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NOTES ON THE BUDGET AND ECONOMY

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CONSUMER CONFIDENCE AND THE ECONOMY
by Jay Wortley, Senior Economist

There are a number of key economic variables that are closely watched because they help identify the current state of the economy and provide some clues as to where the economy is headed. One of these indicators is the University of Michigan's Index of Consumer Sentiment. This index is designed to measure the level of confidence consumers have in the economy. This article explains why this index is closely watched, describes how the index is created, and presents what the index is revealing about the current state of the economy.

Why is Consumer Confidence Important?

Consumer confidence is important because it is a key factor that helps determine how much consumers are going to spend on goods and services, which is one of the major driving forces in the economy. From 1980 to 2000, expenditures by consumers accounted for 67% of total economic activity. Due to the fact that consumer spending is a major source of overall economic activity, most of the time it is safe to say that as consumer spending goes, so goes the overall economy. For example, in 1991, personal consumption expenditures, adjusted for inflation, declined 0.2% and overall economic activity, as measured by real Gross Domestic Product (GDP) fell 0.5%, but in 2000, real consumer spending increased 5.3% and total economic activity grew 5.0%.

Consumer confidence is a good indicator of consumer spending because the more confident consumers are about future economic conditions, the more likely they are to purchase consumer goods, particularly the relatively high-priced major purchases such as motor vehicles, houses, and household furnishings. If economic conditions are giving consumers favorable expectations about their job status and income, then they will be more willing to make major purchases by either drawing down savings or making a long-term financial commitment. Conversely, if consumers think unemployment is going to increase, and therefore feel less secure about their own income level, they will tend to be more cautious financially and be less inclined to make any major purchases at the present time. In short, consumer optimism creates consumer confidence, which makes consumers more willing to make major expenditures and financial commitments, whereas consumer pessimism about the economy erodes consumer confidence and makes consumers more reluctant to enter into major financial commitments.

The University of Michigan's Survey Research Center

Each month the University of Michigan's Survey Research Center conducts phone interviews with at least 500 consumers, and asks them approximately 50 core questions. These questions are designed to reveal how consumers feel about current and future economic conditions. Some of the questions focus on identifying whether consumers feel their current financial situation is better now than it was last year, and whether they consider now a good time to make a major purchase. Other questions focus on whether they think the general condition of the economy will reflect good or bad times during the coming year, and if they think their own financial

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situation will improve or become worse. The results from these questions are used to make three separate indexes: 1) the Index of Consumer Sentiment, which is the overall index that reflects consumers' views on both current and future economic conditions, 2) the Index of Current Economic Conditions, and 3) the Index of Consumer Expectations. The Index of Consumer Expectations is one of the components of the Composite Index of 10 Leading Economic Indicators.

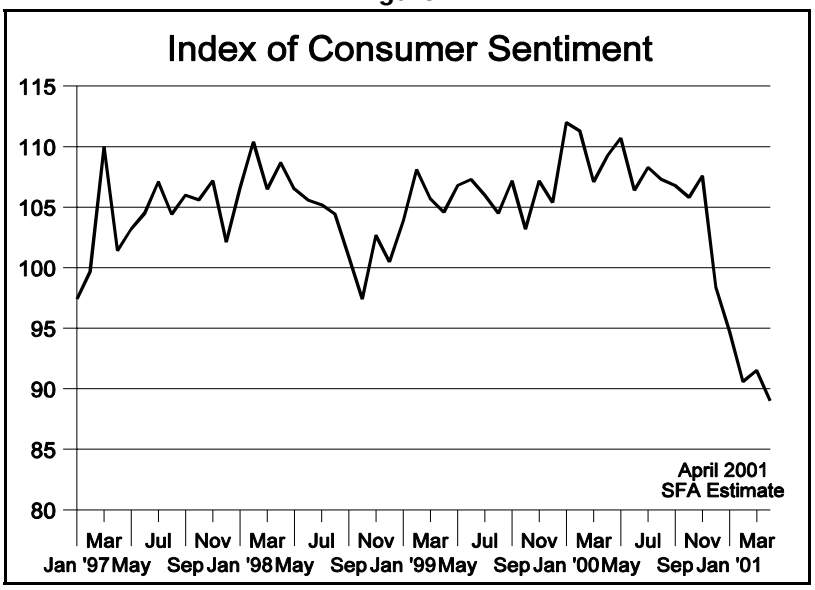
Recent Developments in Consumer Confidence

The major recent development in consumer confidence is that after remaining at historically high levels since 1997, consumer confidence, as measured by the Index of Consumer Sentiment, fell sharply for three consecutive months beginning in December 2000, as shown in Figure 1. The index dropped from 107.6 in November 2000 to 90.6 in February 2001, which represents a 16% decline in the Consumer Sentiment Index. This marks the steepest three-month decline since the 1990-91 recession. In March, the Index of Consumer Sentiment rose slightly, but based on preliminary information for April, this gain was more than wiped out by another decline in April. Recent survey responses indicate that consumers expect unemployment to continue to rise through the end of the year, and as result, they are feeling less secure about their jobs and incomes and are becoming more cautious spenders.

This increased cautiousness on the part of consumers that has been reflected in the Index of Consumer Sentiment, has not, however, translated into a commensurate impact on consumer spending. This is particularly true in the motor vehicle retail market. During the first quarter of 2001, car and light truck sales totaled 17.1 million units, at a seasonally adjusted annual rate, which was actually up from the 16.2 million unit selling pace realized in the fourth quarter of 2000. Apparently, the steep price discounts and low finance charges offered by the auto companies have been successful at helping offset the fact that consumers are becoming more cautious in their buying attitudes. Motor vehicle sales are typically one of the first areas to reflect changes in consumer attitudes due to the relatively large financial commitment involved.

Given that the Index of Consumer Sentiment has declined steeply in four of the past five months, the concern is that this erosion in consumer confidence will result in sharp declines in consumer spending in the next few months, particularly in the motor vehicle and housing sectors. If this were to happen, then it would mean that the worst is not yet over in this current economic slowdown.

Figure 1



WASTEWATER CONTROL PROJECT FUNDING IN MICHIGAN
by Pam Graham, Fiscal Analyst

With a few temporary exceptions, the State Water Pollution Control Revolving Fund, or SRF, is the sole source of State financial support for local wastewater treatment and control projects. Operated jointly by the Michigan Department of Environmental Quality (MDEQ) and the Michigan Municipal Bond Authority (MMBA), the SRF provides loans at below-market rates to local units of government for qualifying projects. Currently, demand for SRF assistance exceeds the resources available from the Fund. Recent studies, at both the State and national levels, indicate that demand for assistance is likely to grow. The following discussion provides information on the background, operation, and accomplishments of the SRF, as well as proposed legislation designed to address the growing demand for SRF assistance.

Background

Prior to 1987 amendments to the Federal Clean Water Act, the Federal government provided funding to local governments, through a construction grants program, for the construction of public wastewater treatment facilities. The 1987 amendments provided for the phase-out of the Federal grant program, and substituted seed money for state revolving funds. The effect was to shift primary responsibility for the construction of wastewater facilities to state and local units of government.

The 1987 amendments authorized $18 billion for wastewater treatment plants over an eight-year period. From that amount, $9.6 billion was to be available to continue the construction grants program through fiscal year (FY) 1990, although states had the discretion to transfer the grant funds to a state revolving fund. The remainder of the funding, beginning in FY 1989, was for capitalization grants for the state revolving funds, with the last authorized amount in FY 1994. The Federal capitalization grants for state revolving funds have never been reauthorized by Congress, but instead have continued to be available through Federal appropriations. Table 1 compares Federal authorizations with Federal appropriations from FY 1989, the first year of the program, through the President's proposed FY 2002 budget.

Table 1

Federal SRF Authorizations vs. Appropriations FY 1989 to FY 2002[a)]
(in millions)

Year	Authorization	Appropriation
1989	$1,200	$950
1990	1,200	980
1991	2,400	2,030
1992	1,800	1,950
1993	1,200	1,930
1994	600	1,200
1995	NA	1,235
1996	NA	2,074
1997	NA	625
1998	NA	1,350
1999	NA	1,350
2000	NA	1,350
2001	NA	1,350
2002	NA	850

a) FY 2002 is based on the President's budget proposal. An additional $450 million is proposed to fund the new Sewer Overflow Control Grants Program authorized in 2000.

In order to receive a Federal capitalization grant, states must provide matching funds equal to 20% of the Federal grant.

Michigan's SRF Experience

Michigan began to operate a State Revolving Fund in 1989. Between 1989 and 1992, the SRF was operated as a direct loan program. Under this program, the Federal capitalization grant and the State matching funds were loaned, at below-market rates, directly to local governments. Principal and interest payments were to be deposited into the SRF for future loans. Through 1992, the direct loan program provided approximately $206 million at a 2% interest rate to local units of government, to be repaid over a 20-year period. In FY 2000-01, the SRF is expected to receive nearly $9 million in interest and principal payments on the direct loans that were made between FY 1988-89 and FY 1991-92.

Beginning in FY 1992-93, instead of providing direct loans, the State used the Federal capitalization grant and the State matching funds to provide the reserves necessary for the sale of SRF revenue bonds. Revenue from the sale of bonds is provided to local units of government in the form of a loan with a 20-year amortization period, and below-market interest rates. In FY 2000-01, the interest rate charged to local units is 2.5%, compared with the 5% to 6% interest rate available to local governments in the open market. Through this new mechanism, the State is able to leverage a much greater pool of funding from which to make loans to local governments than under the direct loan program. Table 2 compares the amounts available from the Federal capitalization grant and State matching funds with the amounts made available since FY 1992-93 for water pollution control project loans.

The Federal and State laws allow the provision of loans from the SRF for construction of sewage treatment works projects, stormwater treatment projects, and nonpoint source projects. To date, Michigan's SRF has provided loans for sewage treatment works projects only. The categories of wastewater treatment works projects eligible for assistance, under Federal and State laws, are treatment facility improvements involving secondary or advanced treatment; minor and major rehabilitation of existing sewers; new collector sewers; new interceptor sewers; and combined sewer overflow (CSO) control. Almost any phase or element of a public wastewater treatment project would be eligible for SRF assistance, with the exception of the provision of new sewers to support new development. Through FY 1999-2000, 48% of the SRF assistance has supported CSO projects.

Qualifying for SRF Loan Assistance

The Federal Clean Water Act and Part 53, Clean Water Assistance, of the State's Natural Resources and Environmental Protection Act (NREPA) provide the guidelines for receiving assistance through the SRF.

To qualify for a loan from the SRF, a local governmental unit must submit a project plan to the MDEQ by July 1 of each year in order to be considered for funding in the succeeding fiscal year. The local government must document, in the project plan, a water quality or a public health problem. The project plan also must contain basic information about the proposed project, including background information on existing wastewater facilities, population data, and economic information; an analysis of alternative approaches to the project; a description of the selected project; an evaluation of project environmental impacts and proposed mitigation; and a demonstration that there has been public participation in project planning.

Table 2

Federal and State Capitalization vs. Total SRF Loan Commitments FY 1992-93 to FY 2000-01

Fiscal Year	Federal Cap Grant	State Matching Funds	Total Capitalization	SRF Loan Commitments
1992-93	$92,748,548	$18,549,710	$111,298,258	$120,720,000
1993-94	53,595,202	10,719,040	64,314,242	69,545,000
1994-95	52,961,238	10,592,248	63,553,486	70,130,000
1995-96	86,752,116	17,350,423	104,102,539	136,230,000
1996-97	26,798,013	5,359,603	32,157,616	103,735,000
1997-98	57,882,966	11,576,593	69,459,559	126,925,000
1998-99	65,654,797	13,130,959	78,785,756	240,990,000
1999-2000	57,904,704	11,580,800	69,485,504	194,595,000
2000-01	57,708,000	11,542,000	69,250,000	210,000,000

The project plans are ranked by the MDEQ and placed on an annual Project Priority List (PPL). The criteria for ranking projects are set forth in Section 5303 of the NREPA. The criteria for inclusion on the PPL include project compliance with applicable standards of the water resources protection provisions of the NREPA (Part 31) and the Federal Water Pollution Control Act. First priority is given to segments of projects that had received funding under the Federal construction grants program, or the SRF for up to three years after funds from those sources were committed to the project. In addition, sewer and stormwater treatment projects are scored on the following criteria:

1. The severity of the water pollution problem to be addressed.
2. Whether a project is necessary to comply with a construction schedule established by an order, permit, or other document issued by the MDEQ, or entered as part of an action brought by the State against a local government.
3. The size of the population to be served by a project.
4. The dilution ratio between the existing wastewater discharge volume and the flow of the receiving water; in other words, the capacity of the receiving water to dilute and disperse the discharge.

Once projects are ranked, the MDEQ determines the fundable range, which consists of the projects on the PPL, taken in descending order, for which it is estimated that funds are available to provide assistance at the beginning of each annual funding cycle. Projects may be segmented if the total project costs are greater than 30% of the amounts available from the Fund, and the MDEQ approves a request to segment a project.

Local governments having projects within the fundable range must apply to the MDEQ for assistance from the SRF. In applying for assistance the local government must submit, among other plans, specifications, permits, and contracts, documentation that a dedicated source of revenue is established and dedicated to repay loans from the SRF, and to fund operation and maintenance of the project. The MDEQ issues an order of approval for projects that successfully complete all of the required steps and certifications within designated timelines, and that fall within the fundable range. Projects in the fundable range that fail to meet all of the application requirements and timelines are bypassed, and projects lower on the PPL are moved up into the fundable range in rank order. A bypassed project is not eligible for funding in the funding cycle in which it was bypassed until all of the other projects in the fundable range are funded or rejected.

Finally, because all municipalities in Michigan must issue bonds to incur debt, a successful SRF applicant must prepare a bond issue to actually receive a loan under the program. The applicant does not have to sell the bonds on the open market. Instead, the local unit of government undertakes all of the steps involved in a bond issue up to the point of sale. The MMBA assesses the bond rating of the issue and the applicant's financial status, and, upon a positive review and an order of approval from the MDEQ, the MMBA purchases the applicant's bonds.

Accomplishments of the SRF

Through FY 1999-2000, the SRF has provided loan assistance totaling $1,269,390,000 for 174 projects. Federal capitalization grants and State matching funds over the same period of time totaled $900,902,230. The MDEQ anticipates that another $210 million will be available from the SRF in FY 2000-01.

While the SRF will have made nearly $1.5 billion in loan commitments by the end of FY 2000-01, demand for assistance from the SRF significantly exceeds that amount. In FY 1999-2000, there were 42 projects totaling $1.5 billion on the PPL. Nine of those projects were funded, with binding commitments totaling $194 million. Included among the FY 1999-2000 projects was a single project in the City of Detroit with total project costs exceeding $900 million, and a FY 1999-2000 commitment of slightly less than $60,000,000. Without the Detroit project, annual demand on the SRF has averaged approximately $560 million since FY 1995-96. Amounts available from the SRF annually could support less than half of that demand.

Current demand for SRF assistance clearly exceeds the resources available. If estimates of need for wastewater treatment facility construction assistance are considered, and that need is translated into demand for assistance, pressure on the SRF might be expected to grow. The last needs survey conducted by the MDEQ for the Federal Environmental Protection Agency was in 1996. The estimated need for wastewater construction projects in the State, at that time, totaled $5.1 billion. Again, over $1 billion of that estimate can be attributed to the City of Detroit.

Proposed Legislation

Legislation aimed at increasing the resources available for wastewater treatment and control projects has been proposed in both the House and the Senate. Senate Bill 105 (S-3), passed by the Senate on March 28, 2001, would appropriate and transfer up to $25 million from the Budget Stabilization Fund (BSF) to the SRF for five years beginning in FY 2001-02. The transfer and appropriation proposed by the bill would not occur unless the State Budget Director certified to the Legislature that Federal funding for the SRF was available in excess of the amounts available from the Federal government for that purpose in FY 2000-01. The amount of the appropriation and transfer from the BSF would be limited to only those amounts necessary to provide the State match required to receive the additional Federal dollars, up to $25 million.

House Bill 4625, introduced on April 19, 2001, would make additional State resources available for water pollution control projects that prevent discharges of untreated or improperly treated sewage into the waters of the State through the issuance of $1 billion in State general obligation bonds. The proceeds of the bonds would be used to finance water pollution control projects, not necessarily through the SRF mechanism. Such a bond issue would be subject to a vote of the people of the State.

APRIL SHOWERS BRING MAY...SEWER PROBLEMS
by Nobuko Nagata, Legislative Analyst

The Problem

Sanitary and wastewater sewer systems are generally designed to handle expected sanitary waste flows generated from residences and businesses during peak usage. Many sewer systems are aging, however, and maintenance, rehabilitation, and replacement are inevitable. In addition, the aging infrastructure is not equipped to handle the increased demands of current use. During extreme events such as heavy downpours or substantial snowmelt, the sewer capacity may become overloaded, which may lead to the backup of sewage into basements and/or overflows of untreated wastewater into nearby watercourses.

Inadequate sewer systems in recent years have been responsible for beach closings and threats to the water quality throughout the State, especially on and near Lake St. Clair. According to an article in the *Detroit News* (3-21-01), during last January and February alone, State environmental experts estimate that more than 800 million gallons of untreated and partially treated wastewater were discharged from Oakland, Macomb, and Wayne County wastewater treatment facilities and retention basins into area rivers and Lake St. Clair.

According to an article in the *CSO News,* it is estimated that combined sewer overflows (CSOs) affect 1,100 municipalities serving 43 million Americans. The article reports that a total of 15,000 discharges occur annually. Studies have shown that during peak storm events, as much as 95% of the raw sanitary sewage is dumped directly to the receiving stream. According to an article in the *U.S. News* (6-12-00), sewer backups in basements occur an estimated 400,000 times, and about 40,000 sanitary sewer overflow (SSO) occurrences are reported every year in the nation.

Further, many reports indicate that SSOs and CSOs, which may contain suspended solids, toxic chemicals, pathogens, grease, debris, human

drugs, pesticides, and detergents, can pose a severe problem for the environment. These sewage discharges are among the largest threats to water quality, aquatic life, and public health.

Combined Sewer Overflows

Combined sewer overflows are overflows from sewer systems designed to carry both raw sewage and storm water. A combined sewer channels wastewater through an interceptor sewer to the wastewater treatment facility. During heavy rainfall or snowmelts, the interceptor may become overwhelmed by the excessive stormwater flow entering the system. A regulator holds the excess and acts as a dam until the water level within the sewer spills over. The untreated overflow then is discharged and enters the nearest watercourse or weak spot.

These discharges can severely contaminate ground or surface waters and damage water quality. Coupled with the aging of an inadequate wastewater infrastructure, factors such as groundwater infiltration, heavy rainstorms or snowmelts, and blockages have led to a sharp rise in CSOs, according to the Department of Environmental Quality (DEQ). The discharges can contain solid human waste, toxic pollutants, chemicals, oil, grease, soil sediments, and other waste and debris carried by stormwater from streets, roofs, and parking lots.

Sanitary Sewer Overflows

Separate sanitary sewers are intended to transport raw sewage directly to wastewater treatment facilities with no opportunity to enter the environment. Overloads can occur, however, in poorly designed or maintained systems. Broken pipes, inadvertent storm sewer connections, and failing pump stations also can cause SSOs. Sanitary sewer overflows are illegal and pose a severe problem to the environment and public health. These are discharges of raw or inadequately treated sewage from a separate sanitary sewer collection system before the sewage reaches a wastewater treatment plant. When an SSO occurs, raw sewage may be released into basements, city streets, buildings, and watercourses. According to the DEQ, SSOs have risen sharply due to the same factors causing CSOs, as well as equipment failures and power outages, and can contain the same toxic elements. The number of communities that have SSO problems and the frequency and duration of SSOs are often unknown because not all discharges are reported.

Municipal Liability

Governmental agencies are required to provide certain necessary services, such as sewer systems, within municipalities, and are responsible for maintaining and upgrading these systems. Some residents blame their municipality for an aging sewer system and its frequent sewer backups. According to an article in the *Detroit Free Press* (1-30-01), at least 110 homes in Birmingham, 91 homes in Beverly Hills, and 20 homes in Farmington Hills experienced sewer overflows in their basements after heavy rain deluged the system in 1998. According to the sanitary sewer overflow county lookup program established by the DEQ, the following counties, among others, have reported cases of SSOs since July 10, 2000: Ingham County, 20 cases; Macomb County, 23 cases; Oakland County, 41 cases; Washtenaw County, 26 cases; and Wayne County, 35 cases.

Under the governmental immunity law, governmental agencies are immune from tort liability in the exercise or discharge of a governmental function. There are several exceptions to governmental immunity, however, that allow recovery by people injured as a result of a municipality's actions. In 1998, the Michigan Court of Appeals held that municipalities may be held liable for sewer backups without a showing of negligence under the trespass-nuisance exception to governmental immunity (*CS&P, Inc.* v *City of Midland*, 229 Mich App 141). Apparently, this decision has resulted in numerous lawsuits against municipalities for sewer overflows.

Costs

According to a study by Public Sector Consultants, a Lansing "think tank", an estimated $1.7 billion will be required to address remaining CSO problems over the next 12 years, and

preliminary information indicates that several hundred million dollars will be needed to address the known SSO problems over the next decade. In addition, Federal stormwater regulations will require most urban communities in Michigan to face additional costs associated with water pollution control requirements within the next three years. The Southeast Michigan Council of Governments estimates the cost of future sewer improvements needed in Metro Detroit at more than $10 billion. The following are the costs of some sewer projects already under way or planned: Mt. Clemens, $28 million sewer separation and pollution abatement program; Clinton Township, $24 million interceptor sewer construction; Fraser and Clinton Township, $50 million to eliminate overflows; 12 Towns project, $150 million for expansion of an underground retention basin; Evergreen-Farmington drain system, $250 million for improvements; Birmingham, $12 million in bonds for sewer relief projects to prevent flooding; and Detroit, more than $1 billion to upgrade sewage treatment plant construction of an underground retention basin and other improvements.

The State Water Pollution Control Revolving Fund provides low-interest loans to assist qualified municipalities in funding wastewater treatment improvements, although the need for assistance far exceeds the funding available. This source of financing is discussed in detail in the preceding article, "Wastewater Control Project Funding in Michigan".

Proposed Legislation

In the current legislative session, several Senate bills have been introduced to address sewage issues.

Senate Bill 105 (S-3) would appropriate and transfer up to $25 million from the Budget Stabilization Fund to the State Water Pollution Control Revolving Fund for each of the following fiscal years: 2001-02, 2002-03, 2003-04, 2004-05, and 2005-06. (This proposal also is discussed in the preceding article.)

Senate Bill 106 provides that if a water pollution control project requiring assistance from the State Revolving Fund were a sewage treatment works project or a stormwater treatment project, the priority list criteria for project plans submitted by municipalities would have to include a determination of whether a project was necessary to comply with an order, permit, or other document with an enforceable schedule for addressing a municipality's sewage-related water pollution problems that was issued by the DEQ or entered as part of an action brought by the State against the municipality. The bill also provides that a municipality could voluntarily agree to an order, permit, or other document with an enforceable schedule.

Senate Bill 107 would require the DEQ to establish standards for residential on-site sewage disposal systems; require a system to be inspected before a home was sold; and require counties to provide educational materials to on-site disposal system owners.

Senate Bill 108 (S-2) would require the DEQ to implement a statewide water quality monitoring program to identify sources and locations of sewer discharges and assess their impact on water quality.

Senate Bill 109 (S-1) would give municipalities immunity from civil liability for noneconomic damages caused as the result of the backup of a sewer system if the municipalities were complying with, or entered into, a DEQ order to address sewage-related water pollution problems.

Except for Senate Bill 107, the bills have been passed by the Senate. Senate Bill 105 (S-3) has been referred to the House Committee on Land Use and Environment. Senate Bills 106, 108 (S-2), and 109 (S-1) were referred to the House Committee on Conservation and Outdoor Recreation. Senate Bill 107 remains before the Senate Committee on Natural Resources and Environmental Affairs. Analyses of the proposals may be found on the Legislature's Internet site (http://www.michiganlegislature.org).

PROPOSED CHANGES TO SPECIAL EDUCATION RULES
by Kathryn Summers-Coty, Fiscal Analyst

Special education programs in the State of Michigan are primarily regulated according to three sources of authority: the Federal Individual with Disabilities Education Act (IDEA), the State Revised School Code, and State Administrative Rules for Special Education. At the present time, an energized debate is occurring throughout the State generated by proposed changes in the administrative rules, which will affect approximately 220,000 students now receiving special education programs and services.

The Michigan Department of Education (DOE) Office of Special Education and Early Intervention Services has stated that the proposed changes will "bring the state rules into alignment with federal law and regulations... [and] will offer flexibility in program design while meeting individual student needs". This article briefly describes the process by which administrative rules are changed, the time line of events surrounding the proposed rule changes, and the major issues under discussion. A copy of all changes proposed to the Administrative Rules for Special Education may be found on the Internet at www.mde.state.mi.us/off/sped/.

An administrative rule is an agency's written regulation, statement, standard, policy, ruling, or instruction that has the effect of law. A State agency writes rules under authority of State statute, the Michigan Administrative Procedures Act, the Michigan Constitution, and applicable Federal law. In this instance, the DOE has 130 Administrative Rules for Special Education currently in place. Examples of **existing** Special Education rules include:

- R 340.1736 Paraprofessional personnel may be employed to assist special education professional personnel pursuant to the intermediate school district plan.
- R 340.1741 Programs for the emotionally impaired shall have not more than 10 students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.

To modify, create, or delete administrative rules, an agency first must file a request for rule-making with the Office of Regulatory Reform (ORR), within the Executive Office, and receive its approval to proceed. Then, public hearings on the proposed rules and a period of public comment are scheduled and announced. Once the hearings are complete, an analysis of public comment is prepared. During this process, the proposed rules are forwarded to the Joint Committee on Administrative Rules (JCAR), which may consider the rules and must share them with the appropriate House and Senate standing committees. (Specific to the proposed Special Education rule changes, the public comment analysis will be presented to the Special Education Advisory Committee, which will advise the Superintendent of Public Instruction on any aspect of the proposed rules.)

Final recommendations on the proposed rules will be forwarded in this case to the Superintendent, who then will submit the proposed rules to the ORR and to the Legislative Service Bureau for formal and legal approval. Once the rule changes have these approvals, they will be transmitted to JCAR, which will have an opportunity to object to them. (In the event JCAR objected, legislation would have to be introduced and various scenarios could result.) If JCAR does not object, the ORR will file the rules with the Secretary of State. The rules will be effective seven days after the filing date, unless the rules set a later date.

On February 14, 2001, the DOE submitted the draft proposed changes of several Administrative Rules for Special Education and Complaint Procedures under Part C of the IDEA to the ORR, which approved the draft on March 13, 2001. In the meantime, on March 2, 2001, the DOE announced a series of public hearings and a period of public comment (through April 16, 2001) on the proposed changes. On April 12, 2001, the State Board of Education recommended that the deadline for public comment for special education rule revisions be extended to June 15, 2001. Five days later, the Superintendent of Public Instruction extended the period of public comment

on the proposed changes through May 16, 2001. A lawsuit filed on behalf of persons with disabilities (requesting more time to understand and comment on the proposed revisions) resulted in an April 27 ruling by Ingham Circuit Court Judge Lawrence Glazer that further extended the period of public comment through September 30, 2001.

Once the period of public comment is concluded at the end of September, the DOE staff will analyze and prepare a summary of all comments submitted. This analysis will take several months, and the resulting summary will provide guidance relative to technical changes, textual clarifications, and other changes that may be needed. The State Superintendent will then make final recommendations on the proposed rules and forward them to the ORR. If substantive changes are included, the process must begin anew with public hearings, public comment, etc., as described above. If nonsubstantive changes are recommended, and approved by the ORR, a copy of the final rules will be forwarded to JCAR. If JCAR does not file a notice of objection, the ORR will officially file the rules with the Secretary of State, and they will take effect seven days after the filing or on a later date if specified within the text of the rules. The DOE has one year after September 30, 2001, to complete this process.

According to the DOE, the proposed rules are based on Federal regulations implementing the IDEA, recommendations from the Special Education Task Force (1994), a staff analysis of those recommendations, and staff experience with requests for waivers to the existing Administrative Rules for Special Education. Some of the proposed rule changes have generated more debate and controversy than others have. These include, for example:

- creating programs for students based on educational needs, rather than categories of impairment (e.g., there would no longer necessarily exist a "Hearing Impaired Program" classroom, but instead a classroom of students with differing disabilities but similar educational needs);
- replacing specific caseloads (i.e., classroom student/teacher ratios) based on impairment categories with an intermediate school district (ISD)-wide student/teacher instructional ratio;
- eliminating the prohibition under which special education teachers may not teach and provide consultation services at the same time; and
- eliminating the distinction between severely mentally impaired, educable mentally impaired, and trainable mentally impaired, and consolidating the three categories into a single eligibility category of Cognitive Impairment.

An additional concern relates to the lack of a rule expressly providing enough implementation time for ISDs.

The Office of Special Education within the Department of Education will review public comment on these and other issues, and will submit a final package of proposed rule changes for review as described earlier. Needless to say, changes in rules governing Special Education in Michigan, affecting 220,000 students from birth to age 26, will continue to generate discussion. It is hoped that this article clarifies the administrative rules process and time line, and describes some of the issues at stake.