

**HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 669**

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 20145, 22201, 22203, 22207, 22208, 22209,  
22215, and 22221 (MCL 333.20145, 333.22201, 333.22203, 333.22207,  
333.22208, 333.22209, 333.22215, and 333.22221), section 20145 as  
amended by 2015 PA 104, section 22201 as added by 1988 PA 332,  
sections 22203, 22207, 22209, 22215, and 22221 as amended by 2002  
PA 619, and section 22208 as amended by 2011 PA 51.

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

1       Sec. 20145. (1) Before contracting for and initiating a  
2 construction project involving new construction, additions,  
3 modernizations, or conversions of a health facility or agency with  
4 a capital expenditure of \$1,000,000.00 or more, a person shall



1 obtain a construction permit from the department. The department  
2 shall not issue the permit under this subsection unless the  
3 applicant holds a valid certificate of need if a certificate of  
4 need is required for the project under part 222.

5 (2) To protect the public health, safety, and welfare, the  
6 department may promulgate rules to require construction permits for  
7 projects other than those described in subsection (1) and the  
8 submission of plans for other construction projects to expand or  
9 change service areas and services provided.

10 (3) If a construction project requires a construction permit  
11 under subsection (1) or (2), but does not require a certificate of  
12 need under part 222, the department shall require the applicant to  
13 submit information considered necessary by the department to ~~assure~~  
14 **ensure** that the capital expenditure for the project is not a  
15 covered capital expenditure as defined in section 22203(9).

16 (4) If a construction project requires a construction permit  
17 under subsection (1), but does not require a certificate of need  
18 under part 222, the department shall require the applicant to  
19 submit information on a 1-page sheet, along with the application  
20 for a construction permit, consisting of all of the following:

21 (a) A short description of the reason for the project and the  
22 funding source.

23 (b) A contact person for further information, including  
24 address and ~~phone~~-**telephone** number.

25 (c) The estimated resulting increase or decrease in annual  
26 operating costs.

27 (d) The current governing board membership of the applicant.

28 (e) The entity, if any, that owns the applicant.

29 (5) The **department shall make the** information filed under



1 subsection (4) ~~shall be made~~ publicly available ~~by the department~~  
2 by the same methods used to make information about certificate of  
3 need applications publicly available.

4 (6) The review and approval of architectural plans and  
5 narrative ~~shall~~**must** require that the proposed construction project  
6 is designed and constructed in accord with applicable statutory and  
7 other regulatory requirements. In performing a construction permit  
8 review for a health facility or agency under this section, the  
9 department shall, at a minimum, apply the standards contained in  
10 the document entitled "Minimum Design Standards for Health Care  
11 Facilities in Michigan" published by the department and dated July  
12 2007. The standards are incorporated by reference for purposes of  
13 this subsection. The department may promulgate rules that are more  
14 stringent than the standards if necessary to protect the public  
15 health, safety, and welfare.

16 (7) The department shall promulgate rules to further prescribe  
17 the scope of construction projects and other alterations subject to  
18 review under this section.

19 (8) The department may waive the applicability of this section  
20 to a construction project or alteration if the waiver will not  
21 affect the public health, safety, and welfare.

22 (9) ~~Upon~~**On** request by the person initiating a construction  
23 project, the department may review and issue a construction permit  
24 to a construction project that is not subject to subsection (1) or  
25 (2) if the department determines that the review will promote the  
26 public health, safety, and welfare.

27 (10) The department shall assess a fee for each review  
28 conducted under this section. The fee is .5% of the first  
29 \$1,000,000.00 of capital expenditure and .85% of any amount over



1 \$1,000,000.00 of capital expenditure, up to a maximum of  
2 \$60,000.00.

3 (11) As used in this section, "capital expenditure" means that  
4 term as defined in section 22203(2), except that capital  
5 expenditure does not include the cost of equipment that is not  
6 fixed equipment.

7 Sec. 22201. (1) For purposes of this part, the words and  
8 phrases defined in sections 22203 to ~~22207~~**22208** have the meanings  
9 ascribed to them in those sections.

10 (2) In addition, article 1 contains general definitions and  
11 principles of construction applicable to all articles in this code.

12 (3) The definitions in part 201 do not apply to this part.

13 Sec. 22203. (1) "Addition" means adding **to a health facility**  
14 patient rooms, beds, and ancillary service areas, including, but  
15 not limited to, procedure rooms or fixed equipment, surgical  
16 operating rooms, therapy rooms or fixed equipment, or other  
17 accommodations. ~~to a health facility.~~

18 (2) "Capital expenditure" means an expenditure for a single  
19 project, including cost of construction, engineering, and equipment  
20 that under generally accepted accounting principles is not properly  
21 chargeable as an expense of operation. Capital expenditure includes  
22 a lease or comparable arrangement by or on behalf of a health  
23 facility to obtain a health facility, licensed part of a health  
24 facility, or equipment for a health facility, if the actual  
25 purchase of a health facility, licensed part of a health facility,  
26 or equipment for a health facility would have been considered a  
27 capital expenditure under this part. Capital expenditure includes  
28 the cost of studies, surveys, designs, plans, working drawings,  
29 specifications, and other activities essential to the acquisition,



1 improvement, expansion, addition, conversion, modernization, new  
2 construction, or replacement of physical plant and equipment.

3 (3) "Certificate of need" means a certificate issued under  
4 this part authorizing a new health facility, a change in bed  
5 capacity, the initiation, replacement, or expansion of a covered  
6 clinical service, or a covered capital expenditure that is issued  
7 in accordance with this part.

8 (4) "Certificate of need review standard" or "review standard"  
9 means a standard approved by the commission.

10 (5) "Change in bed capacity" means 1 or more of the following:

11 (a) An increase in licensed hospital beds.

12 (b) An increase in licensed nursing home beds or hospital beds  
13 certified for long-term care.

14 (c) An increase in licensed psychiatric beds.

15 (d) A change from 1 licensed use to a different licensed use.

16 (e) The physical relocation of beds from a licensed site to  
17 another geographic location.

18 (6) "Clinical" means directly pertaining to the diagnosis,  
19 treatment, or rehabilitation of an individual.

20 (7) "Clinical service area" means an area of a health  
21 facility, including related corridors, equipment rooms, ancillary  
22 service and support areas that house medical equipment, patient  
23 rooms, patient beds, diagnostic, operating, therapy, or treatment  
24 rooms or other accommodations related to the diagnosis, treatment,  
25 or rehabilitation of individuals receiving services from the health  
26 facility.

27 (8) "Commission" means the certificate of need commission  
28 created under section 22211.

29 (9) "Covered capital expenditure" means a capital expenditure



1 of ~~\$2,500,000.00~~ **\$10,000,000.00** or more, as adjusted annually by  
 2 the department under section 22221(g), by a person for a health  
 3 facility for a single project, excluding the cost of nonfixed  
 4 medical equipment, that includes or involves the acquisition,  
 5 improvement, expansion, addition, conversion, modernization, new  
 6 construction, or replacement of a clinical service area.

7 (10) "Covered clinical service", except as modified by the  
 8 commission under section 22215, means 1 or more of the following:

9 (a) Initiation or expansion of 1 or more of the following  
 10 services:

11 (i) Neonatal intensive care services or special newborn nursing  
 12 services.

13 (ii) Open heart surgery.

14 (iii) Extrarenal organ transplantation.

15 (b) Initiation, replacement, or expansion of 1 or more of the  
 16 following services:

17 (i) Extracorporeal shock wave lithotripsy.

18 (ii) Megavoltage radiation therapy.

19 (iii) Positron emission tomography.

20 (iv) Surgical services provided in a freestanding surgical  
 21 outpatient facility, an ambulatory surgery center certified under  
 22 title XVIII, or a surgical department of a hospital licensed under  
 23 part 215 and offering inpatient or outpatient surgical services.

24 (v) Cardiac catheterization.

25 (vi) Fixed and mobile magnetic resonance imager services.

26 (vii) Fixed and mobile computerized tomography scanner  
 27 services.

28 (viii) Air ambulance services.



1 (c) Initiation or expansion of a specialized psychiatric  
2 program for children and adolescent patients utilizing licensed  
3 psychiatric beds.

4 (d) Initiation, replacement, or expansion of a service not  
5 listed in this subsection, but designated as a covered clinical  
6 service by the commission under section 22215(1)(a).

7 (11) "Fixed equipment" means equipment that is affixed to and  
8 constitutes a structural component of a health facility, including,  
9 but not limited to, mechanical or electrical systems, elevators,  
10 generators, pumps, boilers, and refrigeration equipment.

11 Sec. 22207. (1) "Medicaid" means the program for medical  
12 assistance administered by the department ~~of community health~~ under  
13 the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

14 (2) "Modernization" means an upgrading, alteration, or change  
15 in function of a part or all of the physical plant of a health  
16 facility. Modernization includes, but is not limited to, the  
17 alteration, repair, remodeling, and renovation of an existing  
18 building and initial fixed equipment and the replacement of  
19 obsolete fixed equipment in an existing building. Modernization of  
20 the physical plant does not include normal maintenance and  
21 operational expenses.

22 (3) "New construction" means construction of a health facility  
23 where a health facility does not exist or construction replacing or  
24 expanding an existing health facility or a part of an existing  
25 health facility.

26 (4) "Person" means ~~a person~~ **that term** as defined in section  
27 1106 ~~or~~ **and includes** a governmental entity.

28 (5) "Planning area" means the area defined in a certificate of  
29 need review standard for determining the need for, and the resource



1 allocation of, a specific health facility, service, or equipment.  
 2 Planning area includes, but is not limited to, ~~the~~**this** state, a  
 3 health facility service area, or a health service area or subarea  
 4 within ~~the~~**this** state.

5 (6) "Proposed project" means a proposal to acquire an existing  
 6 health facility or begin operation of a new health facility, make a  
 7 change in bed capacity, initiate, replace, or expand a covered  
 8 clinical service, or make a covered capital expenditure.

9 (7) "Rural county" means a county not located in a  
 10 metropolitan statistical area or micropolitan statistical areas as  
 11 those terms are defined under the "standards for defining  
 12 metropolitan and micropolitan statistical areas" by the ~~statistical~~  
 13 ~~policy office~~**Statistical and Science Policy Office** of the ~~office~~  
 14 ~~of information and regulatory affairs~~**Office of Information and**  
 15 **Regulatory Affairs** of the United States ~~office of management and~~  
 16 ~~budget~~**Office of Management and Budget**, 65 F.R. p. ~~FR 82227 p~~  
 17 82238 (December 27, 2000).

18 (8) "Stipulation" means a requirement that is germane to the  
 19 proposed project and has been agreed to by an applicant as a  
 20 condition of certificate of need approval.

21 Sec. 22208. (1) "Title XVIII" means title XVIII of the social  
 22 security act, 42 USC 1395 to ~~1395kkk-1~~**1395lll**.

23 (2) "Title XIX" means title XIX of the social security act,  
 24 ~~chapter 531, 49 Stat. 620,~~ 42 USC 1396 to 1396w-5.

25 Sec. 22209. (1) Except as otherwise provided in this part, a  
 26 person shall not do any of the following without first obtaining a  
 27 certificate of need:

28 (a) Acquire an existing health facility or begin operation of  
 29 a health facility at a site that is not currently licensed for that





1 type of health facility.

2 (b) Make a change in the bed capacity of a health facility.

3 (c) Initiate, replace, or expand a covered clinical service.

4 (d) Make a covered capital expenditure.

5 (2) A certificate of need is not required for a reduction in  
6 licensed bed capacity or services at a licensed site.

7 (3) Subject to subsection (9) and if the relocation does not  
8 result in an increase of licensed beds within that health service  
9 area, a certificate of need is not required for any of the  
10 following:

11 (a) The physical relocation of licensed beds from a hospital  
12 site licensed under part 215 to another hospital site licensed  
13 under the same license as the hospital seeking to transfer the beds  
14 if both hospitals are located within a 2-mile radius of each other.

15 (b) Subject to subsections (7) and (8), the physical  
16 relocation of licensed beds from a hospital licensed under part 215  
17 to a freestanding surgical outpatient facility licensed under part  
18 208 if that freestanding surgical outpatient facility satisfies  
19 each of the following criteria on December 2, 2002:

20 (i) Is owned by, is under common control of, or has as a common  
21 parent the hospital seeking to relocate its licensed beds.

22 (ii) Was licensed ~~prior to~~ **before** January 1, 2002.

23 (iii) Provides 24-hour emergency care services at that site.

24 (iv) Provides at least 4 different covered clinical services at  
25 that site.

26 (c) Subject to ~~subsections (7) and~~ **subsection** (8), the  
27 physical relocation of licensed beds from a hospital licensed under  
28 part 215 to another hospital licensed under part 215 within the  
29 same health service area if the hospital receiving the licensed



1 beds is owned by, is under common control of, or has as a common  
2 parent the hospital seeking to relocate its licensed beds.

3 (4) Subject to subsection (5), a hospital licensed under part  
4 215 is not required to obtain a certificate of need to provide 1 or  
5 more of the covered clinical services listed in section 22203(10)  
6 in a federal ~~veterans~~**veterans'** health care facility or to use  
7 long-term care unit beds or acute care beds that are owned and  
8 located in a federal ~~veterans~~**veterans'** health care facility if the  
9 hospital satisfies each of the following criteria:

10 (a) The hospital has an active affiliation or sharing  
11 agreement with the federal ~~veterans~~**veterans'** health care facility.

12 (b) The hospital has physicians who have faculty appointments  
13 at the federal ~~veterans~~**veterans'** health care facility or has an  
14 affiliation with a medical school that is affiliated with a federal  
15 ~~veterans~~**veterans'** health care facility and has physicians who have  
16 faculty appointments at the federal ~~veterans~~**veterans'** health care  
17 facility.

18 (c) The hospital has an active grant or agreement with the  
19 state or federal government to provide 1 or more of the following  
20 functions relating to bioterrorism:

21 (i) Education.

22 (ii) Patient care.

23 (iii) Research.

24 (iv) Training.

25 (5) A hospital that provides 1 or more covered clinical  
26 services in a federal ~~veterans~~**veterans'** health care facility or  
27 uses long-term care unit beds or acute care beds located in a  
28 federal ~~veterans~~**veterans'** health care facility under subsection  
29 (4) may not utilize procedures performed at the federal ~~veterans~~



1 **veterans'** health care facility to demonstrate need or to satisfy a  
 2 certificate of need review standard unless the covered clinical  
 3 service provided at the federal ~~veterans~~**veterans'** health care  
 4 facility was provided under a certificate of need.

5 (6) If a hospital licensed under part 215 had fewer than 70  
 6 licensed beds on December 1, 2002, that hospital is not required to  
 7 satisfy the minimum volume requirements under the certificate of  
 8 need review standards for its existing operating rooms as long as  
 9 those operating rooms continue to exist at that licensed hospital  
 10 site.

11 (7) Before relocating beds under subsection (3)(b), the  
 12 hospital seeking to relocate its beds shall provide the information  
 13 requested by the department of ~~consumer and industry services~~  
 14 **licensing and regulatory affairs** that will allow the department of  
 15 ~~consumer and industry services~~**licensing and regulatory affairs** to  
 16 verify the number of licensed beds that were staffed and available  
 17 for patient care at that hospital as of December 2, 2002. ~~A~~  
 18 ~~hospital shall transfer no more than 35% of its licensed beds to~~  
 19 ~~another hospital or freestanding surgical outpatient facility under~~  
 20 ~~subsection (3)(b) or (c) not more than 1 time after the effective~~  
 21 ~~date of the amendatory act that added this subsection if the~~  
 22 ~~hospital seeking to relocate its licensed beds or another hospital~~  
 23 ~~owned by, under common control of, or having as a common parent the~~  
 24 ~~hospital seeking to relocate its licensed beds is located in a city~~  
 25 ~~that has a population of 750,000 or more.~~

26 (8) The licensed beds relocated under subsection (3)(b) or (c)  
 27 ~~shall~~**must** not be included as new beds in a hospital or as a new  
 28 hospital under the certificate of need review standards for  
 29 hospital beds. One of every 2 beds transferred under subsection



1 (3) (b) up to a maximum of 100 ~~shall~~**must** be beds that were staffed  
 2 and available for patient care as of December 2, 2002. A hospital  
 3 relocating beds under subsection (3) (b) shall not reactivate  
 4 licensed beds within that hospital that were unstaffed or  
 5 unavailable for patient care on December 2, 2002 for a period of 5  
 6 years after the date of the relocation of the licensed beds under  
 7 subsection (3) (b).

8 (9) ~~No licensed~~**Licensed** beds ~~shall~~**must not** be physically  
 9 relocated under subsection (3) if 7 or more members of the  
 10 commission, after the appointment and confirmation of the 6  
 11 additional commission members under section 22211 but before June  
 12 15, 2003, determine that relocation of licensed beds under  
 13 subsection (3) may cause great harm and detriment to the access and  
 14 delivery of health care to the public and the relocation of beds  
 15 should not occur without a certificate of need.

16 (10) An applicant seeking a certificate of need for the  
 17 acquisition of an existing health facility may file a single,  
 18 consolidated application for the certificate of need if the project  
 19 results in the acquisition of an existing health facility but does  
 20 not result in an increase or relocation of licensed beds or the  
 21 initiation, expansion, or replacement of a covered clinical  
 22 service. Except as otherwise provided in this subsection, a person  
 23 acquiring an existing health facility is subject to the applicable  
 24 certificate of need review standards in effect on the date of the  
 25 transfer for the covered clinical services provided by the acquired  
 26 health facility. The department may except 1 or more of the covered  
 27 clinical services listed in section 22203(10) (b), except the  
 28 covered clinical service listed in section 22203(10) (b) (iv), from  
 29 the minimum volume requirements in the applicable certificate of



1 need review standards in effect on the date of the transfer, if the  
 2 equipment used in the covered clinical service is unable to meet  
 3 the minimum volume requirements due to the technological incapacity  
 4 of the equipment. A covered clinical service excepted by the  
 5 department under this subsection is subject to all the other  
 6 provisions in the applicable certificate of need review standards  
 7 in effect on the date of the transfer, except minimum volume  
 8 requirements.

9 (11) An applicant seeking a certificate of need for the  
 10 relocation or replacement of an existing health facility may file a  
 11 single, consolidated application for the certificate of need if the  
 12 project does not result in an increase of licensed beds or the  
 13 initiation, expansion, or replacement of a covered clinical  
 14 service. A person relocating or replacing an existing health  
 15 facility is subject to the applicable certificate of need review  
 16 standards in effect on the date of the relocation or replacement of  
 17 the health facility.

18 (12) As used in this section, "sharing agreement" means a  
 19 written agreement between a federal ~~veterans~~**veterans'** health care  
 20 facility and a hospital licensed under part 215 for the use of the  
 21 federal ~~veterans~~**veterans'** health care facility's beds or  
 22 equipment, or both, to provide covered clinical services.

23 Sec. 22215. (1) The commission shall do all of the following:

24 (a) If determined necessary by the commission, revise, add to,  
 25 or delete 1 or more of the covered clinical services listed in  
 26 section 22203. If the commission proposes to add to the covered  
 27 clinical services listed in section 22203, the commission shall  
 28 develop proposed review standards and make the review standards  
 29 available to the public not less than 30 days before conducting a



1 hearing under subsection (3).

2 (b) Develop, approve, disapprove, or revise certificate of  
 3 need review standards that establish for purposes of section 22225  
 4 the need, if any, for the initiation, replacement, or expansion of  
 5 covered clinical services, the acquisition or beginning the  
 6 operation of a health facility, making changes in bed capacity, or  
 7 making covered capital expenditures, including conditions,  
 8 standards, assurances, or information that must be met,  
 9 demonstrated, or provided by a person who applies for a certificate  
 10 of need. A certificate of need review standard may also establish  
 11 ongoing quality assurance requirements including any or all of the  
 12 requirements specified in section 22225(2)(c). Except for nursing  
 13 home and hospital long-term care unit bed review standards, by  
 14 January 1, 2004, the commission shall revise all certificate of  
 15 need review standards to include a requirement that each applicant  
 16 participate in title XIX. ~~of the social security act, chapter 531,~~  
 17 ~~49 Stat. 620, 1396r-6 and 1396r-8 to 1396v.~~

18 (c) Direct the department to prepare and submit  
 19 recommendations regarding commission duties and functions that are  
 20 of interest to the commission including, but not limited to,  
 21 specific modifications of proposed actions considered under this  
 22 section.

23 (d) Approve, disapprove, or revise proposed criteria for  
 24 determining health facility viability under section 22225.

25 (e) Annually assess the operations and effectiveness of the  
 26 certificate of need program based on periodic reports from the  
 27 department and other information available to the commission.

28 (f) By January 1 ~~, 2005, and~~ ~~of~~ every ~~2 years thereafter,~~ **odd**  
 29 **year**, make recommendations to the joint committee regarding



1 statutory changes to improve or eliminate the certificate of need  
2 program.

3 (g) ~~Upon~~**On** submission by the department, approve, disapprove,  
4 or revise standards to be used by the department in designating a  
5 regional certificate of need review agency, ~~pursuant to~~**under**  
6 section 22226.

7 (h) Develop, approve, disapprove, or revise certificate of  
8 need review standards governing the acquisition of new technology.

9 (i) In accordance with section 22255, approve, disapprove, or  
10 revise proposed procedural rules for the certificate of need  
11 program.

12 (j) Consider the recommendations of the department and the  
13 department of attorney general as to the administrative feasibility  
14 and legality of proposed actions under subdivisions (a), (b), and  
15 (c).

16 (k) Consider the impact of a proposed restriction on the  
17 acquisition of or availability of covered clinical services on the  
18 quality, availability, and cost of health services in this state.

19 (l) If the commission determines it necessary, appoint standard  
20 advisory committees to assist in the development of proposed  
21 certificate of need review standards. A standard advisory committee  
22 shall complete its duties under this subdivision and submit its  
23 recommendations to the commission within 6 months unless a shorter  
24 period of time is specified by the commission when the standard  
25 advisory committee is appointed. An individual shall serve on no  
26 more than 2 standard advisory committees in any 2-year period. The  
27 composition of a standard advisory committee ~~shall~~**must** not include  
28 a lobbyist registered under 1978 PA 472, MCL 4.411 to 4.431, but  
29 ~~shall~~**must** include all of the following:



1 (i) Experts with professional competence in the subject matter  
 2 of the proposed standard, who ~~shall~~**must** constitute a 2/3 majority  
 3 of the standard advisory committee.

4 (ii) Representatives of health care provider organizations  
 5 concerned with licensed health facilities or licensed health  
 6 professions.

7 (iii) Representatives of organizations concerned with health  
 8 care consumers and the purchasers and payers of health care  
 9 services.

10 (m) In addition to subdivision (b), review and, if necessary,  
 11 revise each set of certificate of need review standards at least  
 12 every 3 years.

13 (n) If a standard advisory committee is not appointed by the  
 14 commission and the commission determines it necessary, submit a  
 15 request to the department to engage the services of private  
 16 consultants or request the department to contract with any private  
 17 organization for professional and technical assistance and advice  
 18 or other services to assist the commission in carrying out its  
 19 duties and functions under this part.

20 ~~(o) Within 6 months after the appointment and confirmation of~~  
 21 ~~the 6 additional commission members under section 22211, develop,~~  
 22 ~~approve, or revise certificate of need review standards governing~~  
 23 ~~the increase of licensed beds in a hospital licensed under part~~  
 24 ~~215, the physical relocation of hospital beds from 1 licensed site~~  
 25 ~~to another geographic location, and the replacement of beds in a~~  
 26 ~~hospital licensed under part 215.~~

27 (2) The commission shall exercise its duties under this part  
 28 to promote and ~~assure~~**ensure** all of the following:

29 (a) The availability and accessibility of quality health





1 services at a reasonable cost and within a reasonable geographic  
2 proximity for all people in this state.

3 (b) Appropriate differential consideration of the health care  
4 needs of residents in rural counties in ways that do not compromise  
5 the quality and affordability of health care services for those  
6 residents.

7 (3) Not less than 30 days before final action is taken by the  
8 commission under subsection (1)(a), (b), (d), **or** (h), ~~or (e)~~, the  
9 commission shall conduct a public hearing on its proposed action.  
10 In addition, not less than 30 days before final action is taken by  
11 the commission under subsection (1)(a), (b), (d), **or** (h), ~~or (e)~~,  
12 the commission chairperson shall submit the proposed action and a  
13 concise summary of the expected impact of the proposed action for  
14 comment to each member of the joint committee. The commission shall  
15 inform the joint committee of the date, time, and location of the  
16 next meeting regarding the proposed action. The joint committee  
17 shall promptly review the proposed action and submit its  
18 recommendations and concerns to the commission.

19 (4) The commission chairperson shall submit the proposed final  
20 action including a concise summary of the expected impact of the  
21 proposed final action to the governor and each member of the joint  
22 committee. The governor or the legislature may disapprove the  
23 proposed final action within 45 days after the date of submission.  
24 If the proposed final action is not submitted on a legislative  
25 session day, the 45 days commence on the first legislative session  
26 day after the proposed final action is submitted. The 45 days ~~shall~~  
27 **must** include not less than 9 legislative session days. Legislative  
28 disapproval ~~shall~~ **must** be expressed by concurrent resolution which  
29 ~~shall~~ **must** be adopted by each house of the legislature. The



1 concurrent resolution ~~shall~~**must** state specific objections to the  
 2 proposed final action. A proposed final action by the commission  
 3 under subsection (1) (a), (b), (d), **or** (h) ~~, or (e)~~ is not effective  
 4 if it has been disapproved under this subsection. If the proposed  
 5 final action is not disapproved under this subsection, it is  
 6 effective and binding on all persons affected by this part ~~upon~~**on**  
 7 the expiration of the 45-day period or on a later date specified in  
 8 the proposed final action. As used in this subsection, "legislative  
 9 session day" means each day in which a quorum of either the house  
 10 of representatives or the senate, following a call to order,  
 11 officially convenes in Lansing to conduct legislative business.

12 (5) The commission shall not develop, approve, or revise a  
 13 certificate of need review standard that requires the payment of  
 14 money or goods or the provision of services unrelated to the  
 15 proposed project as a condition that must be satisfied by a person  
 16 seeking a certificate of need for the initiation, replacement, or  
 17 expansion of covered clinical services, the acquisition or  
 18 beginning the operation of a health facility, making changes in bed  
 19 capacity, or making covered capital expenditures. This subsection  
 20 does not preclude a requirement that each applicant participate in  
 21 title XIX, ~~of the social security act, chapter 531, 49 Stat. 620,~~  
 22 ~~1396r-6 and 1396r-8 to 1396v,~~ or a requirement that each applicant  
 23 provide covered clinical services to all patients regardless of his  
 24 or her ability to pay.

25 (6) If the reports received under section 22221(f) indicate  
 26 that the certificate of need application fees collected under  
 27 section 20161 have not been within 10% of 3/4 the cost to the  
 28 department of implementing this part, the commission shall make  
 29 recommendations regarding the revision of those fees so that the



1 certificate of need application fees collected equal approximately  
2 3/4 of the cost to the department of implementing this part.

3 (7) As used in this section, "joint committee" means the joint  
4 committee created under section 22219.

5 Sec. 22221. The department shall do all of the following:

6 (a) Subject to approval by the commission, promulgate rules to  
7 implement its powers and duties under this part.

8 (b) Report to the commission at least annually on the  
9 performance of the department's duties under this part.

10 (c) Develop proposed certificate of need review standards for  
11 submission to the commission.

12 (d) Administer and apply certificate of need review standards.  
13 In the review of certificate of need applications, the department  
14 shall consider relevant written communications from any person.

15 (e) Designate adequate staff or other resources to directly  
16 assist hospitals and nursing homes with less than 100 beds in the  
17 preparation of applications for certificates of need.

18 (f) By October 1 ~~, 2003, and annually thereafter,~~ **of each**  
19 **year**, report to the commission regarding the costs to the  
20 department of implementing this part and the certificate of need  
21 application fees collected under section 20161 in the immediately  
22 preceding state fiscal year.

23 (g) ~~Beginning January 1, 2003, annually~~ **Annually** adjust the  
24 ~~\$2,500,000.00~~ threshold set forth in section 22203(9) by an amount  
25 determined by the state treasurer to reflect the annual percentage  
26 change in the ~~consumer price index,~~ **Consumer Price Index**, using  
27 data from the immediately preceding period of July 1 to June 30. As  
28 used in this subdivision, ~~"consumer price index"~~ **"Consumer Price**  
29 **Index"** means the most comprehensive index of consumer prices



1 available for this state from the ~~bureau of labor statistics~~ **Bureau**  
2 **of Labor Statistics** of the United States ~~department of~~  
3 ~~labor.~~ **Department of Labor.**

4 (h) Annually review the application process, including all  
5 forms, reports, and other materials that are required to be  
6 submitted with the application. If needed to promote administrative  
7 efficiency, revise the forms, reports, and any other materials  
8 required with the application.

9 (i) ~~Within 6 months after the effective date of the amendatory~~  
10 ~~act that added this subdivision,~~ **By September 31, 2003,** create a  
11 consolidated application for a certificate of need for the  
12 relocation or replacement of an existing health facility.

13 (j) In consultation with the commission, define single project  
14 as it applies to capital expenditures.

