



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

**DEPARTMENT OF HISTORY, ARTS,
AND LIBRARIES**

**House Bills 4939 and 4940 as enrolled
Public Acts 61 and 62 of 2001
Sponsor: Rep. Thomas M. George**

**House Bill 4941 as enrolled
Public Act 63 of 2001
Sponsor: Rep. Gerald Van Woerkom**

**House Bill 4942 as enrolled
Public Act 64 of 2001
Sponsor: Rep. LaMar Lemmons**

**House Bill 4943 as enrolled
Public Act 65 of 2001
Sponsor: Rep. Mary Ann Middaugh**

**House Bill 4944 as enrolled
Public Act 66 of 2001
Sponsor: Rep. Jerry O. Kooiman**

**House Bill 4945 as enrolled
Public Act 67 of 2001
Sponsor: Rep. Alan Sanborn**

**House Bill 4946 as enrolled
Public Act 68 of 2001
Sponsor: Rep. Patricia Birkholz**

**House Bill 4947 as enrolled
Public Act 69 of 2001
Sponsor: Rep. Michael Bishop**

**House Bill 4948 as enrolled
Public Act 70 of 2001
Sponsor: Rep. Steve Vear**

**House Bill 4949 as enrolled
Public Act 71 of 2001
Sponsor: Rep. Joseph Rivet**

**House Bill 4950 as enrolled
Public Act 72 of 2001
Sponsor: Rep. Paula K. Zelenko**

**House Bill 4951 as enrolled
Public Act 73 of 2001
Sponsor: Rep. Mickey Mortimer**

**House Bill 4952 as enrolled
Public Act 74 of 2001
Sponsor: Rep. James Koetje**

**House Bill 4953 as enrolled
Public Act 75 of 2001
Sponsor: Rep. Judson Gilbert III**

**House Bill 4954 as enrolled
Public Act 76 of 2001
Sponsor: Rep. Bill McConico**

**House Bill 4955 as enrolled
Public Act 77 of 2001
Sponsor: Rep. Douglas Bovin**

**House Bill 4956 as enrolled
Public Act 78 of 2001
Sponsor: Rep. Susan Tabor**

**House Bill 4957 as enrolled
Public Act 79 of 2001
Sponsor: Rep. Samuel Buzz Thomas**

**House Committee: Commerce
Senate Committee: Government
Operations
Second Analysis (8-2-01)**

House Bills 4939-4957 (8-2-01)

THE APPARENT PROBLEM:

In his January 2001 State of the State address, Governor Engler called for the creation of a new state department, the Department of History, Arts, and Culture, as “a focal point to preserve Michigan’s heritage for the benefit of future generations.” The governor proposed harnessing the resources of the Library of Michigan, the Bureau of History, the Mackinac Island State Park Commission, the state archives, underwater preserves, and the Michigan Film Office, among other agencies, in order to form a new department that would create “a needed focus and a well-deserved stature” for the preservation of history, the creation of art, and the development of culture. In May, the governor issued an executive order (number 2001-1) creating the new department and transferring to it the functions of a wide variety of agencies dispersed throughout state government. The executive order takes effect on August 5, 2001. (See [Background Information](#)) Complementary legislation has been introduced to complete the process and to modify the name of the department to reflect the key role of the state library and associated library functions.

THE CONTENT OF THE BILLS:

The package of bills would create in statute a new executive department, the Department of History, Arts, and Libraries, and transfer various programs and functions to the new department from other executive agencies. In addition, the package would transfer the operation of the Library of Michigan and various other library programs from the legislature to the new executive department. House Bills 4939 and 4942-4957 are tie-barred to House Bill 4941, the bill that would create the new department. House Bill 4941 is tie-barred to House Bill 4940. (House Bill 4940, which would transfer the state library, does not contain a tie-bar.)

House Bill 4941 would create a new act, the History, Arts, and Libraries Act with an effective date of August 6, 2001. The act would create the new Department of History, Arts, and Libraries, and specify that the department would be headed by a director who would be appointed by, and serve at the pleasure of, the governor. The bill also would transfer to the new department the Michigan Council for Arts and Cultural Affairs from the Department of Consumer and Industry Services and the Office of Film and Television Services from the Michigan Economic Development Corporation (both by type II transfers).

House Bill 4939 would amend the Management and Budget Act (MCL 18.1114 and 18.1219) to transfer the management and operation of the Michigan Library and Historical Center from the Legislative Council to the new department. The bill would also eliminate references to the former Roosevelt Building (a House of Representatives’ office building recently demolished). The bill would take effect October 1, 2001.

House Bill 4940 would amend the Library of Michigan Act (MCL 397.12 et al.) to transfer the library to the new Department of History, Arts, and Libraries from the Legislative Council. The act would, however, continue to say that the library is charged primarily with providing reference services to the legislative branch, and that in addition it is to provide those services to the executive and judicial branches of government and the general public. The bill would also specify that upon the request of a legislator, the library would have to provide in a timely manner copies of any information, documents, or other data, including Michigan compiled laws, that were generated or produced by the legislature or Legislative Council agencies and all other information, documents, or other data in the possession of the library. The bill would take effect October 1, 2001.

The library board of trustees would be altered somewhat. It currently consists of four legislators, seven librarians representing different kinds of libraries, the chief justice of the supreme court or a designee, the administrator of the Legislative Council, and two members of the public. The new board would consist of one member appointed by each of the four legislative leaders, the department director, the chief justice or his or her designee, five librarians representing different kinds of libraries, and two public members. The library board currently makes recommendations on the budget to the legislative appropriations committees and recommendations on a variety of other matters to the Legislative Council. Under the bill, the board would make the recommendations on the same matters to the new department and would make recommendations on the library budget to the department. It would also make recommendations on any proposed rules governing library operations. The bill would specify that the state librarian is to be appointed by the governor in consultation with the library board (rather than by the Legislative Council in consultation with the board). Further, the bill would remove from the act language specifying that the budgeting functions of the library are the

responsibility of the state librarian, and that the council administrator and the librarian are to coordinate the activities of the library with the Legislative Council. Employees of the library on the bill's effective date would be transferred to the new department in accordance with civil service rules, and would be assumed into the classified civil service. The transfer of employees would not include nine employees from the Michigan Library and Historical Center operations and three employees from the library's computer web site staff operations. Those employees would remain employees of the Legislative Council. Finally, the bill would repeal a section of the act that requires the state librarian to report annually to the Legislative Council and to the legislature on the operations of the library and on progress made in automating the operations of the library.

On the bill's effective date, the library would be required to transfer ownership of all computer hardware and software directly or indirectly associated with the Michiganlegislature.org web site to the Legislative Council and transfer ownership of the Internet domain (web site) name to the Legislative Council. The Legislative Council would be required to maintain a web site containing information, documents, and other data generated by the legislature or Legislative Council agencies. Upon request of the council, the state library would have to provide to the council copies of any information, documents, or data, including the Michigan compiled laws database, generated or produced by the legislature or Legislative Council agencies that would assist the Legislative Council in carrying out its web site duties. On October 1, 2001, money appropriated for the operation of the web site and to fund positions retained by the council would be transferred to the council.

Except for the money transferred to the council, referred to in the previous paragraph, the appropriation to the Library of Michigan for the fiscal year ending September 30, 2002 (found in Senate Bill 234) would be transferred to the new department.

House Bill 4942 would amend the District Library Establishment Act (MCL 397.172 et al.) and House Bill 4943 would amend the State Aid to Public Libraries Act (MCL 397.552) to transfer the functions of the Legislative Council under those acts to the new Department of History, Arts, and Libraries. In developing standards for services to local libraries, the department would have to consult with the state librarian. Both bills would take effect

October 1, 2001. House Bill 4943 contains a statement regarding the appropriation of money to carry out the State Aid to Public Libraries Act: "It is the intent of the legislature that [the funds] be used solely for assistance to public libraries or cooperative libraries and not for the administrative expenses of the Library of Michigan or the Department of History, Arts, and Libraries".

House Bill 4944 would amend the Michigan Historical Commission act (MCL 399.1 et al.) to transfer the commission from the Department of State to the new department. It would also add four members to the six-member commission, one to be appointed by the Speaker of the House of Representatives, one to be appointed by the Senate Majority Leader, one additional gubernatorial appointee, and the director of the new department. Seven members (instead of the current six) would be appointed by the governor with the advice and consent of the Senate, with one of the members to be a representative of the Historical Society of Michigan chosen by the governor from a list of three nominees from the society. The bill would also require the state treasurer to direct the investment of the Michigan Heritage Publications Fund (from sales of Michigan History magazine) and the Museum Operations Fund (from sales at the historical center store), and to credit interest and earnings from investments back to the funds. The bill would take effect August 6, 2001.

House Bill 4945 would amend the Local Historic Districts Act (MCL 399.201a et al.) to transfer responsibilities under that act from the Bureau of History in the Department of State to the new department.

House Bill 4946 would amend a provision of the downtown development authority act (MCL 125.1679) concerning the preservation of historic sites to include references to the new department rather than to the secretary of state.

House Bill 4947 would amend the Single Business Tax Act (MCL 208.39c) and House Bill 4948 would amend the Income Tax Act (MCL 206.266) to change references from the Department of State to the new department in provisions concerning tax credits for the preservation of historic resources. In both acts, credits currently can only be claimed if a rehabilitation plan is certified before January 1, 2003. Each bill would remove that date, so that historic preservation credits would be available indefinitely.

House Bill 4949 would amend the Management and Budget Act (MCL 18.1284 et al.) to transfer responsibility for records management, retention, disposal, archiving, and so forth from the Department of State to the new department. House Bill 4950 would likewise amend the Records Media Act (MCL 24.402) to transfer functions under that act from the Department of State to the new department.

House Bill 4951 would amend Public Act 69 of 1976 (MCL 399.111 et al.), concerning the acquisition and operation of state historic sites, to transfer responsibilities under the act from the secretary of state to the new department.

House Bill 4952 would amend a provision of the Freedom of Information Act (MCL 15.243) exempting the disclosure of information that would reveal the exact location of archaeological sites to transfer certain responsibilities from the secretary of state to the new department.

House Bill 4953 would amend the Natural Resources and Environmental Protection Act (MCL 324.76102 et al.) to transfer responsibilities relating to aboriginal records and antiquities and abandoned property of historical or recreational value found on the state-owned bottomlands of the Great Lakes from the Department of State to the new department. Membership on the nine-member Underwater Salvage and Preserve Committee would be adjusted so that the two members now appointed by the secretary of state would be appointed by the director of the new department. Also, the governor would be granted five appointments rather than four (and the appointment now made by the director of the Department of Commerce would be eliminated).

House Bill 4954 would amend the Revised Judicature Act (MCL 600.2137) to transfer responsibilities related to the reproduction and destruction of court records from the Department of State to the new department.

House Bill 4955 would amend the Michigan Iron Industry Museum Advisory Board Act (MCL 399.73 and 399.74) to transfer the advisory board from the Department of State to the new department. The bill would add two members to the board, one appointed by the Speaker of the House of Representatives and one appointed by the Senate Majority Leader. The board currently has nine members, appointed by the governor. Currently, no more than five members (of the nine) can be of the same political party. Under

the bill, no more than six (of the eleven) could be of the same political party.

House Bill 4956 would amend the Natural Resources and Environmental Protection Act (MCL 324.76501 et al.) to transfer the Mackinac Island State Park Commission from the Department of Natural Resources to the new department. The bill would also place language in the act specifying that the park commission would control and manage the Mill Creek historical site near Mackinac City (this property was previously transferred to the park commission by land conveyance under Public Act 285 of 1975). The bill would take effect August 6, 2001.

Also, the bill would rewrite several sections dealing with the rulemaking and enforcement powers of the commission. Among other things, it would specify that the commission could promulgate and enforce reasonable rules for the care and preservation of the Mackinac Island State Park and other property under its control, including the Mill Creek site and Fort Michilimackinac. The commission also could promulgate rules for the protection of the lands and property under its control against wrongful use or occupancy to protect the lands and property from depredations and to preserve the land and property from molestation, spoilation, destruction, or any other improper use or occupancy. Further, the bill specifies that a person who violated any rule promulgated by the park commission under the act would be responsible for a civil infraction and could be ordered to pay a civil fine of up to \$500.

House Bill 4956 would also amend Part 635 of NREPA dealing with surface and underground coal mine reclamation to replace references to the Department of State with references to the new department.

House Bill 4957 would amend the Michigan Freedom Trail Commission Act (MCL 399.82 and 399.83) to transfer the commission from the Department of State to the new department. The bill would add two members to the commission, one appointed by the Speaker of the House of Representatives and one by the Senate Majority Leader. Also the director of the new department would take the place of the secretary of state on the commission. (This would increase the membership from 12 to 14; currently all appointed members are appointed by the governor.)

BACKGROUND INFORMATION:

Governor Engler's Executive Order 2001-1, which takes effect August 5, 2001, contains the transfers included in the bills in this package, except for the library transfers, but also contains other transfers not included in the legislation. For example, statutory authority, powers, duties, functions and responsibilities of the secretary of state, Department of State, and Michigan Historical Center with regard to the state historic preservation office found in the federal National Historic Preservation Act of 1966 and the rules and regulations associated with that act would be transferred to the new department. Also transferred to the new department would be the powers and functions of both the Michigan Council for Arts and Cultural Affairs (now in the Department of Consumer and Industry Services) and the Office of Film and Television Services (from the Michigan Strategic Fund). Functions of the Michigan Historical Commission under a series of acts not amended by the package of bills would also be transferred to the new department, including those dealing with the registration of historic sites, local historic districts, the records of the Grand Army of the Republic, records of the United States Land Office, and records of the U.S. Public Survey Office.

The executive order requires the director of the new department and the directors of the departments and agencies from which authority is being transferred to jointly identify program positions and administrative function positions that will be transferred and to develop an agreement specifying the positions by the effective date of the order. The transfers must be implemented no later than 120 days from the effective date of the order. The director of the new department can request the assistance of the Departments of Consumer and Industry Services, State, Natural Resources, and Management and Budget with respect to personnel, budgeting, procurement, information systems, and other management-related functions and those departments must provide the assistance. The state budget director is required to determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the current fiscal year. The text of the executive order can be found at www.state.mi.us/migov/gov.

FISCAL IMPLICATIONS:

The Senate Fiscal Agency reports in its analysis of House Bill 4941 dated 7-11-01 that the fiscal year

2001-2002 appropriations for the new Department of History, Arts, and Libraries are found in Senate Bills 291 and 234. The appropriations for the various agencies in Senate Bill 291 (S-2) are: Council for Arts and Cultural Affairs, \$25,956,900; Mackinac Island State Park Commission, \$3,407,700; Michigan Historical Program, \$8,303,300; Department Operations, \$708,600. (It should be noted that as of the date of this analysis, Senate Bill 291 containing the appropriation for the new department had not been enacted. It was in the House Appropriations Committee.) Senate Bill 234 (the general government appropriations bill) contains an appropriation for the Library of Michigan of \$39,880,100. That bill has been enacted as Public Act 83 of 2001.

The SFA says the Departmental Operations line listed above contains \$279,900 in new general fund dollars to cover the cost of newly created unclassified positions and other administrative costs. The agency also points out that the transfer of the state library will have an effect on the budget of the Legislative Council because funds appropriated for the library include shared costs for the legislative web site and property management costs for legislative facilities.

House Bills 4947 and 4948 remove sunsets on the historic preservation tax credit under the Single Business Tax Act and the Income Tax Act, respectively. These credits have only been available since 1999 and originally contained a 2003 sunset. The SFA points out that the fiscal impact of extending these credits indefinitely will not be felt until fiscal year 2002-2003. Information that would allow an estimate of future fiscal impact is not yet available. (SFA analysis of House Bills 4947 and 4948 dated 7-11-01)

ARGUMENTS:**For:**

In a recent press release announcing the legislation in this package, Governor Engler said, "This is much more than just another government reorganization". He made the following points in support of the new department:

"We know that knowledge of history, the arts, and culture is fundamental to human enrichment and to a well-rounded education. We need to know our heritage, because it tells us who we are, what timber we are made of, what we can dream and hope to

realize. Second, we know that encouraging the preservation of history, creation of art, and development of culture makes Michigan an even more interesting and desirable place in which to travel and live. The growth of cultural tourism bears this out. Third, we know that good stewardship at the state level involves concern for the integrity of Michigan's many historic sites, archives, and other cultural resources and treasures."

In his State of the State address, Governor Engler said that "this new department will become the focal point to preserve Michigan's heritage for the benefit of future generations". The governor has said that the status of the state's history, arts, and cultural programs can be raised if the programs that are currently spread among a variety of agencies and departments are organized within one department. This package accomplishes that.

Against:

There have been concerns about the transfer of the state library from the legislature. It was moved under the jurisdiction of the legislature nearly 20 years ago because library supporters considered it to be neglected by the executive branch (notably, the Department of Education). Today its supporters point to the accomplishments made over those years of association with the legislature, including a new state library building, technological advances, and partnerships within the state's library community. The state library and its information technology systems are said to be in the forefront nationally. Supporters want to see the excellence of the library system maintained and the current library functions continued. For example, they have urged the adoption of a process that supports the nonpartisan selection and support of a highly qualified state librarian. There are fears that moving library operations into the executive branch and away from a bipartisan legislative panel could lead to partisan management. The current arrangement also puts a priority on research and reference services for the legislature. Will this continue? There are also concerns about the future funding of libraries. Libraries depend, based on statute and tradition, on penal fines through a system involving the legislature and local judges. There are concerns this system could be disturbed. The system also receives federal funds, and there are concerns these funds could be diverted to offset departmental administrative costs, as reportedly happened decades ago when the library was part of an executive department. In general, there remain among some library representatives a lot

of questions (and nervousness) about the administration of the state library network after this transfer. Some people find it hard to believe the legislature would want to give up control over what has become over the past two decades an outstanding public institution.

Response:

The state library will in fact be the largest component of the new department, in some ways the centerpiece, so it is not likely to be ignored or neglected. The title of the department has been revamped to reflect the importance of libraries. Libraries are a natural fit with history and the arts. The state library, say proponents of the new department, has the largest collection of materials related to Michigan history, and in the Internet age, the library is the portal through which access can be gained to primary sources, as well as other history-related information. To reassure those who are concerned that the legislature will no longer receive the appropriate attention from the library, House Bill 4940, which would transfer the state library to the new department, retains language specifying that the library "is charged primarily with providing reference services to the legislative branch of government and, in addition shall provide those services to the executive and judicial branches of state government and the general public". As to concerns about partisanship, there will continue to be a board of trustees for the state library with representatives from the legislature, various kinds of libraries, and the general public (as well as the chief justice of the state supreme court). This body will now advise and make recommendations to the governor, instead of to the Legislative Council, and it will have a role in the selection of the state librarian. It will also have a role in budget deliberations and in the formation of rules that govern departmental operations. The legislation also contains protections for the funding of local libraries.

Against:

Some people oppose the creation of a new department because they believe it will lead inevitably to more state expenditures on cultural activities that are best funded privately. Supporters of the package say creating a new department will put more emphasis on the importance to society of activities supporting history, the arts, and libraries. But this added emphasis, say critics, will lead inevitably to increased public spending in these areas and an added burden to taxpayers. This is particularly problematic when it comes to funding the arts. The support of the arts is best left to the private

sector through voluntary contributions. An influential elite should not impose its artistic interests and values on the state's taxpayers. Moreover, some people believe public subsidies undermine artistic freedom.

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.