



CAPITOL REPORT

October 4, 2005

As predicted by Kelley Cawthorne last Spring (see earlier issues of Capitol Report), the Legislature and Governor waited until the last day of the current fiscal year before finalizing the FY 2006 state budget.

As the ink was drying on the document, Governor Granholm hailed it as a “fiscally responsible plan that both protects our quality of life and grows our economy” while House Speaker Craig DeRoche and Senate Majority Leader Ken Sikkema praised it for being balanced with no major tax or fee increases.

The final budget spends \$8.977 in general funds, \$314 million more than the current year, and \$70 million more than the Governor originally proposed.

Highlight of a \$17.3 billion (less than \$7 million GF) omnibus budget bill (HB 4831) was the Governor’s controversial veto of monies for the **Michigan Youth Correctional Facility** in Baldwin, a move which is a blow to the State’s poorest county and which may trigger a lawsuit alleging the State has breached a lease contract with the prison’s owner, Geo Corporation. The \$3.4 billion Transportation budget also was riddled with 25 line-item vetoes of individual road projects. The \$10.3 billion Community Health budget saw no vetoes, nor did the \$1.73 billion Higher Ed budget. The K-12 budget saw only one minor line-item veto out of its \$12.8 billion total price tag that features a \$175 per pupil increase in the base grant to schools.

Among other budget highlights:

K-12: Section **20j** and “**at risk**” monies were left wholly intact; **ISDs** were essentially funded at \$77.7 million, the same as last year; closing the base funding gap was left to another time.

Community Health: nearly all proposals to cut Medicaid and the department were dropped; **Medicaid** providers will be cut 3%, not 4% as originally proposed by the Governor. New co-payments for Medicaid recipients were approved:

- \$1 for outpatient services, \$2 on physician services, \$3 on emergency room visits and \$50 on the first day of an in-patient hospital stay. The co-pays would raise \$2.3 million in new revenue.
- Proposals from Sen. Tom George (R-Portage) to dramatically change Medicaid by encouraging lifestyle changes were essentially gutted. Medicaid in its current form is unsustainable, Sen. George and others have argued.

Colleges and Universities: Scholarship programs remain mostly unchanged, except that the non-public tuition grant program will be cut 4.9%. Arguably, a funding formula was established for the first time, and two universities targeted by some key legislators – Wayne State and Northern Michigan – received minor increases at least as measured after prior executive order reductions. Community college funding remained frozen, while four year institutions as a group got a 1% increase. **Wayne State** will also get \$50,000 for a middle school math training program in a separate budget provision. The budget agreement uses the funding the universities received for 2004-05 less the executive order cut as the base on which to build the 2005-06 funding. So whether the universities 2005-06 budget is an actual increase for Higher Ed may be debatable.

DEQ: A major boost in funding from the refined petroleum fund – to help finance the cleanup of **underground storage** tanks – helped set the budget for the Department of Environmental Quality (SB 270) at \$455.3 million, \$31.8 million in general funds.

Labor and Economic Growth: The final agreement eliminates a \$3.7 million increase for **fire protection** grants that had been included in both the Governor’s recommendation and the Senate-passed bill. Those grants remain at \$3.5 million or about 23 percent of what would be needed to fully fund the provision. \$1.6 million for the Office of Fire Fighter Training Council was restored in the conference agreement.

Human Services: Boilerplate language was adopted aimed at preventing certification and licensing preferences to unionized **adult foster** care homes.

Revenue Sharing: Was left essentially unchanged for the new budget year.

So how did the Governor and Legislature balance a budget that was originally forecast to be far out of balance? Essentially, they came up with a combined \$235.5 million in increased tax collections, fund shifts, and land sales, all of which helped greatly to close the gap. However, many veteran observers note that the State still has a major, on-going structural deficit that has yet to be addressed. Still coming in the early days of the new fiscal year is a capital outlay bill and a “supplemental” appropriations bill which may fund various “cats and dogs” that were not covered in the first round of budget making.

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A \$1 billion **jobs plan** to kick start Michigan in the high tech, life sciences, alternative energy and defense fields has been given near-unanimous approval by the House. Although the plan, an alternative to Gov. Granholm's initial proposal for a \$2 billion bond issue, is envisioned as a way to provide a quick jobs boost, the first use of the money is not anticipated until some time early next year.

The plan would securitize - sell to investors - about a third of the state's remaining \$6.2 billion in tobacco settlement funds it is to receive over the next 20 years. How much is required to reach the \$1 billion mark depends on market conditions, with consultants estimating the state will get anywhere from 50 cents to 70 cents on each tobacco settlement dollar. The \$280 million the state receives annually under the settlement, which now goes to the Michigan Merit Scholarship program and Medicaid, would be reduced to about \$175 million. Meanwhile the House has passed an ambitious five year \$1 billion dollar **business tax cut package**, tie-barred to the jobs package, that is receiving a skeptical eye from Senate leadership and the Governor. Senate GOP Leader Ken Sikkema says he's interested in a "revenue trigger" which would curb spending during flush times but not strangle the State in bad years.

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The chair of the House Energy and Technology Committee has set public hearing dates for a **telecommunications** re-write bill that he hopes to report out of committee by October 19. Rep. Mike Nofs (R-Battle Creek) appears to have bi-partisan support for his measure (HB 5237). Just days earlier the Senate committee considering telecommunications chaired by Sen. Bruce Patterson (R-Canton) reported out its version (SB 754).

The House bill eliminates retail price regulation to basic residential line service over free calls and eliminates the requirement that all providers offer directory service and deregulation of operator service. But while only the basic service would be regulated, providers could not require customers to purchase that regulated service in order to purchase other, unregulated services. The bill would allow for municipal telephone service under certain conditions, but would prohibit educational institutions from reselling excess capacity on their networks if that would compete with a private provider. The municipal service provision drew fire Wednesday from **intermediate school districts** and from the **Michigan Municipal League** which called it an effort to reduce customer choice.

The bill also once again tries to eliminate the end user carrier line charge, a move courts had rejected in the last rewrite of the act. But providers charging the fee would be allowed to ask the Public Service Commission to roll that fee into their base rates when the fee expires January 1, 2007. Both the Senate and House bills restrict price regulation to residential, single-line service, though it would provide 100 calls or 12,000 minutes under the basic package.

Under the Senate bill, only residential lines would see price regulation, and then only for basic service - 200 calls per month. The Public Service Commission's role would be arbitrating interconnection agreements between competitors and ensuring service quality requirements are met. "It's a massive deregulation with no consumer protections," said a spokesperson for competitive providers.

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Senate Republicans are introducing legislation setting new regulations on individuals and companies that make large **use of water**. They say findings from a groundwater inventory and public hearings show that some groundwater dependent water bodies have to be protected to ensure their sustainability. But the proposals will deal with new situations or expanded usage by individuals and companies using 70 gallons or more per minute, not current usage. That limitation raised some concern from one Senate Democrat who said the proposed legislation may be too limited.

There is a need to act to preserve water resources, [Sen. Patricia Birkholz](#) (R-Saugatuck) said at a press conference, even though findings by her Natural Resources and Environmental Affairs Committee from five public hearings indicated that "in general, farmers, manufacturers, utilities, municipalities and other major water users have used our waters sensibly."

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State medical groups are backing a plan to create special courts with judges and staff trained in medicine, but the Legislature seems to be reacting cautiously to the proposed approach to **medical malpractice** cases. Proponents say there is a lack of consistency in jury findings and there are no standards, they say, for determining whether an act will be treated as malpractice or what the damages will be if it is.

Under the plan, health courts would have all cases handled by judges and staff trained in elements of medicine. Elements not covered by the staff would be addressed by neutral experts. Each case filed with the court would be reviewed by specialists in the area being addresses, but without providing the names of the doctors, facilities or patients involved. Cases would move forward based on the findings of those experts as to whether standards of care were met. If there was a finding that the injury was based on medical error, the plaintiff would be paid actual damages plus an award based on a schedule that looked at his or her age and the injuries sustained.

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A group called the Coalition for MI Wineries, Restaurants & Retailers say HB 4959's ban on direct shipment from **state wineries** to restaurants and retail stores could cost as much as 30 percent of all sales for small wineries in the state.

The measure passed the House last month as a way of resolving the current unconstitutionality of Michigan's wine shipping system that prohibits direct shipping to consumers from wineries outside the state but not from Michigan wineries. While the bill allows some direct shipments to individuals, with proof the person is older than 21, it bans shipments to restaurants and retailers that Michigan wineries have had for decades. The bill is in the Senate, but no hearings have been set for it or other similar Senate-based legislation. Meanwhile, limited progress is being reported in on-going negotiations between wine producers and beer and wine wholesalers.

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Legislation setting limits on amounts people can borrow from check-cashing and **payday advance companies** and the interest rates those lenders can charge has gone to a House-Senate conference committee. Michigan-based loan companies have blasted the bill, saying it would open the door for their national-based competitors to come in, take over the state market and then later force higher allowable interest rates.

Under the bill, borrowers would be limited to getting \$600 in a payday advance or a cashed check. Interest rates would be set at 15 percent for the first \$100, 14 percent for the second \$100, 13 percent for the third \$100, 12 percent of the fourth \$100 and 11 percent for the fifth and sixth \$100. The bill also requires each lender to provide various notices and the borrower can have a change of mind and return the loan the next day.

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The class of 2008 may take the **ACT and WorkKeys** instead of the Michigan Educational Assessment Program high school test, Gov. Granholm has announced. The State Administrative Board approved a \$22.5 million contract with Pearson Educational Measurement and ACT to provide the state's new high school test. But the plan must still be approved by the U.S. Department of Education as complying with the No Child Left Behind Act. Under the plan, the tests will be offered each spring, with one day for the ACT and one day for the WorkKeys and the supplemental tests required to cover social studies and other topics the state wanted beyond what the ACT covers.

Meantime, the Governor, under intense pressure, has signed legislation requiring post-Labor Day school openings.

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Briefs: The issue of **automotive mercury** is heating up with several initiatives in the works. The auto manufacturer-funded mercury switch voluntary removal program is attracting very few participants because of a lack of compensation and/or liability relief for automotive recyclers. Look for **recyclers** and scrap interests to work together on an alternative collection program in the near future.....Expect new legislation aiming to close loopholes in Michigan's

current youth **smoking** access law. After making a big splash in the spring, legislation banning smoking in bars, restaurants and workplaces appears to have stalled.....Landlords are pushing for floor action on HB 4473 sponsored by Majority Floor Leader Chris Ward. The House Local Government Committee approved the bill in the early summer. The measure would focus scarce local resources on bad actors by giving **property owners and managers** with good track records comparatively fewer inspections. . . . The DMB is intensifying efforts to **consolidate state leases** from scattered suburban locations to more centralized downtown areas.

Efforts to secure licensure of **interior designers** (HB 4311) are expected to intensify.....Bills have been introduced mandating notification requirements in the event of a security breach of a **data system**.....Legislation is being proposed to impose further security investigations of persons who **care for the elderly** and mentally impaired.....There is a real concern in the business community that a number of House Republicans joined Democrats on a motion to discharge a bill (HB 4773) repealing Michigan's so-called "FDA Defense" in **pharmaceutical liability actions**.....Legislation to expand the practice of chiropractic (SB 483) and to certify **radiological technologists** (SB 231) remains bottled up in their first house committee.....A work group has been formed to negotiate legislation (SB 643) that would limit the scope of **investments** for school districts.....A "Physician Quality Assurance Assessment Program (QAAP) had met strong opposition in the legislature and appears dead. The QAAP amounts to a tax on all **physicians** but is more than matched in federal funds to provide rate increases for those physicians who have at least three percent of their patients as Medicaid recipients....An RFP to revamp the state's **food stamp/welfare eligibility system** has been issued but some observers are wary about requirements for vendor financing in the early phases of the project.

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A growing number of "**categorical**" funding areas in the state's K-12 school aid budget should be eliminated and the money put into the basic grant for students. So says a group of 12 former legislators who played a key role in the development of the 1994 **Proposal A** school finance reform. That was one of a number of policy changes proposed to the landmark school funding plan by the group. The 141-page analysis, authored by Doug Drake and Mike Addonizio, is available at the Michigan Prospect [website](#).

The recommendations also call for greater flexibility in the use of **enhancement millages** allowed at the intermediate school district level - and so far used only by Monroe and Kalamazoo ISDs. The group also called on the Legislature to examine ways to prevent the state's wealthier districts from seeing a loss of funding in real dollar terms while not widening the gap in funding between rich and poor districts. And the group says an unintended conflict exists between the increase in assessed property values allowed by Proposal A and the requirements for a rollback

in millages stipulated by the Headlee Amendment. In some older, so-called inner ring **suburbs around Detroit** rollbacks have erased the benefit of increased property values on school finance. State aid payment dates should also be re-worked, the group says.

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