,983,800
Secondary road patrol and training fund .....	14,006,600
State general fund/general purpose .....	\$ 508,700
<b>Sec. 106. CRIMINAL JUSTICE INFORMATION CENTER</b>	
Full-time equated classified positions .....	94.0
Criminal justice information center division—77.0 FTE positions.....	\$ 7,248,900
Criminal records improvement—1.0 FTE positions .....	4,726,200
Traffic safety—16.0 FTE positions .....	1,510,800
<b>GROSS APPROPRIATION</b> .....	<b>\$ 13,485,900</b>
Appropriated from:	
Interdepartmental grant revenues:	
IDG-MDOS.....	315,900
IDG-MDOT, state trunkline fund .....	336,900
Federal revenues:	
DOJ .....	4,726,200
DOT .....	388,500
Special revenue funds:	
Criminal justice information center service fees .....	5,954,300
State general fund/general purpose .....	\$ 1,764,100
<b>Sec. 107. FORENSIC SCIENCES</b>	
Full-time equated classified positions .....	207.0
Laboratory operations—175.0 FTE positions.....	\$ 16,978,100
DNA analysis program—32.0 FTE positions .....	7,393,800
<b>GROSS APPROPRIATION</b> .....	<b>\$ 24,371,900</b>
Appropriated from:	
Federal revenues:	
DOJ .....	3,442,900
Special revenue funds:	
Forensic science reimbursement fees .....	1,626,400
State forensic laboratory fund .....	1,500,000
State general fund/general purpose .....	\$ 17,802,600
<b>Sec. 108. MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS</b>	
Full-time equated classified positions .....	28.0
Standards and training—22.0 FTE positions .....	\$ 2,174,800
Training only to local units—2.0 FTE positions .....	690,000
Concealed weapons enforcement training .....	140,000
Officer's survivor tuition program.....	48,800
Justice training grants—4.0 FTE positions.....	9,032,000
<b>GROSS APPROPRIATION</b> .....	<b>\$ 12,085,600</b>
Appropriated from:	
Federal revenues:	
DOJ .....	360,000
Special revenue funds: Secondary road patrol and training fund .....	690,000
Concealed weapons enforcement fee.....	140,000
Michigan justice training fund .....	9,032,000

	For Fiscal Year Ending Sept. 30, 2004
Licensing fees .....	\$ 50,000
State general fund/general purpose .....	\$ 1,813,600
<b>Sec. 109. FIRE MARSHAL</b>	
Full-time equated classified positions .....	49.0
Fire marshal programs—40.0 FTE positions .....	\$ 3,832,000
Fire investigation training to locals .....	50,500
Fire fighters training council—9.0 FTE positions .....	1,655,700
GROSS APPROPRIATION .....	\$ 5,538,200
Appropriated from:	
Federal revenues:	
FEMA .....	150,000
DOT .....	85,000
State general fund/general purpose .....	\$ 5,303,200
<b>Sec. 110. EMERGENCY MANAGEMENT</b>	
Full-time equated classified positions .....	49.0
Emergency management planning and administration—32.0 FTE positions .....	\$ 2,869,000
Grants to local government .....	2,182,100
FEMA program assistance—3.0 FTE positions .....	962,300
Nuclear power plant emergency planning—6.0 FTE positions .....	1,209,200
Hazardous materials transportation—1.0 FTE positions .....	579,200
Hazardous materials programs—7.0 FTE positions .....	61,583,800
GROSS APPROPRIATION .....	\$ 69,385,600
Appropriated from:	
Federal revenues:	
FEMA .....	4,664,100
DOT .....	579,200
DOJ .....	60,000,000
Special revenue funds:	
Nuclear plant emergency planning reimbursement .....	1,209,200
Hazardous materials training center fees .....	1,253,800
State general fund/general purpose .....	\$ 1,679,300
<b>Sec. 111. UNIFORM SERVICES</b>	
Full-time equated classified positions .....	1,720.0
Uniform services—555.0 FTE positions .....	\$ 46,581,700
Security guards—15.0 FTE positions .....	899,100
Reimbursed services .....	1,983,000
At-post troopers—1,150.0 FTE positions .....	110,185,300
GROSS APPROPRIATION .....	\$ 159,649,100
Appropriated from:	
Interdepartmental grant revenues:	
IDG-MDMB, building occupancy charges .....	610,100
Federal revenues:	
DOJ .....	1,500,000
Special revenue funds:	
Highway safety fund .....	13,284,700
State police service fees .....	1,983,000
State general fund/general purpose .....	\$ 142,271,300
<b>Sec. 112. SPECIAL OPERATIONS</b>	
Full-time equated classified positions .....	50.0
Operational support—35.0 FTE positions .....	\$ 2,776,200
Traffic services—10.0 FTE positions .....	3,091,100
Aviation program—5.0 FTE positions .....	1,498,600
GROSS APPROPRIATION .....	\$ 7,365,900
Appropriated from:	
Interdepartmental grant revenues:	
IDG-MDOC, contract .....	77,200

	For Fiscal Year Ending Sept. 30, 2004
Federal revenues:	
DOT .....	\$ 1,500,000
Special revenue funds:	
Private donations.....	10,000
Rental of department aircraft .....	159,300
Drunk driving prevention and training fund .....	969,700
State general fund/general purpose .....	\$ 4,649,700
<b>Sec. 113. CRIMINAL INVESTIGATIONS</b>	
Full-time equated classified positions .....	401.0
Criminal investigations—298.0 FTE positions .....	\$ 30,640,600
Federal antidrug initiatives—62.0 FTE positions .....	10,077,200
Reimbursed services, materials, and equipment .....	2,532,900
Auto theft prevention—9.0 FTE positions.....	1,366,000
Casino gaming oversight—32.0 FTE positions .....	3,513,000
GROSS APPROPRIATION .....	\$ 48,129,700
Appropriated from:	
Interdepartmental grant revenues:	
IDT, auto theft funds.....	1,104,000
IDG-MDTR, casino gaming fees.....	3,513,000
IDG-MDCH, tobacco tax .....	610,000
Federal revenues:	
Federal investigations - reimbursed services .....	719,700
DOJ .....	7,506,700
Federal narcotics investigation revenues .....	380,800
Special revenue funds:	
Local - reimbursed services .....	1,813,200
Narcotics investigation revenues .....	543,000
Forfeiture funds .....	269,500
State general fund/general purpose .....	\$ 31,669,800
<b>Sec. 114. MOTOR CARRIER ENFORCEMENT</b>	
Full-time equated classified positions .....	200.0
Motor carrier enforcement—124.0 FTE positions .....	\$ 8,725,900
Truck safety enforcement team operations—15.0 FTE positions.....	1,132,100
Safety inspections—43.0 FTE positions.....	6,928,500
School bus inspections—14.0 FTE positions .....	1,146,300
Safety projects—4.0 FTE positions.....	1,170,100
GROSS APPROPRIATION .....	\$ 19,102,900
Appropriated from:	
Interdepartmental grant revenues:	
IDT, truck safety fund.....	1,132,100
IDG-MDOT, state trunkline fund .....	6,483,200
Federal revenues: DOT.....	6,712,600
Special revenue funds:	
Motor carrier fees .....	3,628,700
State general fund/general purpose .....	\$ 1,146,300
<b>Sec. 115. INFORMATION TECHNOLOGY</b>	
Information technology services and projects .....	\$ 18,591,800
GROSS APPROPRIATION .....	\$ 18,591,800
Appropriated from:	
Interdepartmental grant revenues:	
IDT-MDTR, casino gaming fees .....	72,100
IDG-MDOT, state trunkline fund .....	33,200
Federal revenues:	
DOT.....	29,600
Special revenue funds:	
Local - LEIN fees .....	2,628,500



	For Fiscal Year Ending Sept. 30, 2004
Local - AFIS fees.....	\$ 33,000
Motor carrier fees .....	14,200
State general fund/general purpose .....	\$ 15,781,200

PART 2  
PROVISIONS CONCERNING APPROPRIATIONS

**GENERAL SECTIONS**

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2003-2004 is \$334,702,000.00 and state spending from state resources to be paid to local units of government for fiscal year 2003-2004 is \$20,399,858.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF STATE POLICE

OFFICE OF HIGHWAY SAFETY PLANNING

Secondary road patrol program .....	\$ 13,881,500
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COMMISSION ON LAW ENFORCEMENT STANDARDS

Training only to local units .....	\$ 522,500
Justice training grants .....	5,575,258

FIRE MARSHAL

Fire fighters training council.....	\$ 370,100
Fire investigation training for locals .....	50,500
Total.....	\$ 20,399,858

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Sec. 203. As used in this act:

- (a) "AFIS" means the automated fingerprint identification system.
- (b) "Department" means the department of state police.
- (c) "DNA" means deoxyribonucleic acid.
- (d) "DOJ" means the United States department of justice.
- (e) "DOT" means the United States department of transportation.
- (f) "FEMA" means the federal emergency management agency.
- (g) "FTE" means full-time equated.
- (h) "IDG" means interdepartmental grant.
- (i) "IDT" means intradepartmental transfer.
- (j) "LEIN" means law enforcement information network.
- (k) "MCOLES" means the Michigan commission on law enforcement standards.
- (l) "MDCH" means the Michigan department of community health.
- (m) "MDMB" means the Michigan department of management and budget.
- (n) "MDOC" means the Michigan department of corrections.
- (o) "MDOS" means the Michigan department of state.
- (p) "MDOT" means the Michigan department of transportation.
- (q) "MDTR" means the Michigan department of treasury.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Sec. 205. (1) Beginning October 1, a hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause loss of revenue to the state, result in the inability of the state to receive federal funds, or necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report by the last business day of each month to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous month and the justification for the exception.

Sec. 207. At least 60 days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The

evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Sec. 208. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on an Internet or Intranet site.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available.

Sec. 210. The director of each department receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both, for the department. The director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services or supplies, or both.

Sec. 211. It is the intent of the legislature that personnel of the department who request and are eligible for reimbursement of expenses related to the operation of the department be reimbursed from the appropriations provided in this act within 30 days after submitting a request, or the eligible personnel shall be paid an additional amount equal to 0.75% of the payment due. The department shall pay an additional amount equal to 0.75% of the payment due for the first month and each succeeding month or portion of a month the payment remains past due.

Sec. 212. Of the state general fund/general purpose revenue appropriated in this act, \$55,533,800.00 represents a state spending increase over the amount provided to the department of state police for the fiscal year ending September 30, 1994, and may be used to meet state match requirements of programs contained in the violent crime control and law enforcement act of 1994, Public Law 103-322, 108 Stat. 1796, or successor grant programs, so that any additional federal money received supplements funding provided to the department of state police in this act.

Sec. 213. (1) It is the intent of the legislature that the department shall not provide any subsidy for contractual services it provides.

(2) When the department provides contractual services to a local unit of government, the department shall be reimbursed for all costs incurred in providing the services, including, but not limited to, retirement and overtime costs.

(3) Contractual services provided to an entity other than a local unit of government may be provided by department personnel, but only on an overtime basis outside the normal work schedule of the personnel.

(4) This section does not apply to state agencies.

Sec. 214. The departments and agencies receiving appropriations in part 1 shall receive and retain copies of all reports funded from appropriations in part 1. The department shall follow all federal guidelines and state laws regarding short-term and long-term retention of records.

Sec. 215. Not later than March 15, 2004 and September 30, 2004, the department shall report to the state police appropriations subcommittees of the house and senate and the house and senate fiscal agencies. The report shall contain the following information regarding the department's activities related to casino gaming oversight:

- (a) The amount of money received and expended.
- (b) The nature and structure of the casino gaming oversight unit.
- (c) The positions and classifications of employees assigned.
- (d) The number of full-time and part-time employees and the aggregate number of FTEs.
- (e) The number of enlisted and civilian positions.
- (f) The duties and responsibilities of the assigned employees.
- (g) The immediate past position of the enlisted employees assigned.

Sec. 216. The department shall collect and computerize the vehicle identification number (VIN) of all vehicles that are entered into the state accident data collection system and make this and other vehicle information available to the public at cost. For bulk access to the accident records in which the VIN has been collected and computerized, the department shall make those records available to the public at cost, provided that the name and address have been excluded.

Sec. 217. From the funds appropriated in part 1, the department shall maintain a toll-free hotline in collaboration with the department of education. The toll-free hotline shall be operated 24 hours per day, 7 days per week, and shall provide students, school officials, and other individuals an opportunity to report specific threats of imminent school violence or other suspicious or criminal conduct by juveniles to the appropriate local law enforcement entities for investigation. The department may expend funds for the promotion of the hotline.

Sec. 218. (1) Funds appropriated in part 1 for at-post troopers shall only be expended for trooper salaries, wages, benefits, retirement, equipment, supplies, and other expenses directly related to state troopers assigned to general law enforcement duties at a department post, detachment, satellite office, or a resident trooper function.

(2) From the funds appropriated in part 1 for at-post troopers, 1 or more trooper recruit schools shall be conducted during fiscal year 2003-2004 with the goal of maintaining at-post trooper strength of at least 1,075.

(3) The department shall submit a written report to the senate and house appropriations subcommittees on state police and military affairs no later than November 15, 2003, detailing the status of the department's plan for

accomplishing the goal of subsection (2). If the department determines that insufficient funding exists under part 1 for at-post troopers or any other budget line to accomplish the goal of subsection (2), the department shall submit a plan outlining the additional funding necessary to accomplish the goal of subsection (2).

(4) The department shall take steps to establish a deferred retirement option plan (DROP) for troopers to extend the years in which a trooper stays in at-post service beyond his or her eligible retirement date and to obtain a cost savings on annual employee retirement benefit payments. The establishment of the deferred retirement option plan (DROP) may be utilized to help achieve the at-post trooper strength goal prescribed in subsection (2).

Sec. 219. The department of state police shall notify the house and senate appropriations subcommittees on state police and military and veterans affairs and the house and senate fiscal agencies not less than 180 days before recommending to close or consolidate any state police posts.

Sec. 220. The department of state police, in keeping with its role as the general law enforcement agency of the state and as the law enforcement agency of last resort for communities that are either without local law enforcement resources or are seriously underserved by local law enforcement resources, shall provide general law enforcement assistance to the city of Highland Park until adequate law enforcement services can be provided to the city of Highland Park by other means.

Sec. 221. Of the funds appropriated in part 1 for rent and building occupancy charges, funds shall be used for the necessary rental costs for a state police post in Marshall.

#### **INFORMATION TECHNOLOGY**

Sec. 301. The money appropriated in part 1 for computer services shall be funded by LEIN user fees sufficient to pay 1/3 of the service and contract maintenance costs of the LEIN mainframe computer system.

Sec. 302. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology-related services and projects. User fees shall be subject to provisions of an interagency agreement between the department and the department of information technology.

Sec. 303. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

Sec. 304. A portion of the funds appropriated in part 1 shall be used by the department to produce a written report detailing departmental policies regarding access to and use of information from the LEIN system. The report shall include a description of departmental measures to protect the security of information in the LEIN system including safeguards that would prevent unauthorized persons from obtaining information from the LEIN system. The department shall submit a copy of this report to the senate and house appropriations committees not later than April 1, 2004.

Sec. 305. The criminal justice information systems policy council shall encourage members of the law enforcement agencies in the state to be sensitive to, and note when necessary, activities or circumstances that may suggest the unauthorized access or misuse of information from the LEIN system. The criminal justice information systems policy council shall advise LEIN auditors, as a part of their audit of law enforcement agencies, to investigate in depth all suspected incidents of improper access or improper use of information from the LEIN system and determine whether or not those incidents were illegal. In those incidents that may be determined to be illegal, the executive secretary for the council shall determine whether those incidents were of a negligent or criminal nature. If an incident is determined to be an illegal act, the council shall inform the chairs of both the senate and house appropriations committees.

Sec. 306. (1) The department of state police, working with the criminal justice information system policy council, shall implement procedures by which all probation information is placed on the LEIN system. The LEIN system shall include information on each probationer, including any probation conditions placed on a probationer and the name of the probation officer assigned to a probationer. The LEIN system shall also include any nonstandard probation terms.

(2) If the department determines that amendments to the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, are required to include all probation information on the LEIN system, the department shall deliver to members of the senate and house appropriations subcommittees on state police and military affairs amendments to the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, that, in the department's view, are necessary to accomplish this goal. These proposed amendments shall be delivered to subcommittee members not later than December 1, 2003.

#### **HIGHWAY SAFETY PLANNING**

Sec. 401. On a quarterly basis, the department shall report to the senate and house appropriations subcommittees on state police and military affairs on the status of assessments collected and authorized under section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, for the purposes of supporting the secondary road patrol grant program. Each quarterly report shall contain updated information on collection levels, revised projected grant allotments to counties for the year, a comparison of projected collections and grant distribution levels with the funds appropriated in part 1 for the secondary road patrol program, and the extent collection levels have exceeded or failed to meet appropriated levels for the current fiscal year or expenditure levels from the previous fiscal year.

**FORENSIC SCIENCES**

Sec. 501. (1) The department shall distribute a copy of the department's protocol for retaining and purging DNA analysis samples and records to each police agency in this state.

(2) The department shall report to the house and senate appropriations subcommittees on state police and military affairs and the house and senate fiscal agencies when any changes to the department's DNA protocol are made.

Sec. 502. The department shall work with the department of community health, the Michigan hospital association, the Michigan state medical society, and the Michigan nurses association to ensure that the recommendations included in the "Standard Recommended Procedures for the Emergency Treatment of Sexual Assault Victims" are followed in the collection of evidence.

**MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS**

Sec. 601. The money appropriated to the MCOLES for maintenance and delivery of training to locals is provided in accordance with a state reimbursement policy in which 100% of the determined state reimbursement rate shall be distributed upon certification by the MCOLES.

Sec. 602. From the appropriations in part 1 for the training of new state troopers and other new police officers in the state and for the continuing education of all law enforcement officers in the state, sufficient funds shall be used to include curricula on the content and application of federal firearms laws, including the procedures necessary for law enforcement to turn appropriate cases over to the federal bureau of alcohol, tobacco, and firearms or any other applicable federal criminal justice agency.

**FIRE MARSHAL**

Sec. 701. (1) The department shall prepare a detailed report and deliver it to the senate and house subcommittees on the state police not later than January 15, 2004.

(2) The report shall contain input from a delegate appointed from and by the following organizations:

- (a) Michigan fire chiefs association.
- (b) Michigan state fireman's association.
- (c) Michigan firefighter's union.
- (d) Michigan fire service instructors association.
- (e) Michigan fire inspectors society.
- (f) Michigan chapter of the international association of arson investigators.

(3) The report shall contain information about the quality and adequacy of service from the state fire investigation, education, and training under the reorganization of the fire marshal division responsibilities. The report shall be based on the performance of the fire marshal division in the performance of its fire safety duties during fiscal year 2002-2003.

**EMERGENCY MANAGEMENT**

Sec. 801. (1) The state director of emergency management may expend money appropriated under this act to call upon any agency or department of the state or any resource of the state to protect life or property or to provide for the health or safety of the population in any area of the state in which the governor proclaims a state of emergency or state of disaster under 1945 PA 302, MCL 10.31 to 10.33, or under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421. The state director of emergency management may expend the amounts the director considers necessary to accomplish these purposes. The director shall submit to the state budget director as soon as possible a complete report of all actions taken under the authority of this section. The report shall contain, as a separate item, a statement of all money expended that is not reimbursable from federal money. The state budget director shall review the expenditures and submit recommendations to the legislature in regard to any possible need for a supplemental appropriation.

(2) In addition to the money appropriated in this act, the department may receive and expend money from local, private, federal, or state sources for the purpose of providing emergency management training to local or private interests and for the purpose of supporting emergency preparedness, response, recovery, and mitigation activity. If additional expenditure authorization in the Michigan administrative information network is approved by the state budget office under this section, the department and the state budget office shall notify the house and senate appropriations subcommittees on state police and military and veterans affairs and the house and senate fiscal agencies within 10 days after the approval. The notification shall include the amount and source of the additional authorization, the date of its approval, and the projected use of funds to be expended under the authorization.

Sec. 802. The department shall not make any purchases related to a statewide emergency management computer network unless authorized to do so by the director of the department of information technology.

**UNIFORM SERVICES**

Sec. 901. State police enlisted personnel who are employed to enforce traffic laws as provided in section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, shall not be prohibited from responding to crimes in progress or other emergency situations, and are responsible for protecting every citizen of this state from harm.

**SPECIAL OPERATIONS**

Sec. 1001. In addition to the appropriations in section 112 to the department of state police for the aviation program, the department is authorized to sell its aircraft and the proceeds from the sale are appropriated and may be applied to

the renovation cost of replacement aircraft. If additional expenditure authorization in the Michigan administrative information network is approved by the state budget office under this section, the department and the state budget office shall notify the house and senate appropriations subcommittees on state police and military and veterans affairs and the house and senate fiscal agencies within 10 days after the approval. The notification shall include the amount and source of the additional authorization, the date of its approval, and the projected use of funds to be expended under the authorization.

Sec. 1002. Money privately donated to the department's canine unit is appropriated under section 112 to purchase equipment and other items to enhance the operation of the canine unit. It is the intent of the legislature that money from private donations for the canine unit not supplant general fund appropriations.

#### **CRIMINAL INVESTIGATIONS**

Sec. 1101. (1) There is sufficient money appropriated in section 113 to criminal investigations to ensure that the citizens in a service area of any state police post in the vicinity of a state prison do not experience a downgrading of state police services in their area. Criminal investigations shall be available by temporary or permanent assignment of a detective when either a temporary or permanent prison facility is opened.

(2) If the department is unable to comply with subsection (1) and there is a prison scheduled to open, the department shall provide troopers to serve as investigators on an interim basis.

#### **MOTOR CARRIER ENFORCEMENT**

Sec. 1201. (1) The department shall report to the house and senate appropriations subcommittees on state police and the house and senate fiscal agencies by March 1, 2004 regarding the inspection of school buses and other motor vehicles under section 715a of the Michigan vehicle code, 1949 PA 300, MCL 257.715a, and section 39 of the pupil transportation act, 1990 PA 187, MCL 257.1839. The report shall include the following information regarding inspections conducted in calendar year 2003:

- (a) The number of buses and vehicles inspected by the department.
- (b) The number of buses and vehicles passing and failing inspection.
- (c) The estimated number of buses and vehicles not inspected.

(2) If each school bus within a school system receives a 100% successful state inspection on its first inspection in a given year, the department shall award a certificate to that school system.

Second: That the Senate and House agree to the title of the bill to read as follows:

A bill to make appropriations for the department of state police and certain other state purposes for the fiscal year ending September 30, 2004; to provide for the expenditure of those appropriations; to provide for certain reports and the consideration of those reports; to provide for the disposition of other income received by the various state agencies; to provide for the testing of certain persons; to provide for certain emergency powers; and to provide for the powers and duties of certain committees, certain state agencies, and certain employees.

Cameron Brown  
Tony Stamas  
Conferees for the Senate

Sandy Caul  
David Farhat  
Conferees for the House

Pursuant to joint rule 9, the conference report was laid over one day.

Senator Cropsy submitted the following:

#### FIRST CONFERENCE REPORT

The Committee of Conference on the matters of difference between the two Houses concerning  
**Senate Bill No. 281, entitled**

A bill to make appropriations for the judicial branch for the fiscal year ending September 30, 2004; to provide for the expenditure of these appropriations; to place certain restrictions on the expenditure of these appropriations; to prescribe the powers and duties of certain officials and employees; to require certain reports; and to provide for the disposition of fees and other income received by the judicial branch.

Recommendations:

First: That the Senate and House agree to the Substitute of the House as passed by the House, amended to read as follows:

A bill to make appropriations for the judicial branch for the fiscal year ending September 30, 2004; to provide for the expenditure of these appropriations; to place certain restrictions on the expenditure of these appropriations; to

prescribe the powers and duties of certain officials and employees; to require certain reports; and to provide for the disposition of fees and other income received by the judicial branch.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**PART 1**

**LINE-ITEM APPROPRIATIONS**

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the judicial branch for the fiscal year ending September 30, 2004, from the funds indicated in this part. The following is a summary of the appropriations in this part:

**JUDICIARY**

**APPROPRIATION SUMMARY:**

Full-time equated exempted positions .....	582.5	
<b>GROSS APPROPRIATION</b> .....		\$ 253,567,900
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers .....		4,633,500
<b>ADJUSTED GROSS APPROPRIATION</b> .....		\$ 248,934,400
Federal revenues:		
Total federal revenues .....		4,106,500
Special revenue funds:		
Total local revenues .....		2,898,700
Total private revenues .....		842,500
Total other state restricted revenues .....		79,770,300
State general fund/general purpose .....		\$ 161,316,400

**Sec. 102. SUPREME COURT**

Full-time equated exempted positions .....	284.0	
Supreme court administration—114.0 FTE positions .....		\$ 10,033,500
Judicial institute—20.0 FTE positions .....		2,935,700
State court administrative office—80.0 FTE positions .....		9,811,000
Judicial information systems—21.0 FTE positions .....		4,540,600
Direct trial court automation support—33.0 FTE positions.....		2,898,700
Foster care review board—12.0 FTE positions.....		1,167,700
Community dispute resolution—4.0 FTE positions.....		2,499,800
Drug treatment courts .....		4,635,000
<b>GROSS APPROPRIATION</b> .....		\$ 38,522,000

Appropriated from:

Interdepartmental grant revenues:		
IDG from department of community health .....		1,800,000
IDG from department of career development .....		95,000
IDG from state police - criminal justice improvement .....		2,015,000
IDG from state police - Michigan justice training fund .....		300,000
Federal revenues:		
DOE, special education grant.....		150,000
DOJ, enforcing underage drinking law.....		50,000
DOJ, victims assistance programs.....		50,000
DOJ, drug court training and evaluation .....		300,000
DOT, national highway safety traffic administration .....		215,300
HHS, access and visitation grant.....		387,000
HHS, court improvement project.....		1,160,000
HHS, domestic violence prevention .....		175,000
HHS, TANF .....		50,000
HHS, title IV-D child support program .....		907,700
HHS, title IV-E foster care program.....		500,000
USDA, agriculture mediation grant.....		125,000
Special revenue funds:		
Local - user fees .....		2,898,700
Private.....		169,000
Private - interest on lawyers trust accounts .....		232,700
Private - state justice institute .....		370,800
Community dispute resolution fees .....		2,224,800
Law exam fees .....		482,100

	For Fiscal Year Ending Sept. 30, 2004
Drug court fund .....	\$ 1,267,500
Miscellaneous revenue .....	227,900
Justice system fund .....	600,000
State court fund .....	319,000
State general fund/general purpose .....	\$ 21,449,500
<b>Sec. 103. COURT OF APPEALS</b>	
Full-time equated exempted positions .....	230.5
Court of appeals operations—230.5 FTE positions .....	\$ 17,232,300
GROSS APPROPRIATION .....	\$ 17,232,300
Appropriated from:	
Special revenue funds:	
Court filing/motion fees .....	1,746,000
Miscellaneous revenue .....	77,800
State general fund/general purpose .....	\$ 15,408,500
<b>Sec. 104. BRANCHWIDE APPROPRIATIONS</b>	
Full-time equated exempted positions .....	3.0
Branchwide appropriations—3.0 FTE positions .....	\$ 8,376,000
GROSS APPROPRIATION .....	\$ 8,376,000
Appropriated from:	
State general fund/general purpose .....	\$ 8,376,000
<b>Sec. 105. JUSTICES' AND JUDGES' COMPENSATION</b>	
Full-time judges positions .....	616.0
Supreme court justices' salaries—7.0 justices .....	\$ 1,152,300
Court of appeals judges' salaries—28.0 judges .....	4,240,300
District court judges' state base salaries—259.0 judges .....	23,946,700
District court judicial salary standardization .....	11,831,100
Probate court judges' state base salaries—106.0 judges .....	9,168,500
Probate court judicial salary standardization .....	4,407,100
Circuit court judges' state base salaries—216.0 judges .....	20,346,300
Circuit court judicial salary standardization .....	9,876,400
Judges' retirement system defined contributions .....	2,557,800
OASI, social security .....	4,738,200
GROSS APPROPRIATION .....	\$ 92,264,700
Appropriated from:	
Special revenue funds:	
Court fee fund .....	7,090,200
State general fund/general purpose .....	\$ 85,174,500
<b>Sec. 106. JUDICIAL AGENCIES</b>	
Full-time equated exempted positions .....	10.0
Judicial tenure commission—10.0 FTE positions .....	\$ 1,004,200
GROSS APPROPRIATION .....	\$ 1,004,200
Appropriated from:	
State general fund/general purpose .....	\$ 1,004,200
<b>Sec. 107. INDIGENT DEFENSE - CRIMINAL</b>	
Full-time equated exempted positions .....	55.0
Appellate public defender program—47.0 FTE positions .....	\$ 4,502,000
Appellate assigned counsel administration—8.0 FTE positions .....	808,700
GROSS APPROPRIATION .....	\$ 5,310,700
Appropriated from:	
Interdepartmental grant revenues:	
IDG from state police - Michigan justice training fund .....	423,500
Federal revenues:	
DOJ, assigned criminal defense .....	36,500
Special revenue funds:	
Private - interest on lawyers trust accounts .....	70,000
Miscellaneous revenue .....	113,100
State general fund/general purpose .....	\$ 4,667,600

For Fiscal Year  
Ending Sept. 30,  
2004

**Sec. 108. INDIGENT CIVIL LEGAL ASSISTANCE**

Indigent civil legal assistance .....	\$	7,337,000
<b>GROSS APPROPRIATION .....</b>	<b>\$</b>	<b>7,337,000</b>
Appropriated from:		
Special revenue funds:		
State court fund .....		7,337,000
State general fund/general purpose .....	\$	0

**Sec. 109. TRIAL COURT OPERATIONS**

Court equity fund reimbursements .....	\$	69,906,000
Judicial technology improvement fund.....		4,465,000
<b>GROSS APPROPRIATION .....</b>	<b>\$</b>	<b>74,371,000</b>
Appropriated from:		
Special revenue funds:		
Court equity fund.....		44,669,900
Judicial technology improvement fund.....		4,465,000
State general fund/general purpose .....	\$	25,236,100

**Sec. 110. GRANTS AND REIMBURSEMENTS TO LOCAL GOVERNMENT**

Drug case-flow program .....	\$	250,000
Drunk driving case-flow program .....		2,300,000
Juror compensation reimbursement.....		6,600,000
<b>GROSS APPROPRIATION .....</b>	<b>\$</b>	<b>9,150,000</b>
Appropriated from:		
Special revenue funds:		
Drug fund .....		250,000
Drunk driving fund .....		2,300,000
Juror compensation fund.....		6,600,000
State general fund/general purpose .....	\$	0

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

**GENERAL SECTIONS**

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2003-2004 is \$241,086,700.00 and state spending from state resources to be paid to local units of government for fiscal year 2003-2004 is estimated at \$124,506,800.00. The itemized statement below identifies appropriations from which spending to local units of government will occur:

**SUPREME COURT**

State court administrative office - administration.....	\$	511,900
Drug treatment courts .....		4,335,000

**TRIAL COURT OPERATIONS**

Court equity fund reimbursements .....	\$	69,906,000
Judicial technology improvement fund.....		4,465,000

**JUSTICES' AND JUDGES' COMPENSATION**

District court judicial salary standardization.....	\$	11,831,100
Probate court judges' state base salaries .....		9,168,500
Probate court judicial salary standardization.....		4,407,100
Circuit court judicial salary standardization.....		9,876,400
Grant to OASI contribution fund, employers share, social security.....		855,800

**GRANTS AND REIMBURSEMENTS TO LOCAL GOVERNMENT**

Drunk driving case-flow program .....	\$	2,300,000
Drug case-flow program .....		250,000
Juror compensation reimbursement.....		6,600,000
<b>TOTAL.....</b>	<b>\$</b>	<b>124,506,800</b>

Sec. 202. (1) The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

(2) Funds appropriated in part 1 to an entity within the judicial branch shall not be expended or transferred to another account without written approval of the authorized agent of the judicial entity. If the authorized agent of the judicial



entity notifies the state budget director of its approval of an expenditure or transfer, the state budget director shall immediately make the expenditure or transfer. The authorized judicial entity agent shall be designated by the chief justice of the supreme court.

Sec. 203. As used in this act:

- (a) "DOE" means the United States department of education.
- (b) "DOJ" means the United States department of justice.
- (c) "DOT" means the United States department of transportation.
- (d) "FTE" means full-time equated.
- (e) "HHS" means the United States department of health and human services.
- (f) "IDG" means interdepartmental grant.
- (g) "OASI" means old age survivor's insurance.
- (h) "TANF" means temporary assistance for needy families.
- (i) "USDA" means the United States department of agriculture.

Sec. 207. At least 90 days before beginning any effort to privatize, the judicial branch shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Sec. 208. Unless otherwise specified, the judicial branch shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on an Internet or Intranet site. Quarterly, the judicial branch shall provide to the appropriations subcommittees members, state budget office, and the fiscal agencies an electronic listing of the reports submitted during the most recent 3-month period along with the Internet or Intranet site of each report, if any.

Sec. 209. (1) Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced American goods and services, or both, of comparable quality, are available.

(2) Funds appropriated in part 1 shall not be used for the purchase of out-of-state goods or services, or both, if competitively priced Michigan goods or services, or both, of comparable quality, are available.

Sec. 210. (1) The chief justice of the supreme court shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both, for the judicial branch. The chief justice shall strongly encourage firms with which the courts of this state contract to subcontract with certified businesses in depressed and deprived communities for services or supplies, or both.

(2) The chief justice shall take all reasonable steps to ensure equal opportunity for all who compete for and perform contracts to provide services or supplies, or both, for the department. The chief justice shall strongly encourage firms with which the department contracts to provide equal opportunity for subcontractors to provide services or supplies, or both.

Sec. 211. (1) The judicial branch shall provide to the senate and house of representatives standing committees on appropriations and the senate and house fiscal agencies a monthly report on all personal service contracts awarded without competitive bidding, pricing, or rate setting. The notification shall include all of the following:

- (a) The total dollar amount of the contract.
- (b) The duration of the contract.
- (c) The name of the vendor.
- (d) The type of service to be provided.

(2) For personal service contracts of \$100,000.00 or more, the judicial branch shall provide a monthly report on all of the following:

- (a) The total dollar amount of the contract.
- (b) The duration of the contract.
- (c) The name of the vendor.
- (d) The type of service to be provided.

Sec. 212. The judicial branch shall receive and retain copies of all reports funded from appropriations in part 1 and shall follow federal and state guidelines for short-term and long-term retention of these reports and records.

#### **JUDICIAL BRANCH**

Sec. 301. (1) The direct trial court automation support program of the state court administrative office shall recover direct and overhead costs from trial courts by charging for services rendered. The fee shall cover the actual costs incurred to the direct trial court automation support program in providing the service. A report of amounts collected in excess of funds identified as user service charges in part 1 shall be submitted to the state budget director and to the house and senate appropriations subcommittees on judiciary 30 days before expenditure by the direct trial court automation support program.

(2) From funds appropriated in part 1, the direct trial court automation support program of the state court administrative office shall provide to the state budget director, the senate and house appropriations committees, and the senate and house fiscal agencies before January 1 of each year, a detailed list of user service charges collected during the immediately preceding state fiscal year.

Sec. 302. Funds appropriated within the judicial branch shall not be expended by any component within the judicial branch without the approval of the supreme court.

Sec. 303. Of the amount appropriated in part 1 for the judicial branch, \$325,000.00 is allocated for circuit court reimbursement under section 3 of 1978 PA 16, MCL 800.453, and \$186,900.00 is allocated for court of claims reimbursement under section 6413 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6413.

Sec. 304. The judicial branch shall cooperate with the auditor general regarding audits of the judicial branch conducted pursuant to section 53 of article IV of the state constitution of 1963.

Sec. 305. To avoid the overexpenditure of funds appropriated under this act, the supreme court shall report quarterly to the state budget director and to the judiciary subcommittees of the house and senate appropriations committees regarding the status of the accounts set forth in part 1.

Sec. 306. The supreme court and the state administrative office shall continue to maintain, as a priority, the assisting of local trial courts in improving the collection of judgments.

Sec. 307. It is the intent of the legislature that from the funds appropriated in part 1 for court of appeals operations, the judiciary shall use the following revenue amounts for the purpose of delay reduction:

(a) \$225,000.00 of additional filing fee revenue raised from the increase from \$250.00 to \$375.00 in court of appeals filing fees under section 321(1)(a) of the revised judicature act of 1961, 1961 PA 236, MCL 600.321.

(b) \$87,500.00 of additional fee revenue raised from the increase in court of appeals motion fees from \$75.00 to \$100.00 and from the increase from \$150.00 to \$200.00 in fees for motions for immediate consideration or expedited appeal, under section 321(1)(b) and (c) of the revised judicature act of 1961, 1961 PA 236, MCL 600.321.

Sec. 308. If sufficient funds are not available from the court fee fund to pay judges' compensation, the difference between the appropriated amount from that fund for judges' compensation and the actual amount available after the amount appropriated for trial court reimbursement is made shall be appropriated from the state general fund for judges' compensation.

Sec. 310. From the funds appropriated in part 1 for drug treatment court programs, at the discretion of the supreme court, the state court administrative office shall contract with 1 or more independent third parties for evaluation and monitoring of drug court programs funded by the judiciary. The evaluation shall include measures of the impact of drug court programs in changing offender criminal involvement (recidivism) and substance abuse and in reducing prison admissions. The evaluation of a program funded with federal Byrne funds shall be consistent with any requirements contained in the federal Byrne grant for that program. Evaluations required by this section shall to the extent feasible compare offenders treated under the programs with other offenders of similar characteristics. Not later than June 1, 2004, the state court administrative office shall provide a progress report regarding the status and findings of the evaluation to the senate and house appropriations subcommittees on the judiciary, the senate and house fiscal agencies, and the state budget director.

Sec. 311. (1) The funds appropriated in part 1 for drug treatment courts shall be administered by the state court administrative office to operate drug treatment court programs. A drug treatment court program shall not receive funds for more than 5 years. A drug treatment court shall be responsible for handling cases involving substance abusing nonviolent offenders through comprehensive supervision, testing, treatment services, and immediate sanctions and incentives. A drug treatment court shall use all available county and state personnel involved in the disposition of cases including, but not limited to, parole and probation agents, prosecuting attorney, defense attorney, and community corrections providers. The funds may be used in connection with other federal, state, and local funding sources.

(2) Local units of government are encouraged to refer to federal drug treatment court guidelines to prepare proposals. However, federal agency approvals are not required for funding under this section.

(3) From the funds appropriated in part 1, the chief justice shall allocate sufficient funds for the judicial institute to provide in-state training for those identified in subsection (1), including training for new drug treatment court judges.

(4) For drug treatment court grants, consideration for priority may be given to those courts where higher instances of substance abuse cases are filed.

(5) The judiciary shall receive \$1,800,000.00 in Byrne formula grant funding as an interdepartmental grant from the department of community health to be used for expansion of drug treatment courts, to assist in avoiding prison bed space growth for nonviolent offenders in collaboration with the department of corrections.

Sec. 312. From the funds appropriated in part 1, the state court administrator shall produce a statistical report regarding the implementation of the parental rights restoration act, 1990 PA 211, MCL 722.901 to 722.908, as it pertains to minors seeking a court-issued waiver of parental consent. The state court administrative office shall report the total number of petitions filed and the total number of petitions granted in accordance with section 208.

Sec. 313. (1) The appropriation in part 1 for the judicial technology improvement fund shall be allocated for the development of a statewide judicial information system. The supreme court, working with the department of state

police, department of corrections, secretary of state, prosecuting attorneys association of Michigan, and the department of information technology, will develop a statewide telecommunications infrastructure to integrate criminal justice information systems. The judicial technology improvement fund shall also provide grants to local trial court funding units to encourage technology innovations by local trial courts that will result in enhanced public service. These innovations will include, but not be limited to, electronic filing, on-line payments of fines and fees, and web-based instructions for completion of court documents.

(2) Funds in part 1 may be used to develop, operate, and maintain the cyber court created in chapter 80 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8001 to 600.8029.

(3) There is hereby appropriated to the judiciary for deposit into the judicial technology improvement fund \$6,000,000.00 contingent upon the receipt of a refund from the federal government related to penalties previously imposed for the child support enforcement system of which not less than \$1,000,000.00 and not more than \$2,000,000.00 shall be utilized towards development and operation of a cyber court system as identified in subsection (2). The appropriation to the judiciary of refund money related to the child support enforcement system shall precede any other appropriations of such resources. Notwithstanding subsection (2), any child support enforcement system penalty refund resources deposited into the judicial technology improvement fund shall be expended in the manner as prescribed in subsection (1). The child support enforcement system refund revenue when certified as available in the judicial technology improvement fund by the judiciary shall remain unallotted until such time as the state budget director has reviewed and approved an allotment schedule submitted by the judiciary. Unexpended resources remaining in the fund at the end of the fiscal year may be carried forward for expenditure in the following year for the same purposes as described in this section.

Sec. 314. If funds become available from the federal government for mental health courts, the state court administrative office shall assist those local trial courts who are interested in starting a mental health court in writing grants and any other assistance that may help them receive such funds.

Sec. 315. The judicial branch shall communicate regarding information technology activities with the department of information technology.

Second: That the Senate and House agree to the title of the bill to read as follows:

A bill to make appropriations for the judicial branch for the fiscal year ending September 30, 2004; to provide for the expenditure of these appropriations; to place certain restrictions on the expenditure of these appropriations; to prescribe the powers and duties of certain officials and employees; to require certain reports; and to provide for the disposition of fees and other income received by the judicial branch.

Alan L. Cropsey  
Mike Goschka  
Conferees for the Senate

John Stewart  
Glenn Steil, Jr.  
Conferees for the House

Pursuant to joint rule 9, the conference report was laid over one day.

Senator Hammerstrom submitted the following:

#### FIRST CONFERENCE REPORT

The Committee of Conference on the matters of difference between the two Houses concerning  
**Senate Bill No. 460, entitled**

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 3406q (MCL 500.3406q), as added by 2002 PA 538, and by adding chapter 37.

Recommends:

First: That the Senate and House agree to the Substitute of the House as passed by the House, amended to read as follows:

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 3406q (MCL 500.3406q), as added by 2002 PA 538, and by adding chapter 37.

#### THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 3406q. (1) An expense-incurred hospital, medical, or surgical policy or certificate delivered, issued for delivery, or renewed in this state that provides pharmaceutical coverage and a health maintenance organization contract **that provides pharmaceutical coverage** shall provide coverage for an off-label use of a federal food and drug administration approved drug and the reasonable cost of supplies medically necessary to administer the drug.

(2) Coverage for a drug under subsection (1) applies if all of the following conditions are met:

(a) The drug is approved by the federal food and drug administration.

(b) The drug is prescribed by an allopathic or osteopathic physician for the treatment of either of the following:

(i) A life-threatening condition so long as the drug is medically necessary to treat that condition and the drug is on the plan formulary or accessible through the health plan's formulary procedures.

(ii) A chronic and seriously debilitating condition so long as the drug is medically necessary to treat that condition and the drug is on the plan formulary or accessible through the health plan's formulary procedures.

(c) The drug has been recognized for treatment for the condition for which it is prescribed by 1 of the following:

(i) The American medical association drug evaluations.

(ii) The American hospital formulary service drug information.

(iii) The United States pharmacopoeia dispensing information, volume 1, "drug information for the health care professional".

(iv) Two articles from major peer-reviewed medical journals that present data supporting the proposed off-label use or uses as generally safe and effective unless there is clear and convincing contradictory evidence presented in a major peer-reviewed medical journal.

(3) Upon request, the prescribing allopathic or osteopathic physician shall supply to the insurer or health maintenance organization documentation supporting compliance with subsection (2).

(4) This section does not prohibit the use of a copayment, deductible, sanction, or a mechanism for appropriately controlling the utilization of a drug that is prescribed for a use different from the use for which the drug has been approved by the food and drug administration. This may include prior approval or a drug utilization review program. Any copayment, deductible, sanction, prior approval, drug utilization review program, or mechanism described in this subsection shall not be more restrictive than for prescription coverage generally.

(5) As used in this section:

(a) "Chronic and seriously debilitating" means a disease or condition that requires ongoing treatment to maintain remission or prevent deterioration and that causes significant long-term morbidity.

(b) "Life-threatening" means a disease or condition where the likelihood of death is high unless the course of the disease is interrupted or that has a potentially fatal outcome where the end point of clinical intervention is survival.

(c) "Off-label" means the use of a drug for clinical indications other than those stated in the labeling approved by the federal food and drug administration.

## CHAPTER 37

### SMALL EMPLOYER GROUP HEALTH COVERAGE

**Sec. 3701. As used in this chapter:**

(a) "Actuarial certification" means a written statement by a member of the American academy of actuaries or another individual acceptable to the commissioner that a small employer carrier is in compliance with the provisions of section 3705, based upon the person's examination, including a review of the appropriate records and the actuarial assumptions and methods used by the carrier in establishing premiums for applicable health benefit plans.

(b) "Affiliation period" means a period of time required by a small employer carrier that must expire before health coverage becomes effective.

(c) "Base premium" means the lowest premium charged for a rating period under a rating system by a small employer carrier to small employers for a health benefit plan in a geographic area.

(d) "Carrier" means a person that provides health benefits, coverage, or insurance in this state. For the purposes of this chapter, carrier includes a health insurance company authorized to do business in this state, a nonprofit health care corporation, a health maintenance organization, a multiple employer welfare arrangement, or any other person providing a plan of health benefits, coverage, or insurance subject to state insurance regulation.

(e) "COBRA" means the consolidated omnibus budget reconciliation act of 1985, Public Law 99-272, 100 Stat. 82.

(f) "Commercial carrier" means a small employer carrier other than a nonprofit health care corporation or health maintenance organization.

(g) "Creditable coverage" means, with respect to an individual, health benefits, coverage, or insurance provided under any of the following:

(i) A group health plan.

(ii) A health benefit plan.

(iii) Part A or part B of title XVIII of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395c to 1395i and 1395i-2 to 1395i-5, and 42 U.S.C. 1395j to 1395t, 1395u to 1395w, and 1395w-2 to 1395w-4.

(iv) Title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v, other than coverage consisting solely of benefits under section 1929 of title XIX of the social security act, 42 U.S.C. 1396t.

(v) Chapter 55 of title 10 of the United States Code, 10 U.S.C. 1071 to 1110. For purposes of chapter 55 of title 10 of the United States Code, 10 U.S.C. 1071 to 1110, “uniformed services” means the armed forces and the commissioned corps of the national oceanic and atmospheric administration and of the public health service.

(vi) A medical care program of the Indian health service or of a tribal organization.

(vii) A state health benefits risk pool.

(viii) A health plan offered under the employees health benefits program, chapter 89 of title 5 of the United States Code, 5 U.S.C. 8901 to 8914.

(ix) A public health plan, which for purposes of this chapter means a plan established or maintained by a state, county, or other political subdivision of a state that provides health insurance coverage to individuals enrolled in the plan.

(x) A health benefit plan under section 5(e) of title I of the peace corps act, Public Law 87-293, 22 U.S.C. 2504.

(h) “Eligible employee” means an employee who works on a full-time basis with a normal workweek of 30 or more hours. Eligible employee includes an employee who works on a full-time basis with a normal workweek of 17.5 to 30 hours, if an employer so chooses and if this eligibility criterion is applied uniformly among all of the employer’s employees and without regard to health status-related factors.

(i) “Geographic area” means an area in this state that includes not less than 1 entire county, established by a carrier pursuant to section 3705 and used for adjusting premiums for a health benefit plan subject to this chapter. In addition, if the geographic area includes 1 entire county and additional counties or portions of counties, the counties or portions of counties must be contiguous with at least 1 other county or portion of another county in that geographic area.

(j) “Group health plan” means an employee welfare benefit plan as defined in section 3(1) of subtitle A of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1002, to the extent that the plan provides medical care, including items and services paid for as medical care to employees or their dependents as defined under the terms of the plan directly or through insurance, reimbursement, or otherwise. As used in this chapter, all of the following apply to the term group health plan:

(i) Any plan, fund, or program that would not be, but for section 2721(e) of subpart 4 of part A of title XXVII of the public health service act, chapter 373, 110 Stat. 1967, 42 U.S.C. 300gg-21, an employee welfare benefit plan and that is established or maintained by a partnership, to the extent that the plan, fund, or program provides medical care, including items and services paid for as medical care, to present or former partners in the partnership, or to their dependents, as defined under the terms of the plan, fund, or program, directly or through insurance, reimbursement or otherwise, shall be treated, subject to subparagraph (ii), as an employee welfare benefit plan that is a group health plan.

(ii) The term “employer” also includes the partnership in relation to any partner.

(iii) The term “participant” also includes an individual who is, or may become, eligible to receive a benefit under the plan, or the individual’s beneficiary who is, or may become, eligible to receive a benefit under the plan. For a group health plan maintained by a partnership, the individual is a partner in relation to the partnership and for a group health plan maintained by a self-employed individual, under which 1 or more employees are participants, the individual is the self-employed individual.

(k) “Health benefit plan” or “plan” means an expense-incurred hospital, medical, or surgical policy or certificate, nonprofit health care corporation certificate, or health maintenance organization contract. Health benefit plan does not include accident-only, credit, dental, or disability income insurance; long-term care insurance; coverage issued as a supplement to liability insurance; coverage only for a specified disease or illness; worker’s compensation or similar insurance; or automobile medical-payment insurance.

(l) “Index rate” means the arithmetic average during a rating period of the base premium and the highest premium charged per employee for each health benefit plan offered by each small employer carrier to small employers and sole proprietors in a geographic area.

(m) “Nonprofit health care corporation” means a nonprofit health care corporation operating pursuant to the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(n) “Premium” means all money paid by a small employer, a sole proprietor, eligible employees, or eligible persons as a condition of receiving coverage from a small employer carrier, including any fees or other contributions associated with the health benefit plan.

(o) “Rating period” means the calendar period for which premiums established by a small employer carrier are assumed to be in effect, as determined by the small employer carrier.

(p) “Small employer” means any person, firm, corporation, partnership, limited liability company, or association actively engaged in business who, on at least 50% of its working days during the preceding and current calendar years, employed at least 2 but not more than 50 eligible employees. In determining the number of eligible employees, companies that are affiliated companies or that are eligible to file a combined tax return for state taxation purposes shall be considered 1 employer.

(q) “Small employer carrier” means either of the following:

(i) A carrier that offers health benefit plans covering the employees of a small employer.

(ii) A carrier under section 3703(3).

(r) "Sole proprietor" means an individual who is a sole proprietor or sole shareholder in a trade or business through which he or she earns at least 50% of his or her taxable income as defined in section 30 of the income tax act of 1967, 1967 PA 281, MCL 206.30, excluding investment income, and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year; who is a resident of this state; and who is actively employed in the operation of the business, working at least 30 hours per week in at least 40 weeks out of the calendar year.

(s) "Waiting period" means, with respect to a health benefit plan and an individual who is a potential enrollee in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan. For purposes of calculating periods of creditable coverage under this chapter, a waiting period shall not be considered a gap in coverage.

Sec. 3703. (1) This chapter applies to any health benefit plan that provides coverage to 2 or more employees of a small employer.

(2) This chapter does not apply to individual health insurance policies that are subject to policy form and premium approval by the commissioner.

(3) A nonprofit health care corporation shall make available upon request a health benefit plan to a sole proprietor. This chapter does apply to a nonprofit health care corporation providing a health benefit plan to a sole proprietor and to any other small employer carrier that elects to provide a health benefit plan to a sole proprietor.

Sec. 3705. (1) For adjusting premiums for health benefit plans subject to this chapter, a carrier may establish up to 10 geographic areas in this state. A nonprofit health care corporation shall establish geographic areas that cover all counties in this state.

(2) Premiums for a health benefit plan under this chapter are subject to the following:

(a) For a nonprofit health care corporation, only industry and age may be used for determining the premiums within a geographic area for a small employer or sole proprietor located in that geographic area. For a health maintenance organization, only industry, age, and group size may be used for determining the premiums within a geographic area for a small employer or sole proprietor located in that geographic area. For a commercial carrier, only industry, age, group size, and health status may be used for determining the premiums within a geographic area for a small employer or sole proprietor located in that geographic area.

(b) The premiums charged during a rating period by a nonprofit health care corporation or a health maintenance organization for a health benefit plan in a geographic area to small employers or sole proprietors located in that geographic area shall not vary from the index rate for that health benefit plan by more than 35% of the index rate. However, for a health benefit plan issued before the effective date of this chapter by a nonprofit health care corporation or health maintenance organization, the premiums for the plan are subject to the following:

(i) For a renewal occurring on or after the effective date of this chapter and through December 31, 2004, the premiums charged for a health benefit plan in a geographic area to small employers or sole proprietors located in that geographic area shall not be higher than 15% above the index rate or lower than 35% below the index rate.

(ii) For a renewal occurring on or after January 1, 2005, the premiums charged for a health benefit plan in a geographic area to small employers or sole proprietors located in that geographic area shall not vary from the index rate for that health benefit plan by more than 35% of the index rate.

(c) The premiums charged during a rating period by a commercial carrier for a health benefit plan in a geographic area to small employers or sole proprietors located in that geographic area shall not vary from the index rate for that health benefit plan by more than 45% of the index rate. However, for a health benefit plan issued before the effective date of this chapter by a commercial carrier, the premiums for the plan are subject to the following:

(i) For a renewal occurring on or after the effective date of this chapter and through December 31, 2004, the premiums charged for a health benefit plan in a geographic area to small employers or sole proprietors located in that geographic area shall not vary from the index rate for that health benefit plan by more than 70% of the index rate.

(ii) For a renewal occurring on or after January 1, 2005 and through December 31, 2005, the premiums charged for a health benefit plan in a geographic area to small employers or sole proprietors located in that geographic area shall not vary from the index rate for that health benefit plan by more than 55% of the index rate.

(iii) For a renewal occurring on or after January 1, 2006, the premiums charged for a health benefit plan in a geographic area to small employers or sole proprietors located in that geographic area shall not vary from the index rate for that health benefit plan by more than 45% of the index rate.

(d) For a sole proprietor, a small employer carrier may charge an additional premium of up to 25% above the premiums in subdivision (b) or (c).

(e) Except as otherwise provided in this section, the percentage increase in the premiums charged to a small employer or sole proprietor in a geographic area for a new rating period shall not exceed the sum of the annual percentage adjustment in the geographic area's index rate for the health benefit plan and an adjustment pursuant to subdivision (a). The adjustment pursuant to subdivision (a) shall not exceed 15% annually and shall be adjusted pro rata for rating periods of less than 1 year. This subdivision does not prohibit an adjustment due to change in coverage.

(3) Beginning 1 year after the effective date of this chapter, if a small employer had been covered by a self-insured health benefit plan immediately preceding application for a health benefit plan subject to this chapter, a carrier may charge an additional premium of up to 33% above the premium in subsection (2)(b) or (c) for no more than 2 years.

(4) Health benefit plan options, number of family members covered, and medicare eligibility may be used in establishing a small employer's or sole proprietor's premium.

(5) A small employer carrier shall apply all rating factors consistently with respect to all small employers and sole proprietors in a geographic area. Except as provided in subsection (4), a small employer carrier shall bill a small employer group only with a composite rate and shall not bill so that 1 or more employees in a small employer group are charged a higher premium than another employee in that small employer group.

Sec. 3706. (1) A small employer carrier may apply an open enrollment period for sole proprietors. If a small employer carrier applies an open enrollment period for sole proprietors, the open enrollment period shall be offered at least annually and shall be at least 1 month long.

(2) A small employer carrier is not required to offer or provide to a sole proprietor all health benefit plans available to small employers who are not sole proprietors. However, a small employer carrier is required to offer to all sole proprietors all health benefit plans in a geographic area that are available to any sole proprietor in that geographic area.

(3) A small employer carrier may exclude or limit coverage for a sole proprietor for a condition only if the exclusion or limitation relates to a condition for which medical advice, diagnosis, care, or treatment was recommended or received within 6 months before enrollment and the exclusion or limitation does not extend for more than 6 months after the effective date of the health benefit plan.

(4) A small employer carrier shall not impose a preexisting condition exclusion for a sole proprietor that relates to pregnancy as a preexisting condition or with regard to a child who is covered under any creditable coverage within 30 days of birth, adoption, or placement for adoption, provided that the child does not experience a significant break in coverage and provided that the child was adopted or placed for adoption before attaining 18 years of age. A period of creditable coverage under this subsection shall not be counted for enrollment of an individual under a health benefit plan if, after this period and before the enrollment date, there was a 63-day period during all of which the individual was not covered under any creditable coverage.

Sec. 3707. (1) As a condition of transacting business in this state with small employers, every small employer carrier shall make available to small employers all health benefit plans it markets to small employers in this state. A small employer carrier shall be considered to be marketing a health benefit plan if it offers that plan to a small employer not currently receiving a health benefit plan from that small employer carrier. A small employer carrier shall issue any health benefit plan to any small employer that applies for the plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with this chapter.

(2) Except as otherwise provided in this subsection, a small employer carrier shall not offer or sell to small employers a health benefit plan that contains a waiting period applicable to new enrollees or late enrollees. However, a small employer carrier may offer or sell to small employers other than sole proprietors a health benefit plan that provides for an affiliation period of time that must expire before coverage becomes effective for a new enrollee or a late enrollee if all of the following are met:

(a) The affiliation period is applied uniformly to all new and late enrollees and dependents of the new and late enrollees of the small employer and without regard to any health status-related factor.

(b) The affiliation period does not exceed 60 days for new enrollees and does not exceed 90 days for late enrollees.

(c) The small employer carrier does not charge any premiums for the enrollee during the affiliation period.

(d) The coverage issued is not effective for the enrollee during the affiliation period.

Sec. 3708. (1) A health benefit plan offered to a small employer by a small employer carrier shall provide for the acceptance of late enrollees subject to this chapter.

(2) A small employer carrier shall permit an employee or a dependent of the employee, who is eligible, but not enrolled, to enroll for coverage under the terms of the small employer health benefit plan during a special enrollment period if all of the following apply:

(a) The employee or dependent was covered under a group health plan or had coverage under a health benefit plan at the time coverage was previously offered to the employee or dependent.

(b) The employee stated in writing at the time coverage was previously offered that coverage under a group health plan or other health benefit plan was the reason for declining enrollment, but only if the small employer or carrier, if applicable, required such a statement at the time coverage was previously offered and provided notice to the employee of the requirement and the consequences of the requirement at that time.

(c) The employee's or dependent's coverage described in subdivision (a) was either under a COBRA continuation provision and that coverage has been exhausted or was not under a COBRA continuation provision and that other coverage has been terminated as a result of loss of eligibility for coverage, including because of a legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment or employer contributions toward that other coverage have been terminated. In either case, under the terms of the health benefit plan, the employee must request enrollment not later than 30 days after the date of exhaustion of coverage or termination of coverage or employer contribution. If an employee requests enrollment pursuant to this subdivision, the enrollment is effective not later than the first day of the first calendar month beginning after the date the completed request for enrollment is received.

(3) A small employer carrier that makes dependent coverage available under a health benefit plan shall provide for a dependent special enrollment period during which the person may be enrolled under the health benefit plan as a dependent of the individual or, if not otherwise enrolled, the individual may be enrolled under the health benefit plan. For a birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if the spouse is otherwise eligible for coverage. This subsection applies only if both of the following occur:

(a) The individual is a participant under the health benefit plan or has met any affiliation period applicable to becoming a participant under the plan and is eligible to be enrolled under the plan, but for a failure to enroll during a previous enrollment period.

(b) The person becomes a dependent of the individual through marriage, birth, or adoption or placement for adoption.

(4) The dependent special enrollment period under subsection (3) for individuals shall be a period of not less than 30 days and begins on the later of the date dependent coverage is made available or the date of the marriage, birth, or adoption or placement for adoption. If an individual seeks to enroll a dependent during the first 30 days of the dependent special enrollment period under subsection (3), the coverage of the dependent shall be effective as follows:

(a) For marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received.

(b) For a dependent's birth, as of the date of birth.

(c) For a dependent's adoption or placement for adoption, the date of the adoption or placement for adoption.

Sec. 3709. (1) Except as provided in this section, requirements used by a small employer carrier in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the small employer carrier. If a small employer carrier waives a minimum participation rule for a small employer, the carrier cannot later enforce that minimum participation rule for that small employer.

(2) A small employer carrier may deny coverage to a small employer if the small employer fails to enroll enough of its employees to meet the minimum participation rules established by the carrier pursuant to sound underwriting requirements. A minimum participation rule may require a small employer to enroll a certain number or percentage of employees with the small employer carrier as a condition of coverage. A minimum participation rule is subject to the following:

(a) For a small employer of 10 or fewer eligible employees, may require enrollment of up to 100% of the small employer's employees seeking health care coverage through the small employer.

(b) For a small employer of 11 to 25 eligible employees, may require enrollment of up to 75% of the small employer's employees seeking health care coverage through the small employer.

(c) For a small employer of 26 to 50 eligible employees, may require enrollment of up to 50% of the small employer's employees seeking health care coverage through the small employer.

Sec. 3711. (1) Except as provided in this section, a small employer carrier that offers health coverage in the small employer group market in connection with a health benefit plan shall renew or continue in force that plan at the option of the small employer or sole proprietor.

(2) Guaranteed renewal under subsection (1) is not required in cases of: fraud or intentional misrepresentation of the small employer or, for coverage of an insured individual, fraud or misrepresentation by the insured individual or the individual's representative; lack of payment; noncompliance with minimum participation requirements; if the small employer carrier no longer offers that particular type of coverage in the market; or if the sole proprietor or small employer moves outside the geographic area.

Sec. 3712. (1) If a small employer carrier decides to discontinue offering all small employer health benefit plans in a geographic area, all of the following apply:



(a) The small employer carrier shall provide notice to the commissioner and to each small employer covered by the small employer carrier in the geographic area of the discontinuation at least 180 days prior to the date of the discontinuation of the coverage.

(b) All small employer health benefit plans issued or delivered for issuance in the geographic area are discontinued and all current health benefit plans in the geographic area are not renewed.

(c) The small employer carrier shall not issue or deliver for issuance any small employer health benefit plans in the geographic area for 5 years beginning on the date the last small employer health benefit plan in the geographic area is not renewed under subdivision (b).

(d) The small employer carrier shall not issue or deliver for issuance for 5 years any small employer health benefit plans in an area that was not a geographic area where the small employer carrier was issuing or delivering for issuance small employer health benefit plans on the date notice was given under subdivision (a). The 5-year period under this subdivision begins on the date notice was given under subdivision (a).

(2) A nonprofit health care corporation shall not cease to renew all health benefit plans in a geographic area.

Sec. 3713. Each small employer carrier shall provide all of the following to a small employer upon request and upon entering into a contract with the small employer:

(a) The extent to which premiums for a specific small employer are established or adjusted due to any permitted characteristic and rating factors of the small employer's employees and the employees' dependents.

(b) The provisions concerning the carrier's right to change premiums, permitted characteristics, and any rating factors under this chapter that affect changes in premiums.

(c) The provisions relating to renewability of coverage.

Sec. 3715. (1) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(2) Each small employer carrier shall file each March 1 with the commissioner an actuarial certification, that the carrier is in compliance with this section and that the rating methods of the carrier are actuarially sound. A copy of the actuarial certification shall be retained by the carrier at its principal place of business.

(3) A small employer carrier shall make the information and documentation described in subsection (1) available to the commissioner upon request.

(4) This section is in addition to, and not in substitution of, the applicable filing provisions in this act and in the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

Sec. 3716. This chapter does not apply to a health benefit plan sponsored by a small employer that is an Archer medical savings account that meets all requirements of section 220 of the internal revenue code of 1986.

Sec. 3717. (1) Upon a request for suspension by the small employer carrier and a finding by the commissioner after consulting with the attorney general that the suspension is reasonable in light of the financial condition of the carrier and that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance, the commissioner may suspend all or any part of section 3705 as to the premiums applicable to 1 or more small employers for 1 or more rating periods and may suspend section 3712(1)(c) or (d).

(2) A commercial carrier whose capital and surplus as concerns policyholders as of December 31, 2003 as shown on the annual financial statement filed with the commissioner is \$18,000,000.00 or less may be exempt from this chapter, if the commercial carrier had policyholders residing in Michigan before June 1, 2003, the commercial carrier files with the commissioner a written request for an exemption, and the commissioner, after reviewing the commercial carrier's request and annual financial statement, determines an exemption is warranted.

(3) An exemption granted under subsection (2) is effective for 3 years, so long as the commercial carrier experiences no disproportionate growth in premium volume in business written, or changes in the commercial carrier's pattern, location, or contours of that insurance business that indicate that the commercial carrier is utilizing its exemption to take unfair competitive advantage of competing small employer carriers who do not qualify for the exemption. A commercial carrier that meets the requirements of subsections (2) to (5) may reapply every 3 years to the commissioner for a subsection (2) exemption. The commissioner shall continue an exemption granted under subsection (2) if the commissioner finds the commercial carrier meets the criteria in subsections (2) to (5) for the exemption.

(4) The commissioner shall not grant an exemption under subsection (2) to any carrier that directly, or indirectly through 1 or more intermediaries, controls, is controlled by, or is under common control with a carrier whose surplus as concerns policyholders is in excess of the amount stated in subsection (2).

(5) A carrier admitted to do business in this state after June 1, 2003 is not eligible for an exemption under subsection (2).

Sec. 3718. A nonprofit health care corporation is subject to section 619 of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1619.

**Sec. 3721. (1) By May 15, 2007 and by each May 15 after 2007, the commissioner shall make a determination as to whether a reasonable degree of competition in the small employer carrier health market exists on a statewide basis. In making this determination, the commissioner shall hold a public hearing in 2007 and may hold a public hearing thereafter, shall seek advice and input from appropriate independent sources, and shall issue a report delineating specific classifications and kinds or types of insurance, if any, where competition does not exist and any suggested statutory or other changes necessary to increase or encourage competition. The report shall be based on relevant economic tests, including, but not limited to, those in subsection (3). Report findings shall not be based on any single measure of competition, but appropriate weight shall be given to all measures of competition.**

**(2) If the results of the report issued under subsection (1) are disputed or if the commissioner determines that circumstances that the report was based on have changed, the commissioner shall issue a supplemental report to the report under subsection (1) that includes a certification of whether or not a reasonable degree of competition exists in the small employer carrier health market. The supplemental report and certification shall be issued not later than December 15 immediately following the release of the report under subsection (1) that this report supplements and shall be supported by substantial evidence.**

**(3) All of the following shall be considered by the commissioner for purposes of subsections (1) and (2):**

**(a) The extent to which any carrier controls all or a portion of the small employer carrier health benefit plan market.**

**(b) Whether the total number of carriers writing small employer health benefit plan coverage in this state is sufficient to provide multiple options to small employers.**

**(c) The disparity among small employer health benefit plan rates and classifications to the extent that those classifications result in rate differentials.**

**(d) The availability of small employer health benefit plan coverage to small employers in all geographic areas and all types of business.**

**(e) The overall rate level that is not excessive, inadequate, or unfairly discriminatory.**

**(f) Any other factors the commissioner considers relevant.**

**(4) The reports and certifications required under subsections (1) and (2) shall be forwarded to the governor, the clerk of the house, the secretary of the senate, and all the members of the senate and house of representatives standing committees on insurance and health issues.**

**Sec. 3723. The provisions of this chapter apply to each health benefit plan for a small employer or sole proprietor that is delivered, issued for delivery, renewed, or continued in this state on or after the effective date of this chapter. For purposes of this section, the date a health benefit plan is continued is the first rating period that begins on or after the effective date of this chapter.**

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 234 of the 92nd Legislature is enacted into law.

Enacting section 2. This amendatory act takes effect 6 months after the date this amendatory act is enacted.

Second: That the Senate and House agree to the title of the bill to read as follows:

A bill 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 340q (MCL 500.3406q), as added by 2002 PA 538, and by adding chapter 37.

Beverly S. Hammerstrom  
Bruce Patterson  
Robert L. Emerson  
Conferees for the Senate

Rick Johnson  
Dianne Byrum  
Conferees for the House

Pending the order that, under joint rule 9, the conference report be laid over one day,  
Senator Hammerstrom moved that the rule be suspended.

The motion prevailed, a majority of the members serving voting therefor.

The question being on the adoption of the conference report,

The first conference report was adopted, a majority of the members serving voting therefor, as follows:

**Roll Call No. 295**

**Yeas—34**

Allen	Cherry	Jelinek	Schauer
Barcia	Clark-Coleman	Kuipers	Scott
Basham	Clarke	Leland	Sikkema
Bernero	Cropsey	McManus	Stamas
Birkholz	Emerson	Olshove	Switalski
Bishop	Gilbert	Patterson	Thomas
Brater	Goschka	Prusi	Toy
Brown	Hammerstrom	Sanborn	Van Woerkom
Cassis	Hardiman		

**Nays—3**

Garcia	George	Johnson
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**Excused—1**

Jacobs

**Not Voting—0**

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,  
The recommendation was concurred in, 2/3 of the members serving voting therefor.

### Protests

Senators Garcia and George, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the first conference report on Senate Bill No. 460.

Senator Garcia's statement is as follows:

First, let me commend the primary sponsors of this bill and the chair of this committee for working hard on this bill. I know there were a lot of questions and a lot of work to be done, and they certainly had their hearts in the right place.

Reluctantly, I had to vote "no" again for the fact that I just received the conference report, did not fully understand the subsequent changes in it, and if there were that many changes. If you recall, I voted for the bill the first time around when it passed the Senate.

To my understanding, the rate bands on these bills have been tried in a number of other states, and many of the states that have tried them have repealed them or are in the process of repealing them. The ones that the Representative from the House attempted to install in the bill have worked in other states. Caught between information, I had to rely on my constituents, and I still continue to receive information, notes, letters, and e-mails asking me to vote against these bills. That's, in essence, why I voted against the bills.

I sincerely hope that the folks who worked on this and who urged us to vote for this are right in the long-run. It will help slow down the rising cost of health care for small businesses. Know that all of us want to see that happen. I am not sure that this is the right way to go about it. That's why I voted "no."

Senator George moved that the statement he made during the discussion of the conference report be printed as his reasons for voting "no."

The motion prevailed.

Senator George's statement is as follows:

I rise again to explain why I will be voting "no" on this particular bill. I do know that many people worked very hard to put this package together. There was a lot of testimony taken. This was an important issue to the House last year, and the Senate this session has spent a lot of time on it. The previous speaker was right. There are very legitimate issues regarding the costs of health care in our state, and we hear that all the time when we go to our districts.

What can we do to help control health care costs? It is a very significant issue when it comes to the competitiveness of our businesses, especially against overseas manufacturers. How can we compete when health care is so expensive? The root causes of the rises in health care costs in our country are related to utilization, aging in the population, and new technologies. We see the results of those around us all the time. I certainly do when I return home to my medical practice. Operations, surgeries, and medical technologies that were never envisioned when health insurance was invented, say 30 or 40 years ago, are now commonplace. So I agree that we have a very legitimate issue with the rising costs, and there are things that we should be doing to address it.

The issues in this bill really are the rate bands that it would impose on the commercial carriers that I think are not advised. I want to give you an example of how those rate bands would work. The promise that they are based on is that Blue Cross is suffering from other insurance companies taking the younger, healthier patients and offering them reduced rates. This has become a problem for Blue Cross, and it has made it hard for them to compete. In fact, Blue Cross has been very successful in the last few decades. They've grown as a company. They are now a \$10 billion organization, have the largest share of the market of any health insurer in this state, and they are making money. They had a surplus that they reported recently of over \$100 million.

So the promise that the rate bands are going to help correct our underlying health care problems, I believe, is flawed, and I want to give you one concrete example. I have a gentleman who worked on my campaign last fall, and he was 22 years old and wanted health insurance. So I shopped around and found him a policy that was \$35 a month. He got such a good deal because he was so young and healthy. He got a 90 percent discount. The rate for somebody my age—46 years old—who's healthy, would have been about \$350. Now under the bill before us, the biggest discount that could be offered to my campaign manager, to my 22-year-old friend, would have been 40 percent off of that \$350 average premium. That would have been about a \$150 discount. We would have paid \$210 a month compared to \$35 a month. It is a 600 percent difference. Now some say that is cherry picking, but others might look at that as competition. We should be looking for ways to reward healthy behavior, patients who don't smoke, and people who take care of themselves. What's lacking in our system is a series of incentives for young and healthy people.

You know, the Governor wants to attract young workers to the state as we all do, and she was talking about having cool, hip cities. Well, what we are saying here is come to Michigan, and we will charge you more so you can subsidize the rest of the health care pool. This is a step in the wrong direction. I handed out, the last time this issue came up, an article from the *Flint Journal*. It related the health care woes of the people in Flint who were looking to purchase health care insurance, and it told the stories of a couple of families. It concluded by noting that in each case, the individuals who were described in the story eventually found cheaper insurance through another carrier. A promise of the article was that the cost had gone up, but in fact, they were able to find insurance elsewhere at a lower rate.

So the current system, Mr. President, is working, and that is why I am voting against the bill.

Senator Patterson asked and was granted unanimous consent to make a statement and moved that the statement be printed in the Journal.

The motion prevailed.

Senator Patterson’s statement is as follows:

I rise to address you in support of Senate Bill No. 460. This bill is the work product of more than a few people and illustrates how the legislative process is intended to work.

Starting with a problem identified by actual experience and confirmed by specific evidence, a bill was originally introduced. Over the course of many ensuing weeks, hundreds of hours of research, and thoughtful consideration, amplified and punctuated by knowing, relevant testimony, expert and anecdotal, it has evolved into its present form. Due to the skillful management of the committee chair and the diligent, committed, indefatigable, assiduous effort of staff, it is now ready for our collective, unequivocal support.

I say this knowing full well that causes beyond our control preclude our ability to cut premium costs or actually increase the percentage of covered lives. This legislation addresses a serious issue in a thoughtful way, and it reaches the goal of doing the possible. It will improve our current condition by lessening the rate by which premium rates would otherwise rise if we failed to act or even if we took some other action.

More specifically, it will ensure the availability of an option known as MSA(s) and the viability of an essential nonprofit entity relied upon and trusted by millions of our constituents.

I commend to the consideration of the body the book of Dr. David Janda entitled *Awakening of a Surgeon*, page 177. He found that widespread use of medical savings accounts would cut as much as \$200 billion from the annual U.S. health care bill. Some of the savings would accrue as a result of preventive measures that it would stimulate, e.g. mammograms, well-baby checks, and routine annual physicals.

By voting in favor of this conference report, I am comfortable in declaring that all in favor have fulfilled their obligation of due diligence on behalf of the people of Michigan.

Senator Garcia submitted the following:

FIRST CONFERENCE REPORT

The Committee of Conference on the matters of difference between the two Houses concerning **Senate Bill No. 286, entitled**

A bill to make appropriations for the department of consumer and industry services and certain other state purposes for the fiscal year ending September 30, 2004; to provide for the expenditure of those appropriations; to provide for the imposition of certain fees; to provide for the disposition of fees and other income received by the state agencies; to provide for reports to certain persons; and to prescribe powers and duties of certain state departments and certain state and local agencies and officers.

Recommends:

First: That the Senate and House agree to the Substitute of the House as passed by the House, amended to read as follows:

A bill to make appropriations for the department of consumer and industry services and certain other state purposes for the fiscal year ending September 30, 2004; to provide for the expenditure of those appropriations; to provide for the imposition of certain fees; to provide for the disposition of fees and other income received by the state agencies; to provide for reports to certain persons; and to prescribe powers and duties of certain state departments and certain state and local agencies and officers.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

PART 1

LINE-ITEM APPROPRIATIONS

Sec. 101. The amounts listed in this part are appropriated for the department of consumer and industry services, subject to the conditions set forth in this act, for the fiscal year ending September 30, 2004, from the funds identified in this part. The following is a summary of the appropriations in this part:

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**APPROPRIATION SUMMARY:**

Full-time equated unclassified positions .....	63.5	
Full-time equated classified positions .....	3,470.0	
<b>GROSS APPROPRIATION .....</b>		<b>\$ 603,526,200</b>
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers .....		111,100

	For Fiscal Year Ending Sept. 30, 2004
ADJUSTED GROSS APPROPRIATION .....	\$ 603,415,100
Federal revenues:	
Total federal revenues .....	283,831,500
Special revenue funds:	
Total local revenues .....	0
Total private revenues .....	770,000
Total other state restricted revenues .....	299,143,800
State general fund/general purpose .....	\$ 19,669,800
<b>Sec. 102. EXECUTIVE DIRECTION</b>	
Full-time equated unclassified positions .....	63.5
Full-time equated classified positions .....	142.0
Unclassified salaries .....	\$ 5,349,400
Executive director programs—27.0 FTE positions .....	2,881,400
Policy development—16.0 FTE positions .....	1,746,800
Utility consumer representation .....	550,000
Regulatory efficiency improvements/backlog reduction initiative .....	750,000
MES board of review program—18.0 FTE positions.....	1,773,900
Bureau of hearings—72.0 FTE positions .....	8,070,800
Energy office—9.0 FTE positions .....	2,654,200
GROSS APPROPRIATION .....	\$ 23,776,500
Appropriated from:	
Federal revenues:	
DOE-OEERE, multiple grants.....	2,179,100
DOL-ETA, unemployment insurance .....	8,518,400
DOL, multiple grants for safety and health.....	160,300
Special revenue funds:	
Private - oil overcharge .....	30,000
Bank fees .....	165,200
Boiler fees .....	33,500
Construction code fund .....	438,800
Consumer finance fees .....	61,200
Corporation fees .....	2,381,200
Credit union fees.....	112,700
Elevator fees .....	37,400
Fees and collections/asbestos.....	11,100
Health professions regulatory fund .....	1,277,800
Health systems fees and collections .....	184,300
Insurance regulatory fees .....	531,900
Licensing and regulation fees.....	742,600
Liquor license fees.....	100,000
Liquor purchase revolving fund .....	1,594,100
Manufactured housing commission fees.....	147,300
Michigan state housing development authority fees and charges.....	444,100
Motor carrier fees .....	36,100
Public utility assessments .....	1,296,600
Safety education and training fund .....	226,200
Second injury fund.....	82,300
Securities fees.....	2,297,400
Self-insurers security fund .....	22,300
Silicosis and dust disease fund.....	32,700
Tax tribunal fees .....	1,100
Utility consumer representation fund .....	550,000
Worker's compensation administrative revolving fund .....	80,800
State general fund/general purpose .....	\$ 0
<b>Sec. 103. MANAGEMENT SERVICES</b>	
Full-time equated classified positions .....	136.0

	For Fiscal Year Ending Sept. 30, 2004
Administrative services—136.0 FTE positions.....	\$ 9,982,600
Rent .....	12,884,100
Building occupancy charges - property development services.....	12,727,400
Worker’s compensation .....	1,714,000
Special project advances .....	740,000
<b>GROSS APPROPRIATION .....</b>	<b>\$ 38,048,100</b>
Appropriated from:	
Federal revenues:	
DOL-ETA, unemployment insurance .....	14,835,100
DOL, multiple grants for safety and health.....	610,700
Federal funds .....	418,000
HHS, federal funds .....	45,600
Special revenue funds:	
Private - special project advances .....	740,000
Bank fees .....	439,800
Boiler fee revenue.....	227,600
Construction code fund.....	1,217,900
Consumer finance fees .....	162,500
Corporation fees .....	3,120,600
Credit union fees.....	324,500
Elevator fees .....	242,500
Fees and collections/asbestos.....	52,600
Fire service fees.....	62,000
Health professions regulatory fund .....	963,200
Health systems fees and collections .....	343,300
Insurance regulatory fees .....	776,000
Licensing and regulation fees.....	947,500
Licensing fees.....	5,800
Liquor purchase revolving fund .....	3,929,300
Manufactured housing commission fees.....	174,300
Michigan state housing development authority fees and charges.....	3,078,900
Motor carrier fees .....	209,200
Public utility assessments .....	1,293,300
Safety education and training fund .....	539,600
Second injury fund.....	185,700
Securities fees.....	2,268,600
Self-insurers security fund.....	50,800
Silicosis and dust disease fund.....	75,200
Tax tribunal fees .....	33,100
Worker’s compensation administrative revolving fund.....	674,900
State general fund/general purpose .....	\$ 0
<b>Sec. 104. OFFICE OF FINANCIAL AND INSURANCE SERVICES</b>	
Full-time equated classified positions .....	254.0
Administration—8.0 FTE positions.....	\$ 2,583,300
Policy conduct and consumer assistance—113.0 FTE positions.....	12,158,900
Financial evaluation—133.0 FTE positions.....	18,076,100
<b>GROSS APPROPRIATION .....</b>	<b>\$ 32,818,300</b>
Appropriated from:	
Federal revenues:	
Federal funds .....	50,400
Special revenue funds:	
Bank fees .....	6,147,300
Consumer finance fees .....	3,102,000
Credit union fees.....	4,292,200
Insurance continuing education fees .....	700,900
Insurance licensing and regulation fees.....	3,112,000

	For Fiscal Year Ending Sept. 30, 2004
Insurance regulatory fees .....	\$ 12,721,700
Multiple employer welfare arrangement.....	65,700
Securities fees.....	2,626,100
State general fund/general purpose .....	\$ 0
<b>Sec. 105. PUBLIC SERVICE COMMISSION</b>	
Full-time equated classified positions .....	138.0
Administration, planning and regulation—138.0 FTE positions.....	\$ 16,687,500
Low-income/energy efficiency assistance.....	57,000,000
GROSS APPROPRIATION .....	\$ 73,687,500
Appropriated from:	
Federal revenues:	
DOE-OEERE, multiple grants.....	149,000
DOT-RSPA, gas pipeline safety.....	285,900
Special revenue funds:	
Motor carrier fees .....	1,856,600
Public utility assessments .....	14,396,000
Low-income and energy efficiency fund .....	57,000,000
State general fund/general purpose .....	\$ 0
<b>Sec. 106. LIQUOR CONTROL COMMISSION</b>	
Full-time equated classified positions .....	152.0
Management support services—28.0 FTE positions.....	\$ 2,709,300
Liquor licensing and enforcement—124.0 FTE positions.....	10,968,000
Liquor law enforcement grants .....	6,000,000
Grant to department of agriculture, wine industry council.....	457,200
GROSS APPROPRIATION .....	\$ 20,134,500
Appropriated from:	
Special revenue funds:	
Liquor license revenue .....	11,076,700
Liquor purchase revolving fund .....	8,600,600
Nonretail liquor license revenue .....	457,200
State general fund/general purpose .....	\$ 0
<b>Sec. 107. MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY</b>	
Full-time equated classified positions .....	232.0
Payments on behalf of tenants .....	\$ 120,000,000
Housing and rental assistance program—232.0 FTE positions.....	30,337,800
GROSS APPROPRIATION .....	\$ 150,337,800
Appropriated from:	
Federal revenues:	
HUD, lower income housing assistance program .....	136,280,900
Special revenue funds:	
Michigan state housing development authority fees and charges.....	14,056,900
State general fund/general purpose .....	\$ 0
<b>Sec. 108. TAX TRIBUNAL</b>	
Full-time equated classified positions .....	12.0
Operations—12.0 FTE positions .....	\$ 1,276,100
GROSS APPROPRIATION .....	\$ 1,276,100
Appropriated from:	
Special revenue funds:	
Tax tribunal fees .....	640,500
State general fund/general purpose .....	\$ 635,600
<b>Sec. 109. GRANTS</b>	
Fire protection grants.....	\$ 15,839,000
GROSS APPROPRIATION .....	\$ 15,839,000
Appropriated from:	
Special revenue funds:	
Liquor purchase revolving fund .....	15,839,000



	For Fiscal Year Ending Sept. 30, 2004
State general fund/general purpose .....	\$ 0
<b>Sec. 110. HEALTH REGULATORY SYSTEMS</b>	
Full-time equated classified positions .....	334.0
Health systems administration—184.0 FTE positions .....	\$ 17,180,800
Emergency medical services program state staff—5.0 FTE positions .....	904,700
Radiological health administration and projects—25.0 FTE positions .....	2,023,600
Substance abuse program administration—4.0 FTE positions .....	397,900
Emergency medical services grants and contracts .....	1,046,200
Health services—116.0 FTE positions .....	14,207,000
GROSS APPROPRIATION .....	\$ 35,760,200
Appropriated from:	
Federal revenues:	
Federal funds .....	12,952,400
Special revenue funds:	
Pain management education and controlled substances, electronic monitoring and antidiversion fund .....	1,362,300
Health professions regulatory fund .....	11,333,700
Health systems fees and collections .....	4,468,500
Nurse professional fund .....	823,100
State general fund/general purpose .....	\$ 4,820,200
<b>Sec. 111. REGULATORY SERVICES</b>	
Full-time equated classified positions .....	219.0
AFC, children’s welfare and day care licensure—219.0 FTE positions .....	\$ 22,980,300
GROSS APPROPRIATION .....	\$ 22,980,300
Appropriated from:	
Federal revenues:	
HHS, federal funds .....	11,093,700
Special revenue funds:	
Health systems fees and collections .....	94,200
Licensing fees .....	490,500
State general fund/general purpose .....	\$ 11,301,900
<b>Sec. 112. OCCUPATIONAL REGULATION</b>	
Full-time equated classified positions .....	389.0
Commissions and boards.....	\$ 49,700
Code enforcement—157.0 FTE positions.....	13,757,800
Boiler inspection program—23.0 FTE positions .....	2,195,200
Elevator inspection program—27.0 FTE positions .....	2,280,400
Commercial services—149.0 FTE positions.....	13,993,400
Local manufactured housing communities inspections.....	250,000
Manufactured housing and land resources program—22.0 FTE positions .....	2,625,000
Property development group—11.0 FTE positions.....	1,338,700
Remuneration grants.....	6,000,000
GROSS APPROPRIATION .....	\$ 42,490,200
Appropriated from:	
Interdepartmental grant revenues:	
IDG from department of community health, inspection contract.....	111,100
Federal revenues:	
Federal funds .....	872,300
Special revenue funds:	
Boiler fee revenue.....	2,344,000
Construction code fund .....	13,164,000
Corporation fees .....	4,837,100
Elevator fees .....	2,389,800
Homeowner construction lien recovery fund.....	1,532,800
Licensing and regulation fees.....	7,843,100
Limited liability partnership revenue .....	10,000

	For Fiscal Year Ending Sept. 30, 2004
Manufactured housing commission fees.....	\$ 2,276,900
Property development fees.....	241,300
Remonumentation fees.....	6,605,300
Real estate appraiser continuing education fund.....	45,000
Real estate education fund.....	217,500
State general fund/general purpose.....	\$ 0
<b>Sec. 113. EMPLOYMENT RELATIONS</b>	
Full-time equated classified positions.....25.0	
Fact finding and arbitration.....	\$ 144,300
Employment and labor relations—25.0 FTE positions.....	2,919,400
GROSS APPROPRIATION.....	\$ 3,063,700
Appropriated from:	
Federal revenues:	
EEOC, federal funds.....	10,000
State general fund/general purpose.....	\$ 3,053,700
<b>Sec. 114. SAFETY AND REGULATION</b>	
Full-time equated classified positions.....229.0	
Commissions and boards.....	\$ 21,400
Subgrantees.....	1,226,900
Occupational safety and health—229.0 FTE positions.....	21,209,800
GROSS APPROPRIATION.....	\$ 22,458,100
Appropriated from:	
Federal revenues:	
DOL, multiple grants for safety and health.....	10,366,100
Special revenue funds:	
Corporate fees.....	1,851,300
Fees and collections/asbestos.....	704,300
Licensing and regulation fees.....	1,000,000
Safety education and training fund.....	6,685,300
Securities fees.....	1,851,100
State general fund/general purpose.....	\$ 0
<b>Sec. 115. BUREAU OF WORKER'S AND UNEMPLOYMENT COMPENSATION</b>	
Full-time equated classified positions.....1,208.0	
Administration—96.6 FTE positions.....	\$ 8,130,100
Appellate commission administration—11.4 FTE positions.....	435,300
Board of magistrates administration—8.0 FTE positions.....	1,916,900
Employment standards enforcement—31.0 FTE positions.....	2,194,300
Insurance funds administration—28.0 FTE positions.....	5,500,800
Supplemental benefit fund.....	1,300,000
Grant to department of career development, hire the handicapped program.....	50,000
Unemployment programs—955.7 FTE positions.....	67,980,300
Advocacy assistance program—8.0 FTE positions.....	1,500,000
Special audit and collections program—34.0 FTE positions.....	2,245,900
Training program for agency staff—2.1 FTE positions.....	1,756,400
Expanded fraud control program—33.2 FTE positions.....	2,566,200
GROSS APPROPRIATION.....	\$ 95,576,200
Appropriated from:	
Federal revenues:	
DOL-ETA, employment and training administration.....	529,200
DOL, unemployment insurance.....	69,786,100
Federal Reed act funds.....	4,233,500
Special revenue funds:	
Corporation fees.....	1,661,400
Contingent fund, penalty and interest account.....	9,388,400
Licensing and regulation fees.....	650,000
Second injury fund.....	3,021,500

	For Fiscal Year Ending Sept. 30, 2004
Securities fees .....	\$ 1,661,400
Self-insurers security fund .....	1,386,500
Silicosis and dust disease fund .....	1,142,800
Worker's compensation administrative revolving fund .....	2,115,400
State general fund/general purpose .....	\$ 0
<b>Sec. 116. INFORMATION TECHNOLOGY</b>	
Information technology services and projects .....	\$ 25,479,700
GROSS APPROPRIATION .....	\$ 25,479,700
Appropriated from:	
Federal revenues:	
DOL-ETA, unemployment insurance .....	10,360,300
DOL, multiple grants for safety and health .....	38,000
Federal funds .....	56,500
Special revenue funds:	
Bank fees .....	223,800
Boiler fee revenue .....	94,300
Construction code fund .....	724,600
Consumer finance fees .....	85,800
Contingent fund, penalty and interest account .....	122,800
Corporation fees .....	1,672,100
Credit union fees .....	157,900
Elevator fees .....	89,800
Fees and collections/asbestos .....	17,500
Health professions regulatory fund .....	484,800
Health systems fees and collections .....	244,500
Insurance regulatory fees .....	471,700
Licensing and regulation fees .....	979,700
Liquor purchase revolving fund .....	4,270,300
Manufactured housing commission fees .....	47,500
Michigan state housing development authority fees and charges .....	1,182,400
Motor carrier fees .....	164,700
Public utility assessments .....	1,092,200
Safety education and training fund .....	178,200
Second injury fund .....	215,300
Securities fees .....	1,410,900
Self-insurers security fund .....	76,800
Silicosis and dust disease fund .....	99,600
Worker's compensation administrative revolving fund .....	859,300
State general fund/general purpose .....	\$ 58,400
<b>Sec. 117. ADMINISTRATIVE SAVINGS</b>	
Administrative savings .....	\$ (200,000)
GROSS APPROPRIATION .....	\$ (200,000)
Appropriated from:	
State general fund/general purpose .....	\$ (200,000)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

**GENERAL SECTIONS**

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2003-2004 is \$318,813,600.00 and state spending from state resources to be paid to local units of government for fiscal year 2003-2004 is \$29,315,900.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

Fire protection grants .....	\$ 15,839,000
Liquor law enforcement .....	6,000,000
Local manufactured housing inspections .....	250,000
Re monumentation grants .....	6,000,000

	For Fiscal Year Ending Sept. 30, 2004
Subgrantees.....	\$ 1,226,900
Total department of consumer and industry services.....	\$ 29,315,900

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Sec. 203. As used in this appropriation act:

- (a) "AFC" means adult foster care.
- (b) "Department" means the department of consumer and industry services.
- (c) "DOE" means the United States department of energy.
- (d) "DOE-OEERE" means the DOE office of energy efficiency and renewable energy.
- (e) "DOL" means the United States department of labor.
- (f) "DOL-ETA" means the DOL employment and training administration.
- (g) "DOT" means the United States department of transportation.
- (h) "DOT-RSPA" means the DOT research and special programs administration.
- (i) "EEOC" means equal employment opportunity commission.
- (j) "Fiscal agencies" means Michigan house fiscal agency and Michigan senate fiscal agency.
- (k) "FTE" means full-time equated.
- (l) "HHS" means the United States department of health and human services.
- (m) "HUD" means the United States department of housing and urban development.
- (n) "IDG" means interdepartmental grant.
- (o) "MES" means Michigan employment security.
- (p) "Subcommittees" means all members of the subcommittees of the house and senate appropriations committees with jurisdiction over the budget for the department.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department or state classified civil service positions funded fully by federal funds.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause a loss of revenue to the state, result in the inability of the state to receive federal funds, or would necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous month and the reasons to justify the exception.

Sec. 207. At least 60 days before beginning any effort to privatize, the department shall submit a complete project plan to the subcommittees and the fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the fiscal agencies and to the subcommittees within 30 months.

Sec. 208. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on the Internet or Intranet site.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available. Preference should be given to goods or services or both manufactured or provided by Michigan businesses if they are competitively priced and of comparable value.

Sec. 210. The director of each department receiving appropriations in part 1 is encouraged to take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director will strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Sec. 211. The department shall establish and maintain affirmative action programs based on guidelines developed by the state equal opportunity workforce planning council which was created by Executive Order No. 1996-13 in order to receive general fund/general purpose dollars.

Sec. 212. The departments and state agencies receiving appropriations under this act shall receive and retain copies of all reports funded from appropriations in part 1. These departments and state agencies shall follow federal and state guidelines for short-term and long-term retention of these reports and records.

Sec. 213. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology-related services and projects. Such user fees shall be subject to provisions of an interagency agreement between the department and the department of information technology.

Sec. 214. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

Sec. 301. The appropriation in part 1 for fire protection grants from the liquor purchase revolving fund shall be appropriated to cities, villages, and townships with state-owned facilities for fire services, instead of taxes, in accordance with 1977 PA 289, MCL 141.951 to 141.956.

Sec. 302. The funds collected by the office of financial and insurance services in connection with a conservatorship pursuant to section 32 of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1682, shall be appropriated for all expenses necessary to provide for the required services. Funds are available for expenditure when they are received by the department of treasury and shall not lapse to the general fund at the end of the fiscal year.

Sec. 303. The funds collected by the department from corporations being liquidated pursuant to the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, shall be appropriated for all expenses necessary to provide for the required services. Funds are available for expenditure when they are received by the department of treasury and shall not lapse to the general fund at the end of the fiscal year.

Sec. 304. The department may make available to interested entities otherwise unavailable customized listings of nonconfidential information in its possession, such as names and addresses of licensees, and charge for this information as follows: base fee for 1 to 1,000 records at the cost to the department; 1,001 to 10,000 records at 2.5 cents per record; and 10,001 or more records at .5 cents per record. The revenue received from this service may be used to offset expenses of programs as appropriated in part 1. The balance of this revenue collected and unexpended at the end of the fiscal year shall revert to the appropriate restricted revenue account or fund or, in absence of such an account or fund, to the general fund. The department shall submit an annual report on or before December 1 of each year to the state budget office and the subcommittees that states the amount of revenue received from the sale of information.

Sec. 306. The Michigan state housing development authority shall annually present a report to the state budget office and the subcommittees on the status of the authority's housing production goals under all financing programs established or administered by the authority. The report shall give special attention to efforts to raise affordable multifamily housing production goals.

Sec. 307. The department shall assess and collect fees in the licensing and regulation of child care organizations as defined in 1973 PA 116, MCL 722.111 to 722.128, and adult foster care facilities as defined in the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737. Fees collected by the department shall be used exclusively for the purpose of licensing and regulating child care organizations and adult foster care facilities.

Sec. 308. The funds collected by the department for licenses, permits, and other elevator regulation fees set forth in R 408.8151 of the Michigan administrative code and as determined under section 8 of 1976 PA 333, MCL 338.2158, and section 16 of 1967 PA 227, MCL 408.816, that are unexpended at the end of the fiscal year shall carry forward to the subsequent fiscal year. The department shall submit a report on an annual basis to the state budget office and the subcommittees on the amount of funds available under this section.

Sec. 309. If the revenue collected by the department for occupational safety and health, health systems administration, or radiological health administration and projects from fees and collections exceeds the amount appropriated in part 1, the revenue may be carried forward into the subsequent fiscal year. The revenue carried forward under this section shall be used as the first source of funds in the subsequent fiscal year.

Sec. 310. Money appropriated under this act for fire safety programs shall not be expended unless, in accordance with section 2c of the fire prevention code, 1941 PA 207, MCL 29.2c, inspection and plan review fees will be charged according to the following schedule:

<u>Operation and maintenance inspection fee</u>		
<u>Facility type</u>	<u>Facility size</u>	<u>Fee</u>
Hospitals	Any	\$8.00 per bed
<u>Plan review and construction inspection fees for hospitals and schools</u>		
<u>Project cost range</u>		<u>Fee</u>
\$101,000.00 or less		minimum fee of \$155.00
\$101,001.00 to \$1,500,000.00		\$1.60 per \$1,000.00
\$1,500,001.00 to \$10,000,000.00		\$1.30 per \$1,000.00
\$10,000,001.00 or more		\$1.10 per \$1,000.00
		or a maximum fee of \$60,000.00.

Sec. 311. The department shall furnish the clerk of the house, the secretary of the senate, the state budget office, and all members of the house and senate appropriations committees with a summary of any evaluation reports and subsequent approvals or disapprovals of juvenile residential facilities operated by the family independence agency, as required by section 6 of 1973 PA 116, MCL 722.116. If no evaluations are conducted during the fiscal year, the department shall notify the fiscal agencies and all members of the appropriate subcommittees of the house and senate appropriations committees.

Sec. 312. (1) From the amount appropriated in part 1 to health systems administration, the department shall provide funding for not less than 113 inspectors to annually survey and investigate the care and services delivered in nursing homes, county medical care facilities, and hospital long-term care units in accordance with provisions in the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, and federal Medicare and Medicaid certification standards.

(2) The department, in keeping with the severity of the allegations, shall investigate complaints alleging poor care and services occurring on nights or weekends in nursing homes, county medical care facilities, and hospital long-term care units by conducting on-site investigations on nights or weekends.

Sec. 313. If the revenue collected by the department from licensing and regulation fees exceeds the amount appropriated in part 1, the revenue may be carried forward into the subsequent fiscal year. The revenue carried forward under this section shall be used as the first source of funds in the subsequent fiscal year.

Sec. 314. Funds earned or authorized by the United States department of labor in excess of the gross appropriation in part 1 for the bureau of worker's and unemployment compensation from the United States department of labor are appropriated and may be expended for staffing and related expenses incurred in the operation of its programs. These funds may be spent after the department notifies the state budget office and the subcommittees of the purpose and amount of each grant award.

Sec. 315. The department shall sell documents at a price not to exceed the cost of production and distribution. Money received from the sale of these documents shall revert to the department. The funds are available for expenditure when they are received by the department of treasury and may only be used for costs directly related to the continued updating and distribution of the documents pursuant to this section. This section applies only for the following documents:

(a) Corporation and securities division documents, reports, and papers required or permitted by law pursuant to section 1060(5) of the business corporation act, 1972 PA 284, MCL 450.2060.

(b) The subdivision control manual, the state boundary commission operations manual, and other local government assistance manuals.

(c) The Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303.

(d) The mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349; the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098; the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192; and the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818.

(e) Labor law books.

(f) Worker's compensation health care services rules.

(g) Minimum design standards for health care facilities.

(h) Construction code manuals.

(i) Copies of transcripts from administrative law hearings.

Sec. 316. The department shall provide electronic notification to the state budget office, the fiscal agencies, and the subcommittees on April 30 and October 31 on the initial and follow-up surveys conducted on all nursing homes in this state. The notification shall contain the location of the Internet site where the report is posted. The report shall include all of the following information:

(a) The number of surveys conducted.

(b) The number requiring follow-up surveys.

(c) The number referred to the Michigan public health institute for remediation.

(d) The number of citations per home.

(e) The number of night and weekend complaints filed.

(f) The number of night and weekend responses to complaints conducted by the department.

(g) The average length of time for the department to respond to a complaint filed against a nursing home.

(h) The number and percentage of citations appealed.

(i) The number and percentage of citations overturned and/or modified.

Sec. 317. The department, bureau of safety and regulation, shall provide an annual report by February 1 of each year to the state budget office, the fiscal agencies, and the subcommittees on the number of individuals killed and the number of individuals injured on the job within industries regulated by the bureau during the most recent year for which data are available.

Sec. 318. The department shall report by November 1 to the state budget office, the legislature, and the fiscal agencies the status of the nursing home complaint investigation backlog.

Sec. 319. As a condition for receiving the general fund/general purpose appropriations in part 1 for health systems administration, the department shall provide assistance to any person making an oral request for a nursing home investigation in putting his or her request into writing, shall initiate investigations on all written nursing home complaints filed with the department within 15 days of receipt of the complaint, and shall provide a written response to the complainant within 30 days of receipt of the written complaint.

Sec. 320. The bureau of worker's and unemployment compensation, during its transition to the remote initial claims system, may operate a sufficient number of unemployment agency offices, including itinerant or satellite offices, within Michigan's Upper Peninsula to ensure that the citizens of the Upper Peninsula can access these offices without excessive travel or, in cases where unemployment claims are filed or renewed by phone, without excessive long-distance toll charges.

Sec. 321. The department shall continue to work with grantees supported through the appropriation in part 1 for emergency medical services grants and contracts to ensure that a sufficient number of qualified emergency medical services personnel exist to serve rural areas of the state.

Sec. 322. From the funds appropriated in part 1 for utility consumer representation, the department shall produce and facilitate the airing of public service announcements that inform utility customers of the availability and purpose of these funds. The utility consumer participation board shall report to the subcommittees, fiscal agencies, and state budget office by September 30 on its efforts in this area, including the amount of expenditures made for this purpose.

Sec. 323. (1) The department in consultation with nursing home provider groups, the department of community health, the state long-term care ombudsman, and the federal health care finance administration shall continue to work to clarify the following terms as those terms are used in title XVIII and title XIX and applied by the department to provide more consistent regulation of nursing homes in Michigan:

- (a) Immediate jeopardy.
- (b) Harm.
- (c) Potential harm.
- (d) Avoidable.
- (e) Unavoidable.

(2) The department shall semiannually provide for joint training with nursing home surveyors and providers on at least 1 of the 10 most frequently issued federal citations in this state during the past calendar year. The department shall provide a mechanism to measure the effect of the training and shall report to the legislature and the state budget office on the effect of the training by January 15.

Sec. 324. The bureau of worker's and unemployment compensation shall work collaboratively with the department of career development to ensure each 1-stop center has the ability to assist individuals or respond to inquiries regarding unemployment benefits and the remote initial claims system.

Sec. 325. (1) The department shall post on the Internet the executive summary of the latest inspection for each licensed nursing home.

(2) The department shall work toward posting inspection summaries for licensed day care centers on the Internet.

Sec. 327. When hiring any new nursing home inspectors funded through appropriations in part 1, the department shall make every effort to hire individuals with past experience in the long-term care industry.

Sec. 329. It is the intent of the legislature that the funds appropriated in part 1 for the nurse scholarship program, established in section 16315 of the public health code, 1978 PA 368, MCL 333.16315, are used to increase the number of nurses practicing in Michigan. The board of nursing is encouraged to structure scholarships funded under this act in a manner that rewards recipients who practice nursing in Michigan. In addition, it is the intent of the legislature that the department and the board of nursing work cooperatively with the Michigan higher education assistance authority to identify and monitor the location in which scholarship recipients practice nursing.

Sec. 330. (1) The bureau of worker's and unemployment compensation shall include in the remote initial claims center (RICCS) automated phone system a choice to speak with an employee of the unemployment agency as an option. This option should be provided in the system as early as possible as deemed appropriate in the system design. The department shall monitor the system to ensure compliance with these guidelines.

(2) The bureau of worker's and unemployment compensation should continue to provide training opportunities to employees affected with the implementation of the RICCS.

Sec. 331. Nursing facilities shall report in the quarterly staff report to the department, the total patient care hours provided each month, by state licensure and certification classification, and the percentage of pool staff, by state licensure and certification classification, used each month during the preceding quarter. The department shall make available to the public, the quarterly staff report compiled for all facilities including the total patient care hours and the percentage of pool staff used, by classification.

Sec. 332. It is the intent of the legislature that the department make every effort to hold administrative law hearings on actions initiated by the department against regulated businesses or against individuals in regulated occupations in locations that are within 150 miles of the regulated business or of the office of the individual in a regulated occupation. In addition, it is the intent of the legislature that the department make every effort to hold administrative law hearings on actions initiated by an individual outside the department in locations within 150 miles of the home of the individual bringing the action if that individual wishes to testify at the hearing.

Sec. 335. (1) The public service commission shall report by June 1 of each year to the subcommittees, the state budget office, and the fiscal agencies on the distribution of funds appropriated in part 1 for the low-income/energy efficiency assistance program.

(2) Of the funds appropriated in part 1 for low-income/energy efficiency assistance, \$3,000,000.00 shall be allocated to community action agencies across the state to support shut-off protection programs for low-income individuals. Funds shall be distributed to the community action agencies no later than November 1 of each year. The community action agencies shall abide by any reporting and monitoring requirements imposed by the public service commission on other grant recipients receiving funding through this program.

Sec. 336. The department shall provide the subcommittees, fiscal agencies, and state budget director with a report on or before December 1 outlining actual expenditures for the last completed fiscal year for each division within the office of financial and insurance services.

Sec. 337. The department shall work cooperatively with the family independence agency and with representatives from the Michigan federation of private child and family agencies to form a licensing and contract compliance review team pilot to coordinate and conduct joint reviews of 1 child placing agency and 1 child caring institution between October 1 and February 1. The Michigan federation of private child and family agencies will survey team participants and involved agencies regarding the process and provide feedback to the department. The department shall report during the annual budget presentation to the subcommittees regarding pilot outcomes.

Sec. 340. The office of financial and insurance services shall provide copies of the quarterly and annual financial filings of health maintenance organizations to the senate and house fiscal agencies on a timely basis.

Sec. 347. Of the funds appropriated in part 1 for the fire protection grants, \$12,128,500.00 of this funding is contingent upon statutory changes that would increase the deposit into the liquor purchase revolving fund.

Sec. 348. It is the intent of the legislature that the next vacancy on the worker's compensation board of magistrates be filled by an individual that is a permanent resident in the Upper Peninsula.

Sec. 349. It is the intent of the legislature that the department and the Michigan state housing development authority work collaboratively with other state departments and agencies to maximize the use of available Michigan state housing development authority fund equity to provide senior assisted living that offers a continuum of care from independent apartments to assisted living to nursing care and Alzheimer programs.

Sec. 350. (1) The department shall allocate funds to promote awareness of the right of a policyholder, subscriber, member, enrollee, or other individual participating in a health benefit plan, after the covered person has exhausted the health carrier's internal grievance process provided for by law, to request an external review for an adverse determination.

(2) As used in this section, "covered person" means that term as defined in section 3 of the patient's right to independent review act, 2000 PA 251, MCL 550.1903.

Sec. 351. (1) The department shall issue a report to the subcommittees by the end of each calendar year, but not later than December 31 of each year, showing the date each real estate continuing education course was submitted for approval and the date of final disposition, approval, or denial.

(2) The department shall post on its website the approved real estate continuing education courses, as well as the dates, times, instructors, locations, and credit hours of the courses.

(3) The department shall have available to the public the precicensure and continuing education course approvals. The information described in this subsection shall be available online not later than November 15, 2003.

(4) It is the intent of the legislature that sponsors of continuing education be able to report an applicant's or licensee's completion of courses to the department via electronic methods and such reporting procedure shall be in place not later than the end of fiscal year 2004.

Sec. 352. From the funds appropriated in part 1 for unclassified salaries, the department shall provide funding for 4 worker's compensation appellate commissioners and 27.5 worker's compensation board of magistrates. Expenditures shall be made so that the 2 bodies shall decide worker's compensation cases in a timely manner.

Sec. 355. If federal funds become available to support a lead testing program, the department shall, before issuing a license for a day care facility and as part of licensing review and facility inspection, inspect for the presence of lead and lead-based paint in that facility.



Second: That the Senate and House agree to the title of the bill to read as follows:

A bill to make appropriations for the department of consumer and industry services and certain other state purposes for the fiscal year ending September 30, 2004; to provide for the expenditure of those appropriations; to provide for the imposition of certain fees; to provide for the disposition of fees and other income received by the state agencies; to provide for reports to certain persons; and to prescribe powers and duties of certain state departments and certain state and local agencies and officers.

Valde Garcia  
Bill Hardiman  
Conferees for the Senate

Marc Shulman  
Glenn Steil, Jr.  
Conferees for the House

Pursuant to joint rule 9, the conference report was laid over one day.

Senator Brown submitted the following:

FIRST CONFERENCE REPORT

The Committee of Conference on the matters of difference between the two Houses concerning **Senate Bill No. 288, entitled**

A bill to make appropriations for the department of agriculture for the fiscal year ending September 30, 2004; to provide for the expenditure of the appropriations; to create funds; to provide for the imposition of fees; to require reports, audits, and plans; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by certain state agencies.

Recommends:

First: That the Senate and House agree to the Substitute of the House as passed by the House, amended to read as follows:

A bill to make appropriations for the department of agriculture for the fiscal year ending September 30, 2004; to provide for the expenditure of the appropriations; to create funds; to provide for the imposition of fees; to require reports, audits, and plans; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by certain state agencies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

PART 1

LINE-ITEM APPROPRIATIONS

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of agriculture for the fiscal year ending September 30, 2004, from the funds indicated in this part. The following is a summary of the appropriations in this part:

**DEPARTMENT OF AGRICULTURE**

APPROPRIATION SUMMARY:

Full-time equated unclassified positions .....	6.0	
Full-time equated classified positions .....	563.0	
<b>GROSS APPROPRIATION .....</b>		<b>\$ 97,175,800</b>
Interdepartmental grant revenues:		
IDG from MDCH, local public health operations.....		8,878,700
IDG from MDCIS (LCC), liquor quality testing fees.....		164,000
IDG from MDCIS (LCC), nonretail liquor license fees .....		515,900
IDG from MDEQ, aquifer dispute resolution .....		100,000
IDG from MDEQ, biosolids.....		80,000
IDG from MDEQ, right to farm.....		105,000
IDG from MDEQ, type II well survey .....		15,000
IDG from MDNR, district forestry and wildlife program.....		1,000,000
Total interdepartmental grants and intradepartmental transfers .....		10,858,600
<b>ADJUSTED GROSS APPROPRIATION.....</b>		<b>\$ 86,317,200</b>
Federal revenues:		
DAG, multiple grants .....		11,501,000

	For Fiscal Year Ending Sept. 30, 2004
EPA, multiple grants .....	\$ 2,280,000
HHS-FDA .....	270,700
Total federal revenues .....	14,051,700
Special revenue funds:	
Total local revenues .....	0
Private - oil company overcharge settlement .....	997,600
Private - slow-the-spread foundation .....	130,000
Total private revenues .....	1,127,600
Agricultural preservation fund .....	727,300
Agriculture equine industry development fund .....	12,467,000
Agriculture pollution prevention fund .....	100
Civil penalties .....	40,300
Commodity inspection fees .....	991,500
Gasoline inspection and testing fund .....	1,565,800
Groundwater and freshwater protection fund .....	4,756,500
Horticulture fund .....	70,000
Industry support funds .....	260,000
Licensing and inspection fees .....	5,925,500
Michigan state fair revenue .....	5,372,400
Pseudorabies and swine brucellosis fund .....	20,000
State services fee fund .....	5,437,300
Testing fees .....	357,500
Upper Peninsula state fair revenue .....	1,224,300
Weights and measures regulation fees .....	518,400
Total other state restricted revenues .....	39,733,900
State general fund/general purpose .....	\$ 31,404,000
<b>Sec. 102. EXECUTIVE</b>	
Full-time equated unclassified positions .....	6.0
Full-time equated classified positions .....	48.5
Commission and boards .....	\$ 63,300
Unclassified positions—6.0 FTE positions .....	428,500
Executive direction—7.0 FTE positions .....	752,000
Management services—37.5 FTE positions .....	2,833,100
Statistical reporting service—4.0 FTE positions .....	326,500
<b>GROSS APPROPRIATION</b> .....	\$ 4,403,400
Appropriated from:	
Interdepartmental grant revenues:	
IDG from MDCIS (LCC), nonretail liquor license fees .....	8,800
Special revenue funds:	
Gasoline inspection and testing fund .....	47,800
Licensing and inspection fees .....	10,000
Michigan state fair revenue .....	80,500
State services fee fund .....	160,500
Upper Peninsula state fair revenue .....	9,000
State general fund/general purpose .....	\$ 4,086,800
<b>Sec. 103. DEPARTMENTWIDE</b>	
Rent and building occupancy charges .....	\$ 1,700,700
Employee turnover savings .....	(100,000)
Agriculture equine industry development fund reimbursement .....	0
<b>GROSS APPROPRIATION</b> .....	\$ 1,600,700
Appropriated from:	
Interdepartmental grant revenues:	
IDG from MDCIS (LCC), nonretail liquor license fees .....	6,600
Federal revenues:	
DAG, multiple grants .....	115,000
EPA, multiple grants .....	70,000
HHS-FDA .....	15,000

	For Fiscal Year Ending Sept. 30, 2004
Special revenue funds:	
Agricultural preservation fund .....	\$ 27,300
Agriculture equine industry development fund.....	2,025,000
Groundwater and freshwater protection fund .....	10,900
Licensing and inspection fees .....	55,200
State services fee fund .....	304,600
State general fund/general purpose .....	\$ (1,028,900)
<b>Sec. 104. FOOD AND DAIRY</b>	
Full-time equated classified positions .....108.0	
Food safety and quality assurance—108.0 FTE positions .....	\$ 9,815,700
Local public health operations .....	8,878,700
<b>GROSS APPROPRIATION</b> .....	<b>\$ 18,694,400</b>
Appropriated from:	
Interdepartmental grant revenues:	
IDG from MDCH, local public health operations.....	8,878,700
Federal revenues:	
DAG, multiple grants .....	22,700
HHS-FDA .....	186,700
Special revenue funds:	
Civil penalties.....	40,300
Licensing and inspection fees .....	2,840,200
State general fund/general purpose .....	\$ 6,725,800
<b>Sec. 105. ANIMAL INDUSTRY</b>	
Full-time equated classified positions .....50.0	
Animal health and welfare—23.5 FTE positions.....	\$ 2,054,100
Bovine tuberculosis program—26.5 FTE positions .....	4,192,500
<b>GROSS APPROPRIATION</b> .....	<b>\$ 6,246,600</b>
Appropriated from:	
Federal revenues:	
DAG, multiple grants .....	150,000
HHS-FDA .....	9,000
Special revenue funds:	
Agriculture equine industry development fund.....	50,000
Licensing and inspection fees .....	178,200
Pseudorabies and swine brucellosis fund .....	20,000
State general fund/general purpose .....	\$ 5,839,400
<b>Sec. 106. PESTICIDE AND PLANT PEST MANAGEMENT</b>	
Full-time equated classified positions .....121.8	
Pesticide and plant pest management—121.8 FTE positions.....	\$ 12,107,800
Emerald ash borer control program.....	7,250,000
Michigan State University.....	210,000
<b>GROSS APPROPRIATION</b> .....	<b>\$ 19,567,800</b>
Appropriated from:	
Federal revenues:	
DAG, multiple grants .....	9,264,400
EPA, multiple grants .....	1,510,000
HHS-FDA .....	60,000
Special revenue funds:	
Private - slow-the-spread foundation.....	130,000
Commodity inspection fees.....	991,500
Horticulture fund .....	70,000
Licensing and inspection fees .....	2,779,800
State general fund/general purpose .....	\$ 4,762,100
<b>Sec. 107. ENVIRONMENTAL STEWARDSHIP</b>	
Full-time equated classified positions .....47.0	
Environmental stewardship—32.7 FTE positions .....	\$ 2,740,200

	For Fiscal Year Ending Sept. 30, 2004
Groundwater and freshwater protection program—8.3 FTE positions .....	\$ 4,924,000
Farmland and open space preservation—6.0 FTE positions .....	699,800
Cooperative resources management initiative program.....	1,000,000
Agriculture pollution prevention program .....	100
Energy conservation program.....	138,000
Local conservation districts .....	1,661,200
Migrant labor housing.....	255,000
GROSS APPROPRIATION .....	\$ 11,418,300
Appropriated from:	
Interdepartmental grant revenues:	
IDG from MDEQ, aquifer dispute resolution .....	100,000
IDG from MDEQ, biosolids.....	80,000
IDG from MDEQ, right to farm .....	105,000
IDG from MDEQ, type II well survey .....	15,000
IDG from MDNR, district forestry and wildlife program.....	1,000,000
Federal revenues:	
EPA, multiple grants .....	400,000
Special revenue funds:	
Private - oil company overcharge settlement .....	193,900
Agricultural preservation fund .....	699,800
Agriculture pollution prevention fund.....	100
Groundwater and freshwater protection fund .....	4,745,500
State general fund/general purpose .....	\$ 4,079,000
<b>Sec. 108. LABORATORY PROGRAM</b>	
Full-time equated classified positions .....	115.0
Laboratory analysis program—61.5 FTE positions .....	\$ 5,012,100
USDA monitoring—18.0 FTE positions.....	1,828,500
Consumer protection program—35.5 FTE positions .....	3,046,500
GROSS APPROPRIATION .....	\$ 9,887,100
Appropriated from:	
Interdepartmental grant revenues:	
IDG from MDCIS (LCC), liquor quality testing fees .....	161,500
Federal revenues:	
DAG, multiple grants .....	1,848,900
EPA, multiple grants .....	300,000
Special revenue funds:	
Private - oil company overcharge settlement .....	803,700
Agriculture equine industry development fund.....	443,900
Gasoline inspection and testing fund .....	1,491,800
Testing fees.....	357,500
Weights and measures regulation fees.....	518,400
State general fund/general purpose .....	\$ 3,961,400
<b>Sec. 109. MARKET DEVELOPMENT</b>	
Full-time equated classified positions .....	20.0
Agriculture development, marketing and emergency management—20.0 FTE positions.....	\$ 2,441,700
Export market development program .....	100,000
Food bank .....	630,500
Northwest Michigan horticultural research station.....	10,000
Southwestern Michigan tourist council - taste of Michigan .....	15,000
Future farmers of America .....	60,000
GROSS APPROPRIATION .....	\$ 3,257,200
Appropriated from:	
Interdepartmental grant revenues:	
IDG from MDCIS (LCC), nonretail liquor license fees .....	500,000
Federal revenues:	
DAG, multiple grants .....	100,000

For Fiscal Year  
Ending Sept. 30,  
2004

Special revenue funds:	
Industry support funds .....	\$ 260,000
Licensing and inspection fees .....	62,100
State services fee fund .....	573,300
State general fund/general purpose .....	\$ 1,761,800

**Sec. 110. FAIRS AND EXPOSITIONS**

Full-time equated classified positions .....	21.0
Michigan state fair operations—9.0 FTE positions .....	\$ 5,110,200
Upper Peninsula state fair—7.0 FTE positions.....	1,214,400
Fairs and racing—5.0 FTE positions.....	612,500
Building and track improvement - county and state fairs .....	963,200
Premiums - county and state fairs.....	1,614,000
Purses and supplements - fairs/licensed tracks.....	2,137,900
Standardbred Fedele Fauri futurity.....	70,800
Standardbred Michigan futurity .....	70,800
Quarterhorse programs.....	34,800
Licensed tracks-light horse racing.....	67,300
Standardbred breeders' awards.....	1,082,300
Standardbred purses and supplements-licensed tracks.....	242,400
Standardbred sire stakes.....	906,800
Thoroughbred sire stakes .....	906,800
Standardbred training and stabling.....	38,300
Thoroughbred program .....	1,586,900
Thoroughbred owners' awards.....	136,500
Distribution of outstanding winning tickets .....	500,000
<b>GROSS APPROPRIATION</b> .....	\$ 17,295,900

Appropriated from:

Special revenue funds:	
Agriculture equine industry development fund.....	7,781,600
Michigan state fair revenue.....	5,203,100
State services fee fund .....	3,096,800
Upper Peninsula state fair revenue.....	1,214,400
State general fund/general purpose .....	\$ 0

**Sec. 111. OFFICE OF RACING COMMISSIONER**

Full-time equated classified positions .....	31.7
Office of racing commissioner—31.7 FTE positions.....	\$ 3,342,500
<b>GROSS APPROPRIATION</b> .....	\$ 3,342,500

Appropriated from:

Special revenue funds:	
Agriculture equine industry development fund.....	2,042,500
State services fee fund .....	1,300,000
State general fund/general purpose .....	\$ 0

**Sec. 112. INFORMATION TECHNOLOGY**

Information technology services and projects .....	\$ 1,461,900
<b>GROSS APPROPRIATION</b> .....	\$ 1,461,900

Appropriated from:

Interdepartmental grant revenues:	
IDG from MDCIS (LCC), liquor quality testing fees.....	2,500
IDG from MDCIS (LCC), nonretail liquor license fees .....	500
Special revenue funds:	
Agricultural preservation fund .....	200
Agriculture equine industry development fund.....	124,000
Gasoline inspection and testing fund .....	26,200
Groundwater and freshwater protection fund .....	100
Michigan state fair revenue.....	88,800
State services fee fund .....	2,100

		For Fiscal Year Ending Sept. 30, 2004
Upper Peninsula state fair revenue.....	\$	900
State general fund/general purpose .....	\$	1,216,600

## PART 2

## PROVISIONS CONCERNING APPROPRIATIONS

**GENERAL SECTIONS**

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2003-2004 is \$71,137,900.00 and state spending from state resources to be paid to local units of government for fiscal year 2003-2004 is \$3,461,200.00. The itemized statement below identifies appropriations from which spending to local units of government will occur:

## DEPARTMENT OF AGRICULTURE

Groundwater and freshwater protection program .....	\$	1,800,000
Local conservation districts .....		1,661,200
TOTAL.....	\$	3,461,200

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Sec. 203. As used in this act:

- (a) "DAG" means the United States department of agriculture.
- (b) "Department" means the department of agriculture.
- (c) "Director" means the director of the department.
- (d) "EPA" means the United States environmental protection agency.
- (e) "FTE" means full-time equated.
- (f) "HHS-FDA" means the United States department of health and human services - food and drug administration.
- (g) "IDG" means interdepartmental grant.
- (h) "MDCH" means the Michigan department of community health.
- (i) "MDCIS (LCC)" means the Michigan department of consumer and industry services - liquor control commission.
- (j) "MDEQ" means the Michigan department of environmental quality.
- (k) "MDNR" means the Michigan department of natural resources.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause a loss of revenue to the state, result in the inability of the state to receive federal funds, or would necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous quarter and the reasons to justify the exception.

(3) The hiring freeze does not apply to the animal industry program.

Sec. 207. At least 60 days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Sec. 208. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement, or it may include placement of reports on an Internet or Intranet site.

Sec. 209. (1) Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available.

(2) In addition to the requirements in subsection (1), the purchase of goods or services, or both, if competitively priced and of comparable quality shall be Michigan goods or services, or both, if available. The department shall also encourage the use of Michigan produced agricultural products by all state agencies and departments if competitively priced and of comparable quality, if available.

Sec. 210. The director of each department receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Sec. 211. (1) The unexpended and unobligated balance of any state restricted fund or account remaining at the end of the fiscal year shall revert back to the state restricted fund or account from which appropriated and be available for appropriation for the next fiscal year. Appropriations that revert to a state restricted fund or account pursuant to this section shall not revert to the general fund of this state.

(2) A state restricted revenue fund or account that receives revenues in excess of expenditures made from that state restricted revenue fund or account shall not have the excess revenue revert to the general fund of this state.

Sec. 212. (1) Of the funds appropriated in part 1, the department may provide for indemnity as provided for pursuant to the animal industry act of 1987, 1988 PA 466, MCL 287.701 to 287.745, not to exceed \$100,000.00 per order from any line item for the fiscal year ending September 30, 2004. Before the department provides for an indemnification under this section, the department shall report the reason for the indemnification, the amount of the indemnification, and to whom the indemnification is to be paid. The report shall be given to each member of the house and senate appropriations subcommittees on agriculture and to the senate and house fiscal agencies and the state budget director.

(2) The department of agriculture shall make an indemnification payment for the fair market value of an apiarian loss caused by a bear and payment for the fair market value of livestock killed by a wolf or coyote, if the kill is verified by the department of natural resources. The fair market value of the livestock shall be determined pursuant to the indemnification procedures prescribed in the animal industry act, 1988 PA 466, MCL 287.701 to 287.745. In addition to the funds appropriated in part 1, the department of agriculture is authorized to expend the funds received from the department of natural resources to reimburse the department of agriculture for all indemnification payments made pursuant to this subsection.

Sec. 214. Of the funds appropriated in part 1 that are other than line-item grants, the department shall not provide grants to local government agencies, institutions of higher education, or nonprofit organizations unless the department provides notice of the grant to the house and senate appropriations subcommittees on agriculture at least 10 days before the grant is issued. The grants shall be used to support research or other related activities for the purpose of enhancing the agricultural industries in this state.

Sec. 216. The unexpended and unencumbered balance of revenue deposited pursuant to section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431.320, for the fiscal year ending September 30, 2004, shall be appropriated to the Michigan agriculture equine industry development fund for distribution as set forth in section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431.320.

Sec. 219. The department of information technology shall establish a schedule of rates, user fees, and charges or assessments for standard services and information system support requirements to be made to departments for technology related services and projects. This schedule, as well as copies of related interagency agreements, shall be provided to the state budget office and the house and senate committees on appropriations before October 15, 2003. The department of agriculture shall not process any payments or fund transfers to the department of information technology until 30 days after the schedule of rates, user fees, and assessments is provided to the legislature, pursuant to this section.

Sec. 220. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

Sec. 222. The negative appropriation for employee turnover savings in part 1 shall be satisfied by employee cost savings realized from the natural delay associated with position posting, recruitment, and hiring of employees to fill approved vacancies for existing positions within the department. Appropriation authorization adjustments required to implement the negative appropriation shall be made after the approval of transfers by the legislature under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Sec. 224. In addition to the appropriations contained in part 1, if legislation creating an agricultural enhancement fund is enacted before September 30, 2004, or existing casino compacts are renegotiated and revenue is available from those sources, programs, services, and projects are appropriated in the following amounts and order of priority:

- (a) \$1,000,000.00 for market development.
- (b) \$750,000.00 for bovine tuberculosis.
- (c) \$600,000.00 for migrant housing.
- (d) \$200,000.00 for local conservation districts.
- (e) \$50,000.00 for future farmers of America.

#### **EXECUTIVE**

Sec. 301. Per diem rates for commodity committees established in the agriculture commodities marketing act, 1965 PA 232, MCL 290.651 to 290.674, 1970 PA 29, MCL 290.421 to 290.430, 1964 PA 114, MCL 290.551 to 290.568, and

the beef industry commission act, 1972 PA 291, MCL 287.601 to 287.610, will be set based upon levels established in section 301 of 2002 PA 516.

Sec. 302. The department may receive and expend revenue and use that revenue to cover necessary expenses related to publications, audit and licensing functions, livestock sales, certification of nursery stock, bean inspection services, and laboratory analyses as specified in the following:

- (a) Management services publications.
- (b) Management services audit and licensing functions.
- (c) Upper Peninsula state fair livestock sales.
- (d) Pesticide and plant pest management propagation and certification of virus free foundation stock.
- (e) Pesticide and plant pest management bean inspection and grading services.
- (f) Laboratory support testing for testing horses in draft horse pulling contests at county fairs when local jurisdictions request state assistance.
- (g) Laboratory support analyses to determine foreign substances in horses engaged in racing or pulling contests at tracks.
- (h) Laboratory support analysis of food, livestock, and agricultural products for disease, foreign products for disease, toxic materials, foreign substances, and quality standards.
- (i) Laboratory support test samples for other agencies and organizations.
- (j) Fruit and vegetable inspection at shipping and termination points and processing plants.

Sec. 303. Of the funds appropriated in part 1 for statistical reporting service, \$90,000.00 shall be used for surveys which include, but are not limited to, fruit, vegetables, and nursery stock, which encompasses Christmas trees and ornamental plants. The director of the Michigan department of agriculture is given authority to include other agricultural surveys such as turfgrass in the 3- to 5-year rotation. The survey shall include information such as existing plantings/acreage, new plantings/acreage, production, and number of growers.

#### **FOOD AND DAIRY**

Sec. 401. (1) The department shall monitor restaurant inspection and licensing functions carried out by local health departments to ensure uniform application and enforcement of minimum program requirements. On or before April 1, 2004, the department shall report to the senate and house appropriations subcommittees on agriculture, the senate and house fiscal agencies, and the state budget director on local health department conformance with minimum program requirements.

(2) If a local unit of government incurs additional costs resulting from its efforts to control a significant food-borne outbreak, the director shall seek additional resources to reimburse the local unit of government for these additional costs. The director shall involve the local health officer of the jurisdiction affected in all aspects of the control of any food-borne outbreak.

Sec. 402. Not later than April 1, 2004, the department shall provide a report to the house and senate appropriations subcommittees on agriculture and the house and senate fiscal agencies describing significant food-borne outbreaks and emergencies including any enforcement actions taken related to food safety during the 2002-2003 fiscal year.

Sec. 403. The department, in conjunction with the department of community health, shall assure that a process is in place that requires a local unit of government to obtain prior approval from the department before any reallocation or redistribution of program funds appropriated in section 104.

#### **ANIMAL INDUSTRY**

Sec. 450. From the funds appropriated in section 105 for the bovine tuberculosis program, the department of agriculture shall reimburse the department of natural resources for those costs associated with monitoring and testing wildlife for bovine tuberculosis that are necessary to support the department of agriculture goals and are jointly agreed to by the department of agriculture and the department of natural resources to be in excess of efforts necessary to effectively plan and execute the eradication of bovine tuberculosis from Michigan's wild free-ranging deer herd.

Sec. 451. From the funds appropriated in section 101 for bovine tuberculosis, the department shall pay for all whole herd testing costs to achieve and maintain split-state status requirements. These costs include producer assistance, indemnity, and compensation for injury causing death or downer to animals.

Sec. 452. In the event of a significant animal or plant health outbreak, the director shall seek additional state and federal resources to cover the additional costs associated with addressing the outbreak.

#### **PESTICIDE AND PLANT PEST MANAGEMENT**

Sec. 501. Of the funds appropriated in section 106 to the pesticide and plant pest management division, up to \$100,000.00 may be made available to the Michigan cooperative extension service for the purpose of training of applicators. Reimbursement shall be based on actual expenditures and revenue availability.

#### **ENVIRONMENTAL STEWARDSHIP**

Sec. 601. The funds appropriated in section 107 for the energy conservation program shall be distributed on a competitive basis that will be based on statewide energy conservation criteria.

Sec. 602. The department may expend the amount appropriated for migrant labor housing grants for construction of new migrant labor housing. Project grants shall not exceed \$5,000.00 per unit. An applicant is not eligible for more than a \$20,000.00 grant in any fiscal year.



Sec. 603. The department shall apply for all federal funds for which it is eligible that can be used to support the migrant labor housing program.

Sec. 604. The appropriation in section 107 for local conservation districts shall be allocated in the following manner:

(a) Of the total appropriation, \$81,200.00 shall be allocated for local conservation district training.

(b) Of the total appropriation, each local conservation district meeting the minimum grant requirements shall receive a grant of \$20,000.00 to support basic operations, unless the district resides in a county consisting of multiple districts, in which case a \$20,000.00 grant shall be divided equally among the districts in that county. The amount of money allocated under this subdivision shall not be used by local conservation districts to replace any money received from local sources.

(c) Of the remaining appropriation after distributions under subdivisions (a) and (b), additional grants, not to exceed \$20,000.00 per local conservation district, may be provided based on a formula approved by the commission of agriculture. Grants under this subdivision shall require at least a 100% cash or in-kind local match. Criteria used to distribute grants under this subdivision shall include, but are not limited to, the natural resources need, the size, and the population of the area served by each local conservation district.

Sec. 605. Within the appropriation in part 1 for environmental stewardship, \$100,000.00 is for aquifer dispute resolution activities carried out by the department.

**MARKET DEVELOPMENT**

Sec. 701. Within the appropriations in part 1 for market development, \$500,000.00 is for the grape and wine industry council, from which the department may provide grants for the purposes as described in section 303 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1303.

Sec. 702. In any given year when insufficient amounts of Michigan surplus products are offered to the food bank council and accepted for distribution, unused funds may be applied by the food bank council for the direct purchase of foods from Michigan growers, manufacturers, or wholesalers.

Sec. 704. Indirect costs may not be charged against the future farmers of America grant in section 109 by any administering agency.

Sec. 705. The appropriation in section 109 for the export market development program shall be used to coordinate state participation in the federal market access program and to leverage federal funds for the purpose of developing new and enhancing existing export markets for Michigan agricultural products.

Sec. 707. The department is authorized to receive and expend up to \$5,000,000.00 of utility company uncollectible allowance recovery fund resources which may be deposited into the agricultural development fund for the support of grants for value-added agricultural processing and agricultural production ventures in accordance with the Julian-Stille value-added act, 2000 PA 322, MCL 285.301 to 285.304. The agriculture development fund resources when certified as available by the department of treasury shall remain unallotted until such time as the state budget director has reviewed and approved a department submitted allotment schedule. Expenditures for support of agricultural processing and production ventures shall not exceed revenues received. Unexpended resources remaining in the fund at the end of the fiscal year shall remain in the fund and not lapse to the general fund.

**FAIRS AND EXPOSITIONS**

Sec. 801. The department shall submit a report each month to the state budget director, the senate and house appropriations subcommittees on agriculture, and the senate and house fiscal agencies that states the simulcasting revenues generated in the preceding month by each licensed track and the amount received from license fees.

Sec. 802. (1) The appropriation in section 110 for standardbred purses and supplements - licensed tracks is intended to provide state purse supplements for 4 races at state licensed pari-mutuel horse racing tracks. The purse supplements are to be used for races comprised only of Michigan-bred horses segregated into a 4-year-old colt trot division, a 4-year-old filly trot division, a 4-year-old colt pace division, and a 4-year-old filly pace division.

(2) The appropriation in part 1 for licensed tracks - light horse racing shall be allocated as follows:

Arabian and Appaloosa horse racing .....	\$	16,800
Quarter horse racing .....		50,500

Sec. 803. Included in the appropriation made in section 110 for the thoroughbred program is \$30,500.00 for the Michigan united thoroughbred breeders and owners association to conduct a thoroughbred yearling show. The Michigan united thoroughbred breeders and owners association shall submit to the department an itemized list of expenses showing that the expenses of the yearling show were paid.

Sec. 804. From the funds appropriated in section 110 for thoroughbred owners' awards, awards shall be distributed pursuant to section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431.320.

Sec. 805. The department shall notify the senate and house appropriations subcommittees and the fiscal agencies of any planned reductions in appropriations, allocations, or expenditures from the agriculture equine industry development fund no less than 10 days before such reductions are implemented.

Sec. 806. A county fair, district fair, 4-H fair, or state fair receiving funds in section 110 to be used for prizes or awards, in whole or in part, as a condition precedent to the receiving of the funds for those purposes, shall publish the

rules relative to the prizes, awards, and deadlines for entries eligible for the funds in their official premium books or lists relative to the prizes or awards. An aggrieved exhibitor may make a written complaint to the fair within 10 days after the fair ends. If the fair has not satisfactorily settled the grievance within 45 days after it is submitted to the fair, the aggrieved person may file the complaint with the department and the department shall investigate the complaint and make a finding of fact regarding the complaint and take appropriate action regarding the complaint.

Sec. 807. Of the amount appropriated in section 110 for purses and supplements - fairs/licensed tracks, a sufficient amount is appropriated to provide for overnight purse supplements pursuant to the horse racing law of 1995, 1995 PA 279, MCL 431.301 to 431.336.

Sec. 808. Of the amount appropriated in section 110 for premiums, \$11,400.00 shall be expended as a grant for the Michigan horse show association - fall youth show.

Sec. 809. From the appropriations for premiums - county and state fairs in section 110, \$120,000.00 shall be awarded through a competitive grant program to local, regional, or state fairs or expositions to promote youth involvement and adult exhibitions in the animal agriculture industry. Appropriate exhibition classes for youth shall be developed that encourage a production exhibit for which premium awards may be paid. The age for youth exhibitors shall be determined by the standards of the association requesting the grant or, if standards do not exist, the age for youth exhibitors shall be ages 9 through 21. Implementation of the latest technologies into the evaluation of the animals shall be encouraged in the production exhibit. Adult exhibitions should focus on the performance or end product, or both, with the appropriate technologies used to enhance placings and the awarding of premiums.

Sec. 810. Expenditures for the Michigan state fair operations from the department shall be limited to the amount appropriated in section 110. The department shall not be responsible for any costs above the appropriated amount unless additional funds are appropriated for this purpose.

Sec. 811. The funds appropriated in section 110 for distribution of outstanding winning tickets are not available for expenditure until they are deposited in the agriculture equine industry development fund pursuant to section 2 of 1951 PA 90, MCL 431.252. These funds shall be expended in accordance with section 2 of 1951 PA 90, MCL 431.252, and only after they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Sec. 812. An individual or other entity that leases land, a building, or other property under the Michigan exposition and fairgrounds act, 1978 PA 361, MCL 285.161 to 285.175a, is not eligible for a state grant, loan, appropriation, or other state subsidy related to the leased land, building, or other property.

Sec. 813. (1) On or before January 29, 2004, the department, together with the senate and house fiscal agencies and the department of management and budget, shall estimate the unreserved and unencumbered closing balance of the agriculture equine industry development fund for the fiscal year ending September 30, 2003. The estimate shall consider lapsed appropriations from the fund and any carryforward amounts designated for appropriation in the fiscal year ending September 30, 2003.

(2) On or before February 5, 2004, the department shall request a legislative transfer in accordance with section 393 of the management and budget act, 1984 PA 431, MCL 18.1393, to appropriate any estimated unreserved and unencumbered agriculture equine industry development fund balance in excess of \$250,000.00. The appropriations included in the transfer request shall be in accordance with the requirements of section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431.320. At the same time the department forwards its transfer request to the department of management and budget, the department shall submit copies of the transfer request to the senate and house appropriations subcommittees on agriculture and the senate and house fiscal agencies.

#### **OFFICE OF RACING COMMISSIONER**

Sec. 901. The racing commissioner may pay rewards of not more than \$5,800.00 to a person who provides information that results in the arrest and conviction on a felony or misdemeanor charge for a crime that involves the horse racing industry. A reward paid pursuant to this section shall be paid out of the office of racing commissioner line item.

Second: That the Senate and House agree to the title of the bill to read as follows:

A bill to make appropriations for the department of agriculture for the fiscal year ending September 30, 2004; to provide for the expenditure of the appropriations; to create funds; to provide for the imposition of fees; to require reports, audits, and plans; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by certain state agencies.

Cameron Brown  
Ron Jelinek  
Conferees for the Senate

Mike Pumford  
Howard Walker  
Conferees for the House

Pursuant to joint rule 9, the conference report was laid over one day.

By unanimous consent the Senate returned to the order of  
**General Orders**

Senator Hammerstrom moved that the Senate resolve itself into the Committee of the Whole for consideration of the General Orders calendar.

The motion prevailed, and the President, Lieutenant Governor Cherry, designated Senator Thomas as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Cherry, having resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

**House Bill No. 4280, entitled**

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," (MCL 550.1101 to 550.1704) by adding sections 420a, 422a, and 422b.

Substitute (S-1).

The Senate agreed to the substitute recommended by the Committee of the Whole, and the bill as substituted was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

**House Bill No. 4281, entitled**

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," (MCL 550.1101 to 550.1704) by adding section 401i.

Substitute (S-1).

The Senate agreed to the substitute recommended by the Committee of the Whole, and the bill as substituted was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate the following bill, recommending that the bill be referred to the Committee on Health Policy:

**House Bill No. 4282, entitled**

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," by amending section 501 (MCL 550.1501).

The Senate agreed to the recommendation of the Committee of the Whole, and the bill was referred to the Committee on Health Policy.

By unanimous consent the Senate returned to the order of  
**Third Reading of Bills**

Senator Hammerstrom moved that the rules be suspended and that the following bills, now on the order of Third Reading of Bills, be placed on their immediate passage at the head of the Third Reading of Bills calendar:

**House Bill No. 4280**

**House Bill No. 4281**

The motion prevailed, majority of the members serving voting therefor.

The following bill was read a third time:

**House Bill No. 4280, entitled**

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," (MCL 550.1101 to 550.1704) by adding sections 420a, 422a, and 422b.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

**Roll Call No. 296**

**Yeas—35**

Allen	Cherry	Hardiman	Schauer
Barcia	Clark-Coleman	Jelinek	Scott
Basham	Clarke	Kuipers	Sikkema
Bernero	Cropsey	Leland	Stamas
Birkholz	Emerson	McManus	Switalski

Bishop  
Brater  
Brown  
Cassisi

Garcia  
Gilbert  
Goschka  
Hammerstrom

Olshove  
Patterson  
Prusi  
Sanborn

Thomas  
Toy  
Van Woerkom

**Nays—1**

George

**Excused—1**

Jacobs

**Not Voting—1**

Johnson

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,  
The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

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

The Senate agreed to the full title.

The following bill was read a third time:

**House Bill No. 4281, entitled**

A bill to amend 1980 PA 350, entitled “The nonprofit health care corporation reform act,” (MCL 550.1101 to 550.1704) by adding section 401i.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

**Roll Call No. 297**

**Yeas—36**

Allen  
Barcia  
Basham  
Bernero  
Birkholz

Cherry  
Clark-Coleman  
Clarke  
Cropsey  
Emerson

Hammerstrom  
Hardiman  
Jelinek  
Kuipers  
Leland

Sanborn  
Schauer  
Scott  
Sikkema  
Stamas

Bishop  
Brater  
Brown  
Cassis

Garcia  
George  
Gilbert  
Goschka

McManus  
Olshove  
Patterson  
Prusi

Switalski  
Thomas  
Toy  
Van Woerkom

**Nays—0**

**Excused—1**

Jacobs

**Not Voting—1**

Johnson

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,

The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

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

The Senate agreed to the full title.

By unanimous consent the Senate returned to the order of

### **Messages from the House**

Senator Hammerstrom moved to reconsider the vote by which consideration of the following bills was postponed for today:

**Senate Bill No. 236**

**Senate Bill No. 237**

**Senate Bill No. 238**

The motion prevailed.

The question being on the motion that further consideration of the bills be postponed for today,

Senator Hammerstrom withdrew the motion.

### **Senate Bill No. 236, entitled**

A bill to amend 1980 PA 350, entitled “An act to provide for the incorporation of nonprofit health care corporations; to provide their rights, powers, and immunities; to prescribe the powers and duties of certain state officers relative to the exercise of those rights, powers, and immunities; to prescribe certain conditions for the transaction of business by those corporations in this state; to define the relationship of health care providers to nonprofit health care corporations

and to specify their rights, powers, and immunities with respect thereto; to provide for a Michigan caring program; to provide for the regulation and supervision of nonprofit health care corporations by the commissioner of insurance; to prescribe powers and duties of certain other state officers with respect to the regulation and supervision of nonprofit health care corporations; to provide for the imposition of a regulatory fee; to regulate the merger or consolidation of certain corporations; to prescribe an expeditious and effective procedure for the maintenance and conduct of certain administrative appeals relative to provider class plans; to provide for certain administrative hearings relative to rates for health care benefits; to provide for certain causes of action; to prescribe penalties and to provide civil fines for violations of this act; and to repeal certain acts and parts of acts," (MCL 550.1101 to 550.1704) by adding sections 420a, 422a, and 422b.

Substitute (H-1).

The question being on concurring in the substitute made to the bill by the House,  
Senator Hammerstrom moved that the bill be referred to the Committee on Health Policy.  
The motion prevailed.

**Senate Bill No. 237, entitled**

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," (MCL 550.1101 to 550.1704) by adding section 401i.

Substitute (H-1).

The question being on concurring in the substitute made to the bill by the House,  
Senator Hammerstrom moved that the bill be referred to the Committee on Health Policy.  
The motion prevailed.

**Senate Bill No. 238, entitled**

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," by amending section 501 (MCL 550.1501).

Substitute (H-1).

The question being on concurring in the substitute made to the bill by the House,  
Senator Hammerstrom offered the following substitute to the House substitute:

Substitute (S-1).

The substitute to the substitute was adopted.

The question being on concurring in the House substitute, as substituted,

The substitute was concurred in, a majority of the members serving voting therefor, as follows:

**Roll Call No. 298**

**Yeas—35**

Allen	Cherry	Hardiman	Schauer
Barcia	Clark-Coleman	Jelinek	Scott
Basham	Clarke	Kuipers	Sikkema
Bernero	Cropsey	Leland	Stamas
Birkholz	Emerson	McManus	Switalski
Bishop	Garcia	Olshove	Thomas
Brater	Gilbert	Patterson	Toy
Brown	Goschka	Prusi	Van Woerkom
Cassis	Hammerstrom	Sanborn	

**Nays—1**

George

**Excused—1**

Jacobs

**Not Voting—1**

Johnson

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor. The Senate agreed to the full title.

**Committee Reports**

The Committee on Banking and Financial Institutions reported  
**Senate Bill No. 490, entitled**

A bill to amend 1851 PA 156, entitled "An act to define the powers and duties of the county boards of commissioners of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the violation of the provisions of this act," by amending section 12a (MCL 46.12a), as amended by 2002 PA 730.

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Michael Bishop  
Chairperson

To Report Out:

Yeas: Senators Bishop, Van Woerkom, Sanborn, Stamas, Leland, Olshove and Clark-Coleman

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Banking and Financial Institutions reported  
**Senate Bill No. 491, entitled**

A bill to amend 1978 PA 322, entitled "An act to authorize financial institutions to make electronic funds transfer terminals available to their customers; to protect the privacy and security of customers; to prohibit unfair discrimination among financial institutions and monopolistic practices in the use and availability of electronic funds transfer terminals; to prescribe remedies; and to prescribe penalties," by amending sections 2 and 3 (MCL 488.2 and 488.3).

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Michael Bishop  
Chairperson

To Report Out:

Yeas: Senators Bishop, Van Woerkom, Sanborn, Stamas, Leland, Olshove and Clark-Coleman

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Banking and Financial Institutions reported  
**Senate Bill No. 492, entitled**

A bill to amend 1950 (Ex Sess) PA 27, entitled "Motor vehicle sales finance act," by amending section 36 (MCL 492.136).

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Michael Bishop  
Chairperson

To Report Out:

Yeas: Senators Bishop, Van Woerkom, Sanborn, Stamas, Leland, Olshove and Clark-Coleman

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Banking and Financial Institutions reported

**Senate Bill No. 493, entitled**

A bill to amend 1976 PA 331, entitled "Michigan consumer protection act," by amending section 4 (MCL 445.904), as amended by 2000 PA 432.

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Michael Bishop  
Chairperson

To Report Out:

Yeas: Senators Bishop, Van Woerkom, Sanborn, Stamas, Leland, Olshove and Clark-Coleman

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Banking and Financial Institutions reported

**Senate Bill No. 494, entitled**

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 315a and 376a (MCL 750.315a and 750.376a), as added by 1982 PA 395.

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Michael Bishop  
Chairperson

To Report Out:

Yeas: Senators Bishop, Van Woerkom, Sanborn, Stamas, Leland, Olshove and Clark-Coleman

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Banking and Financial Institutions reported

**Senate Bill No. 495, entitled**

A bill to amend 1973 PA 43, entitled "An act to permit associations, institutions and credit unions to process or handle food stamps; and to prescribe powers and duties," by amending section 1 (MCL 400.171).

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Michael Bishop  
Chairperson

To Report Out:

Yeas: Senators Bishop, Van Woerkom, Sanborn, Stamas, Leland, Olshove and Clark-Coleman

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Banking and Financial Institutions reported

**Senate Bill No. 496, entitled**

A bill to provide for the organization, operation, regulation, and supervision of credit unions; to prescribe the powers and duties of credit unions; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties, civil sanctions, and remedies; and to repeal acts and parts of acts.

With the recommendation that the substitute (S-3)\* be adopted and that the bill then pass.

The committee further recommends that the bill be given immediate effect.

Michael Bishop  
Chairperson

To Report Out:

Yeas: Senators Bishop, Van Woerkom, Sanborn, Leland, Olshove and Clark-Coleman

Nays: Senator Stamas

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.



## COMMITTEE ATTENDANCE REPORT

The Committee on Banking and Financial Institutions submitted the following:

Meeting held on Thursday, June 19, 2003, at 4:11 p.m., Room 100, Farnum Building

Present: Senators Bishop (C), Van Woerkom, Sanborn, Stamas, Leland, Olshove and Clark-Coleman

## COMMITTEE ATTENDANCE REPORT

The Committee on Banking and Financial Institutions submitted the following:

Meeting held on Thursday, June 19, 2003, at 9:08 a.m., Room 100, Farnum Building

Present: Senators Bishop (C), Van Woerkom, Sanborn, Leland, Olshove and Clark-Coleman

Excused: Senator Stamas

**Scheduled Meetings**

**Appropriations** - Thursday, June 26, 2:00 p.m. or later immediately following session, Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

**Banking and Financial Institutions** - Thursday, June 26, 12:00 noon or later immediately following session, Room 100, Farnum Building (373-2417)

**Commerce and Labor** - Thursday, June 26, 3:00 p.m. or later immediately following session, Room 110, Farnum Building (373-2413)

Senator Hammerstrom moved that the Senate adjourn.

The motion prevailed, the time being 3:22 p.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Thursday, June 26, 2003, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate

