



## CAPITOL REPORT

May 23, 2005

**M**ichigan legislators are starting the serious phase of writing the State's 2005-2006 budget, rolling up their collective sleeves to draft spending bills they say they'll finalize by late June or early July.

Skeptics abound...including the seasoned governmental affairs specialists at Kelley Cawthorne. For one thing, the Senate approach of using traditional Appropriations subcommittees to draft traditional department-by-department spending bills seems to run completely counter to the House's non-traditional "Price of Government" approach that utilizes nine bills matching nine goals or just maybe one 800-page omnibus bill matching the nine goals. How, or if, the two approaches could be reconciled by a House-Senate conference committee is shaping up as one of the great mysteries of our time.

This dichotomy alone would make it a daunting task to complete a state budget...throw into the mix weak or static revenues, run-away Medicaid costs, pent-up demand for more education spending, plus a host of other needs, all against a backdrop of solid bi-partisan resistance to new taxes, and it's easy to conclude – as we have – that a final fiscal plan is a long way off.

The House in particular, has really drunk the "Kool-Aid" of the book "Price of Government"...its use of "grades" and "rankings" of government priorities has old-timers scratching their head in semi-bewilderment. House Democrats may have a point that the system, which essentially bypasses Appropriations subcommittees, reduces over-all accountability. Over in the Senate, veteran GOP Appropriations chair Sen. Shirley Johnson can barely contain her disdain with the process unfolding on the other side of the Capitol. As we said...see you in September.

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**K-12 groups** focused their attention late last week on the revenue estimating conference which forecasts the state's current year revenues and the next fiscal year's revenues. Here is the bottom-line outcome:

- Last minute adjustments made the final projections somewhat better than the numbers contained in earlier press reports.
- Still, for the current fiscal year ending September 30, the general fund will be up \$44.9 million over earlier estimates and the school aid fund will be down \$28.3 million, for a net increase of \$16.5 million.
- There will be no cut in the foundation in this fiscal year, thanks to lower than expected pupil counts and perhaps some shifting from the general fund.
- For the new fiscal year beginning October 1, 2005, the **school aid** fund will be \$56.8 million under earlier projections and the general fund will be short another \$21.1 million.
- Despite this, we believe there remains a reasonably good chance that the earlier promise of \$175 per pupil foundation increase might still be kept. This would occur through some shifting of GF monies into the school aid fund. There will be considerable political pressure to do exactly that (after all, the election year of 2006 is just around the corner!).
- Obviously, school administrators will want to be cautious and conservative in preparing their 2005-2006 budgets, but Kelley Cawthorne is more optimistic than most observers that lawmakers and the Governor will move heaven and earth to achieve the \$175 increase or something close to it.

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Economists who spoke before the State's revenue estimating conference last week made these key points: (1) Michigan's employment and personal income will improve in 2005, but at a far slower rate than in the nation as a whole, (2) "sideways" is the phrase several used to describe the State's economic movement, (3) Michigan will add 46,000 new jobs in 2006, less than half the jobs recently lost, (4) none of the growth will come from the manufacturing sector, (5) Michigan unemployment in 2005 and 2006 will be 7.3%, compared to approximately 5% for the country, (6) personal income in the state will grow 3.1% in 2005 and 5.8% in 2006.

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Gov. Granholm's proposed **Water Legacy Act** has stalled in the state Legislature, but environmental groups have proposed a plan to use existing legislation to accomplish several of the governor's goals. By borrowing from past proposals and tweaking current environmental laws, the Michigan Environmental Council and nine other state environmental groups said the state would go far toward protecting its water resources. Republican leadership says it is

waiting for a state groundwater survey - due next February - before acting on the Water Legacy Act.

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The chairman of the House Appropriations subcommittee on Higher Education will unveil this week his new plan for funding **state universities**. Rep. John Stewart (R-Plymouth) says he hopes the formula will provide a more rational, “win-win” funding scheme for the State’s 15 universities, but some observers fear that the net effect of his proposal will significantly hurt at least two major universities. The Higher Ed budget may be the only stand-alone budget to be taken up by the House if in fact that chamber rolls up everything else into one major omnibus bill.

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Recent bill introductions: SB 446 would implement a quality assurance assessment tax on Medicaid **managed care** organizations. A similar tax on **medical doctors** appears dead. HB 4970 would create medical savings accounts for **long-term health care** expenses. SB 505 proposes to require applicants for **adult foster care** licensing to comply with the same standards as their employees. HB 4773 would rescind the immunity from liability for **drugs** previously approved by the FDA. HB 4751 provides medical services coverage for **adult foster care** facilities. HB 4754 requires appliance **recyclers** to remove mercury from appliances before recycling. HB 4755 would require **school board and village** elections be held in November. SB 403 would greatly expand the scope of practice for chiropractors to allow for imaging and other traditional tools of **radiology**.

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A Senate subcommittee heard testimony last week from **university officials** supporting Gov. Granholm’s proposed \$2 billion bond issue aimed at attracting entrepreneurs and high tech development to the state. But Sen. Valde Garcia (R-Howell) said the \$2 billion figure could be a problem with both his caucus and the voters. Mr. Garcia said his sense now is that most members of the caucus will back some proposal but a number of issues remain, among them the \$2 billion price tag. Members are also concerned about the state taking an equity position in a number of the companies that could get funding and the types of companies that could benefit.

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The Administration’s effort to eliminate funds for the lease and operation of Michigan’s only **privately-run prison** is running into substantial opposition both in the Legislature and in Lake County where the facility is located. It now appears the House will keep the funds and the Senate recently heard persuasive testimony that may convince it to do the same. A major battle with the Governor brews.

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The House Appropriations Subcommittee on Community Colleges has agreed to a budget which totals a little over \$281.3 million and adds language calling for a 13-member task force to evaluate **community colleges**. Gov. Granholm would nominate the task force with the group making recommendations based on 11 different criteria. The task force will consist of two representatives, two senators, the state budget director, the Department of Labor and Economic Growth director, four representatives from community colleges, someone from the business community, a professor and a student. Among the criteria are degree completion rates, how much is spent on administration vs. overall expenditures, student transfer rates and job placement rates.

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Michigan Racing Incorporated, a subsidiary of Magna Entertainment Corporation, has been selected to operate a **new horse track** planned for the Detroit area. Michigan Downs is expected to be open in Romulus for thoroughbred racing as early as 2009. Acting Racing Commissioner Christine White said she chose Magna for the track operation because it already owns the land and has applied for the building permits, has the funds to complete the project, and already operates tracks around the world, including a number of the most prestigious tracks in the United States.

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Gov. Granholm's plan to revamp the **Single Business Tax** appears to be running into more opposition. Even some legislative Democrats say they're concerned the proposal could lead to higher insurance costs while Whirlpool, a major manufacturer, says the re-write would greatly increase its liability. The Big Three automakers and others continue to push hard for passage, however. Expect to see legislative Republicans unveil an alternative soon, although GOPers Brooks Patterson and Sen. Bruce Patterson support the Granholm plan.

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Judges of Michigan's **trial bench**, the only retired state officials not covered by health insurance, are hopeful that this will be the year that judicial retirees get state sponsored coverage. Following several meetings with legislators, lobbyists, judges, and the Administration, the chief **retirement** official at Treasury has agreed to an actuarial study of the issue. Because the Judges Retirement System is presently over-funded, the goal in this tight budget year may be to get at least a budget neutral outcome.

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Michigan awaits the State Supreme Court decision this summer as to who owns and, more importantly, controls **Great Lakes beaches**. Is it the landowner with deeds running to the water's edge, or a state agency under a dusted off public trust theory? The prevailing law, determined by the Depression-era case of Hilt v Weber, is that landowners own to the water's edge, not just to the "ordinary high water mark." The public has been stirred by claims suggesting they may no longer be able to walk on privately owned Great Lakes beaches. But,

landowners say, they have traditionally allowed people to walk along the shoreline and thus, they say, beach closure is a non-issue. Stay tuned.

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With the Michigan **Telecommunications** Act set to expire at the end of the year, the legislative battle to write a new act is heating up. "I want to get out of the way of competition and get rid of regulation where I can," said Rep. Mike Nofs (R-Battle Creek), chair of the House Energy and Technology committee. Scott Stevenson with the Telecommunications Association of Michigan, which represents the smaller incumbent providers in the state, said the present act is holding up many new services because companies are unclear what they have permission to provide. "Our members aren't exactly sure how to apply the old rules to the industry they're working in now," he said. PSC Chair Peter Lark said the commission would have to review the act now that there is some certainty of it being revised. Among the key issues Mr. Lark said the commission would likely want retained was regulation of slamming and cramming (changing or adding services without customer permission) and powers to resolve customer complaints. He said a specific proposal would await discussions among the commissioners and the PSC telecommunications staff.

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Legislation on the Move: A bill to modernize Michigan's **item pricing** law (HB 4636) has been introduced with bi-partisan sponsorship....SB 434, a bill to allow MDOT's economic development funds to be used for a retail distribution center and aimed at helping build a **Wal Mart** distribution center in Mt. Pleasant is moving through the Senate....SB 189, sponsored by Sen. Patty Birkholz, would require **medicines** containing ephedrine or pseudoephedrine to be placed behind retail counters or kept under close surveillance. The two are sometimes used in the manufacture of a highly dangerous, addictive illegal substance. The bill has passed the Senate and is pending before the House....Nearly every business maintaining customer or client **databases** will be affected by SB 309 sponsored by Sen. Shirley Johnson. The bill would require notification to persons affected by a security breach and is the subject of a Senate Judiciary committee hearing this week....HB 4572, creating a Wastewater Application Grant Fund to be awarded to local units of government to cover **engineering fees**, has passed the House and is now in a Senate Committee.... Senate Majority Floor Leader Bev Hammerstrom will soon introduce a bill to regulate and impose numerous government mandates on contracts between **boat manufacturers and dealers**.... HB 4473 would require more frequent local inspections of **landlords and property managers** with poor safety records while giving properties with good track records slightly less frequent inspections. The bills may move in committee this week.

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**Chief of Staff** Rick Wiener may leave soon to head the Gov's re-election campaign full time....Detroit Mayor Kwame Kilpatrick is being pounded in the press daily, but still possesses a '05 re-election campaign war chest big enough to make him hard to beat. Freeman Hendrix may

have a real shot, though....State Senator Virg Bernero is again challenging Lansing Mayor Tony Benevides who won by less than 300 votes in '03. Bernero, with a new UAW endorsement, added to an old Chamber of Commerce nod, has a good chance to reverse the outcome this time around....Mike Flanagan was selected to be the new State Superintendent of Public Instruction by the State Board of Education. The vote was 5 "yes", 1 "no", and 2 "abstain" and ironically resulted in less supportive votes than his predecessor Tom Watkins got when he was elected on a 6-2 Board vote. Flanagan had the endorsement of Gov. Granholm....Dick DeVos is increasingly likely to enter the 2006 race for Governor....Grand Rapids District Court Judge M. Scott Bowen is well funded and looking good for the Democratic nomination for Attorney General to face incumbent Mike Cox in 2006....House Republicans claim to have raised a record \$1 million at a recent Novi fundraiser....Republican-nominated State Supreme Court Justice Betty Weaver says she'll back off plans to resign in October if the GOP Legislature places on the ballot her pet plan of a single 14 year term for high court members. Republicans don't want Gov. Granholm to fill the vacancy with a Democrat, but so far aren't biting on Weaver's offer.

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