

SENATE SUBSTITUTE FOR HOUSE SUBSTITUTE FOR
SENATE BILL NO. 28

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2021; and to provide for the expenditure of the appropriations.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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PART 1

LINE-ITEM APPROPRIATIONS

Sec. 101. There is appropriated for various state departments and agencies to supplement appropriations for the fiscal year ending September 30, 2021, from the following funds:

APPROPRIATION SUMMARY

GROSS APPROPRIATION	\$	25,000,000
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Interdepartmental grant revenues:

1	Total interdepartmental grants and		
2	intradepartmental transfers		0
3	ADJUSTED GROSS APPROPRIATION	\$	25,000,000
4	Federal revenues:		
5	Total federal revenues		0
6	Special revenue funds:		
7	Total local revenues		0
8	Total private revenues		0
9	Total other state restricted revenues		0
10	State general fund/general purpose	\$	25,000,000
11	Sec. 102. DEPARTMENT OF INSURANCE AND FINANCIAL		
12	SERVICES		
13	(1) APPROPRIATION SUMMARY		
14	GROSS APPROPRIATION	\$	25,000,000
15	Interdepartmental grant revenues:		
16	Total interdepartmental grants and		
17	intradepartmental transfers		0
18	ADJUSTED GROSS APPROPRIATION	\$	25,000,000
19	Federal revenues:		
20	Total federal revenues		0
21	Special revenue funds:		
22	Total local revenues		0
23	Total private revenues		0
24	Total other state restricted revenues		0
25	State general fund/general purpose	\$	25,000,000
26	(2) ONE-TIME APPROPRIATIONS		
27	Post-acute auto injury provider relief fund	\$	25,000,000
28	GROSS APPROPRIATION	\$	25,000,000

1	Appropriated from:	
2	State general fund/general purpose	\$ 25,000,000

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PART 2
PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state sources under part 1 for the fiscal year ending September 30, 2021 is \$25,000,000.00 and total state spending from state sources to be paid to local units of government is \$0.00.

Sec. 202. The appropriations made and expenditures authorized under this part and part 1 and the departments, commissions, boards, offices, and programs for which appropriations are made under this part and part 1 are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Sec. 203. If the state administrative board, acting under section 3 of 1921 PA 2, MCL 17.3, transfers funds from an amount appropriated under this act, the legislature may, by a concurrent resolution adopted by a majority of the members elected to and serving in each house, inter-transfer funds within this act for the particular department, board, commission, office, or institution.

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Sec. 301. (1) The post-acute auto injury provider relief fund is created within the department of treasury.

(2) From the money appropriated in part 1 for the post-acute

1 auto injury provider relief fund, \$25,000,000.00 must be deposited
2 into the fund.

3 (3) All money in the fund is appropriated and is available for
4 expenditure. Expenditures are limited to support purposes as
5 specified in this section. Not more than \$500,000.00 may be
6 expended from the fund by the department for administrative
7 expenses incurred under this section.

8 (4) Interest and earnings from the investment of money
9 deposited into the fund must be deposited into the general fund.

10 (5) A provider may receive a distribution from the fund only
11 if the charge pertains to a service for which there is no Medicare
12 code and the provider can demonstrate to the department that fees
13 under section 3157 of the insurance code of 1956, 1956 PA 218, MCL
14 500.3157, have caused the provider to bill at rates that are below
15 the cost of providing the service. To meet this standard, a
16 provider must submit all of the following to the department with
17 the provider's application:

18 (a) The total number of patients treated by the provider and
19 the entities billed for each patient.

20 (b) A full list of charges and payments received in response
21 to those charges and supporting invoices for all charges that were
22 charged to and paid by auto insurers for motor-vehicle-accident-
23 related care in 2019.

24 (c) A full list of charges and payments received in response
25 to those charges and supporting invoices for all charges that were
26 charged to and paid by other forms of insurance or other entities
27 for non-motor-vehicle-accident-related care in 2019.

28 (d) Evidence to demonstrate that the provider attempted to
29 bill for a service that does not have a Medicare code, has not been

1 paid at the charged rate or otherwise reimbursed, and that
2 adjustment has been upheld by the department during the utilization
3 review process under the utilization review rules, R 500.61 to R
4 500.69 of the Michigan Administrative Code, promulgated by the
5 department under section 3157a of the insurance code of 1956, 1956
6 PA 218, MCL 500.3157a.

7 (e) Documentation indicating a good-faith effort to alter
8 business practices to adhere to section 3157 of the insurance code
9 of 1956, 1956 PA 218, MCL 500.3157. The department may determine
10 further requirements to achieve compliance with this subdivision.

11 (f) Documentation, including full financial statements,
12 indicating a systematic deficit caused by changes to charges, as
13 required by section 3157 of the insurance code of 1956, 1956 PA
14 218, MCL 500.3157, and payments received in response to those
15 charges. The department may determine further requirements to
16 achieve compliance with this subdivision.

17 (g) Any other information that the department considers to be
18 necessary to determine whether distribution of money from the fund
19 to a provider is appropriate. The department may determine further
20 requirements to achieve compliance with this subdivision.

21 (6) A provider that enters this state as a new licensee or
22 that reorganizes, reincorporates, or otherwise reestablishes itself
23 in the same or similar business under a new name after January 1,
24 2019, is not eligible to receive money from the fund. The
25 department shall include the prohibition under this subsection in
26 application guidance provided by the department.

27 (7) The department shall administer the fund, including
28 reviewing and approving applications for funding and distributing
29 funding to post-acute auto injury providers. Specifically, the

1 department shall comply with all of the following requirements:

2 (a) The department shall develop application and review
3 processes. These processes must include criteria established under
4 this section. The department shall utilize data previously
5 submitted during the utilization review process under the
6 utilization review rules, R 500.61 to R 500.69 of the Michigan
7 Administrative Code, to satisfy data requirements in an
8 application.

9 (b) The department shall develop a process to retrieve any
10 distributed money that is later determined to have been distributed
11 as a result of fraudulent conditions or as a result of fraudulent
12 information. Any fraudulent activity related to the fund
13 constitutes fraud for purposes of the insurance code of 1956, 1956
14 PA 218, MCL 500.100 to 500.8302. Any funds retrieved under this
15 subdivision may be dispersed according to this section, even if the
16 fund was previously exhausted.

17 (c) The department shall begin accepting applications for
18 distributions from the fund not later than 30 days after the
19 effective date of the appropriation in part 1 described in
20 subsection (2).

21 (d) The department shall review all applications and issue a
22 determination not later than 21 days after the receipt of a
23 completed application. A provider that submits an incomplete
24 application is subject to a new 21-day application period after the
25 completed application is received. If the department determines a
26 distribution from the fund is appropriate, that distribution shall
27 be made to the provider within 7 days of the determination.

28 (e) The department shall report to the legislature 15 days
29 before the application process opens. This report must include a

1 sample application and any corresponding guidance or rules
2 promulgated by the department.

3 (f) The department shall consider how charges and payments
4 received in response to those charges in an application relate to
5 similar care charged to and reimbursed by other forms of insurance,
6 including, but not limited to, Medicaid, workers' compensation, and
7 private health insurance. The department may contract with a third
8 party to access and use available non-motor-vehicle-accident-
9 related health care and insurance data for the purpose of reviewing
10 applications.

11 (g) The department shall use data collected, developed, and
12 compiled as a result of the utilization review and fee schedule
13 rules promulgated by the department, in accordance with sections
14 3157 and 3157a of the insurance code of 1956, 1956 PA 218, MCL
15 500.3157 and 500.3157a.

16 (h) The department shall not consider lost profits alone as a
17 criterion for awarding money to a provider from the fund. The
18 provider must demonstrate that the provider is experiencing a
19 systematic deficit with respect to services offered to persons
20 injured in motor vehicle accidents.

21 (i) Notwithstanding any provision of law to the contrary, the
22 department shall document and make available on a publicly
23 accessible website all information related to approval or denial of
24 distributions of money to providers from the fund.

25 (j) The department shall award money from the fund to
26 providers on a first-come, first-served basis. Except as otherwise
27 provided in subdivision (b), no money may be paid from the fund
28 after the fund is exhausted.

29 (k) The department shall not distribute more than \$500,000.00

1 from the fund to a provider in a calendar year.

2 (8) The department shall provide a quarterly report to the
3 legislature, and shall make the report available on a publicly
4 accessible website, that includes all of the following:

5 (a) The number of providers that have applied for funding from
6 the fund.

7 (b) A list of the providers that have been approved for
8 funding and the amounts awarded.

9 (c) A list of providers that have been denied funding and the
10 reason for each denial.

11 (d) For each provider approved for a funding distribution,
12 metrics on all charges and payments received in response to those
13 charges under section 3157 of the insurance code of 1956, 1956 PA
14 218, MCL 500.3157, that were determined to be inadequate.

15 (e) Except for information the disclosure of which is
16 prohibited by law, information on provider charges and payments
17 received in response to those charges and how those charges and
18 payments compare to similar charges and payments in the non-auto
19 insurance market.

20 (f) The total amount expended and remaining in the fund.

21 (9) One year after the department begins accepting
22 applications for distributions from the fund or after money in the
23 fund is exhausted, whichever occurs first, the department shall
24 report to the legislature, and make the report available on a
25 publicly accessible website, all of the following:

26 (a) Aggregated data reported in the quarterly reports under
27 subsection (8).

28 (b) Analysis of the impact of section 3157 of the insurance
29 code of 1956, 1956 PA 218, MCL 500.3157, and of the distributions

1 from the fund and any recommendations the director may wish to
2 offer to the legislature.

3 (10) It is the intent of the legislature that information
4 contained in the reports required under subsections (8) and (9) and
5 other relevant data will be used to determine whether changes are
6 necessary to section 3157 of the insurance code of 1956, 1956 PA
7 218, MCL 500.3157, to ensure adequate services in the future.

8 (11) A provider that avails itself of the fund and to which
9 funds are distributed does so as their exclusive remedy and forgoes
10 all other forms of recovery for the charges for which reimbursement
11 is sought under this section. Any payment under this section is
12 inadmissible for any purposes outside of claims made with the
13 department.

14 (12) Funds appropriated in part 1 for the fund must be used to
15 support distributions to providers facing systematic losses with
16 respect to services offered to persons injured in motor vehicle
17 accidents. The unexpended funds appropriated in part 1 for the fund
18 are designated as work project appropriations and, subject to
19 subdivision (d), any unencumbered or unallotted funds shall not
20 lapse at the end of the fiscal year and are available for
21 expenditures for projects under this subsection until the projects
22 have been completed. The following is in compliance with section
23 451a(1) of the management and budget act, 1984 PA 431, MCL
24 18.1451a:

25 (a) The purpose of the project is to support distributions to
26 providers experiencing systematic losses with respect to services
27 offered to persons injured in motor vehicle accidents.

28 (b) The project will be accomplished by using state employees
29 or contracts with service providers, or both.

1 (c) The total estimated cost of the project is \$10,000,000.00.

2 (d) The completion date of the work project is September 30,
3 2022. Any unexpended funds will lapse to the general fund.

4 (13) As used in this section:

5 (a) "Department" means the department of insurance and
6 financial services.

7 (b) "Fund" means the post-acute auto injury provider relief
8 fund created in this section.

9 (c) "Patient" means an injured person who is entitled to
10 benefits under section 3107 of the insurance code of 1956, 1956 PA
11 218, MCL 500.3107.

12 (d) "Provider" means a post-acute brain or spinal injury
13 clinic or other person that renders treatment or training, or a
14 post-acute brain or spinal injury attendant care provider.