JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

JOHN D. CHERRY, JR.
LT. GOVERNOR

October 12, 2009

Michigan House of Representatives
State Capitol
Lansing, MI 48909-7514

Ladies and Gentlemen:

Today I have signed Enrolled House Bill 4437, the general appropriations bill for the Department of Corrections for the fiscal year ending September 30, 2010. I have, however, disapproved several items pursuant to Section 19 of Article V of the Michigan Constitution of 1963. The specific item vetoes are detailed in the attached copy of the bill, which has been filed with the Secretary of State.

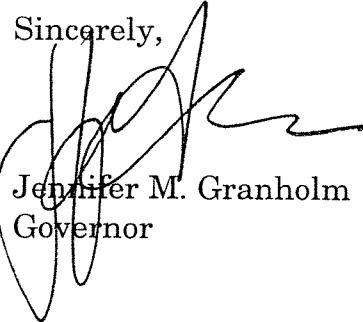I have exercised my item veto authority on the following appropriations:

- The proposed negative appropriation for unspecified correctional cost savings and corresponding language included in Section 233. A negative appropriation of the magnitude included in the bill would present a threat to the security and order of the state's correctional facilities. I have therefore directed the Department of Corrections to implement additional efficiencies and economies with the goal of securing $20 million in savings over and above the $120 million in specific reductions already included in this budget. That is an aggressive savings target that must be achieved without jeopardizing prison safety. While further efficiencies and economies may be attainable, the Legislature may not constitutionally delegate to the executive branch the authority and responsibility to reduce or eliminate services or programs mandated by the Legislature, if the amounts appropriated for such services or programs prove insufficient. In such circumstances, the Legislature is obligated to either authorize supplemental appropriations or act to reduce or eliminate programs and services.

- The county jail reimbursement program and the proposed new line item for county jail reimbursement program savings along with corresponding boilerplate in Section 414 and 434. Section 35 of The Code of Criminal Procedure, 1927 PA 175, MCL 769.35, requires the

Department of Corrections to operate a jail reimbursement program that provides funding to counties for housing offenders in county jails who otherwise would have been sentenced to prison. I support restoration of the program at Fiscal Year 2009 appropriation levels with reforms that conform with the statutory requirements of the program.

To provide direction regarding the implementation of this new appropriations act, I note the following:

- Section 614 of House Bill 4437 purports to impose requirements on Michigan courts while the bill provides no appropriations for the judiciary. The requirements purportedly imposed by this section cannot then be valid conditions on appropriations, appear to be outside the scope of the title and object of the bill, and may violate Const 1963, art IV, §24.

- Section 812 of the bill purports to impose duties on the Department of Human Services while the bill provides no appropriations for that department. The duties purportedly imposed by this section cannot then be valid conditions on appropriations, appear to be outside the scope of the title and object of the bill, and may violate Const 1963, art IV, §24.

- Section 909 of the bill purports to condition the expenditure of funds appropriated for academic/vocational programs under Part 1 of the bill upon the requirement that the Department of Corrections provide a plan by January 1, 2009. Such a condition cannot be a valid condition as it cannot be satisfied during the fiscal year that began on October 1, 2009.

- Sections 225, 302, 303, 402, 405a, 407, 416, 421, 422, 426, 429, 601, 606, 808, 812, 906, 922, 927, and 931 of the bill include statements of legislative intent. While the Legislature has the right to state its advice, preferences, or wishes through a statement of intent, such statements do not impose conditions upon appropriations and are non-binding.

Sincerely,

Jennifer M. Granholm
Governor

c: Michigan Senate
      The Honorable Terri Lynn Land