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Michigan House of Representatives
Michigan Senate
State Capitol Building
Lansing, Michigan 48913

Ladies and Gentlemen:

Today I am returning to you unsigned Senate Bills 100 and 101.

The bills would have amended the Administrative Procedures Act and the Revised Judicature Act to, among other things, require the court in a civil action or the presiding officer in a contested case to award costs and fees to a prevailing party against the state unless the state demonstrated by clear and convincing evidence that its position was substantially justifiable.

The legislation could create legal uncertainty considering it contains a substantially justifiable standard coupled with a clear and convincing standard, which neither federal law nor other state laws contain. This would make Michigan an outlier.

In Michigan, as in the rest of the United States, each party to a lawsuit is generally responsible for paying its own costs and fees. I am not convinced that deviating from this well-established American rule is sound public policy for Michigan.

While well intended, I do not believe that this legislation would accomplish positive results for Michigan, therefore, I am returning SB 100 and 101 to you today without my approval.

Sincerely,

Rick Snyder
Governor