



## CAPITOL REPORT

January 21, 2002

**W**e're off and running into a new -- and very political -- legislative year. The House and Senate each begin floor action January 22 after a five week break. Governor Engler will deliver his (last) State of the State message to a joint session on January 23, and on February 6 he presents his proposed 2002-2003 state budget.

Thus will the stage be set for what promises to be a truly momentous year. A growing budget deficit (at least \$900 million general fund dollars and close to \$500 million school aid fund dollars), a record number of departing officeholders each seeking to leave individual policy legacies, 148 re-drawn legislative districts, the certainty of a different governor, the possibility of different party control of the legislature and the wild uncertainties of a post-election lame duck legislative session . . . all combine to create the prospect of a hair-raising ride through much of 2002. Some details:

### The Budget

**L**ast week's revenue estimating conference produced a slightly better outlook than expected and reinforced hopes for a modest recovery by mid-year. Actual school aid revenues are up, but not enough to fund everything promised in the last school aid bill. We still believe the current \$6,500 per student foundation grant will survive along with virtually all of the established, long-time categoricals. What will go by the wayside are the newer single purpose categoricals such as LAP and PIE.

Likewise, the outlook is comparatively promising for higher education where the Governor and legislative leaders support maintaining current funding and early enactment of that 2002-2003 budget. Conversely, pressure will really be on the medicaid and corrections budgets, though it's hard to see where further cuts could come in those areas.

Of course, at least a partial alternative to spending cuts is increasing revenues. Under current law, the scheduled Single Business Tax cut for 2003 would be automatically delayed if the "Rainy Day Fund" falls below \$250,000,000, which now appears a certainty. State Budget Director Don Gilmer, presumably speaking with at least tacit approval of the Governor, has indicated that the current law should remain intact, i.e., the delay in the cut should occur. Somewhat surprisingly, however, Senate Majority Leader Dan DeGrow has indicated support for keeping the scheduled SBT cut. We continue to think – in the end – the Legislature will have no choice but to delay the cut and grab the desperately needed revenue.

In the case of the scheduled personal income tax cuts, it's a somewhat different story. Whereas lawmakers get additional revenue from the SBT by doing nothing, it takes passage of a bill to stop the scheduled income tax cut. It may be hard to accomplish the latter in an election year, but a bare-bones budget won't be politically popular either. In any case, on the theory that it's good to get the bad news out and over, the Legislature may wrap up a new budget earlier than at any time since the days of the part-time Legislature in the 1950's. Hold on for the ride!

## Personal Political Agendas

Particularly in the case of long-time senators leaving at the end of this year because of term limits, we look for individual pet agendas to be pushed with special vigor. This opens the possibility of life for all sorts of otherwise dormant legislation. This firm will be especially vigilant on behalf of our clients, especially so during the post-election lame duck session when deals, ploys and rabbits-in-the-legislative hat are sure to abound. It may be weeks after all have left town next Christmas before we know exactly what was hatched in those waning days of 2002.

## The Great Election Scramble

It is not an exaggeration to say that this will be the most "wide open" election in state history. We'll have a new governor, lieutenant governor, secretary of state, and possibly attorney general. That's happened before, but not in conjunction with 148 newly drawn legislative districts, the departure of two-thirds of the Senate and perhaps fifty percent of the House, plus the genuine prospect of partisan control switching in one or both legislative chambers.

Dick Posthumus looks solid for the GOP nomination for Governor, and the Democratic battle may begin to narrow down to Jim Blanchard and Jennifer Granholm. Too many names abound for lieutenant governor and secretary of state (plus attorney general, if incumbent Granholm wins the gubernatorial primary) for us to list all the prospects here. There is growing concern in GOP ranks that the party's map-makers may have cut their margins too thin (in seeking to maximize their seats and satisfy constitutional

redistricting requirements), so Democrats could pull off a razor-thin upper house majority for the first time in nearly 20 years.

In the House, Republicans look somewhat stronger in their quest to retain control, but even there a Democratic majority is not out of the question. State Democrats will seek to overturn the new legislative ban on straight party voting and can do it for the 2002 election simply by getting the issue on the ballot, since a referendum on over-turning a legislative act suspends the law until a public vote is held.

So, what does all of this mean for the 2002 legislative session? Politics, intrigue and plenty of action for all concerned. We'll be here to assist you on the ride!

### More On Medicaid

**I**nventive minds are also looking at new ways to bolster Medicaid revenues. Under serious discussion is a so-called "provider tax" on hospitals that will generate federal matching dollars. Apart from the issue of levying a new tax on non-profit hospitals, there is the important issue of how the monies generated will be distributed, to whom, and in what proportion.

On another front, the Court of Appeals late last week granted the State's motion to stay a circuit injunction which would have blocked implementation of its new prescription drug "cost savings" proposal. Presumably the Court will quickly decide the merits of the case, with the losing side likely to appeal to the State Supreme Court. Meantime, the State Department of Community Health says it plans to implement the controversial program on February 1.

### Unemployment Benefits

**T**here is a good chance the Legislature will increase unemployment for the first time since 1995. Republicans want to tie the increase to a one week "waiting" period, a provision which was in state law until the 1980s. The increase is likely to be in the \$100-\$115 a week range and could move fairly quickly.

### And Finally

**P**rogress has been made over the legislative break in stitching together a compromise on Governor Engler's proposal for increasing access to high speed telecommunications. Legislative approval could come as early as March . . . Senate members have unveiled an extensive report calling for aggressive action to protect the Great Lakes by continuing a current ban on directional oil and gas drilling, enacting new limitations on aquifer withdrawals, calling on Congress to ban ballast water discharges,

enacting new clean air standards and attacking sewage overflows . . . Governor Engler has signed his name on the last of 280 public acts for 2001. It marked something of a rarity -- the first year under the current constitution that a governor did not find a single bill to veto.

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