

No. 14
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Tuesday, February 25, 1997.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor Connie B. Binsfeld.

The roll was called by the Secretary of the Senate, who announced that a quorum was not present.

Bennett—present
Berryman—present
Bouchard—present
Bullard—present
Byrum—present
Carl—present
Cherry—present
Cisky—present
Conroy—present
DeBeaussaert—present
DeGrow—present
Dingell—present
Dunaskiss—present

Emmons—present
Gast—present
Geake—present
Gougeon—present
Hart—present
Hoffman—present
Koivisto—present
McManus—present
Miller—present
North—present
O'Brien—present
Peters—present
Posthumus—present

Rogers—present
Schuette—present
Schwarz—present
Shugars—present
A. Smith—present
V. Smith—present
Stallings—excused
Steil—present
Stille—present
Van Regenmorter—present
Vaughn—present
Young—present

Senator Jim Berryman of the 17th District offered the following invocation:

Lord, Thank You for today—fresh with the sparkling frost, bright with the splendor of the morning sun, and alive with all the livingness of Your perennial Spirit. May we receive this day thoughtfully, graciously, and tenderly.

Thank You for the joy of good health, for the enthusiasm of youth, for the wisdom of mature years, and for the insatiable thirst for the good, the true and the beautiful. Amen.

Motions and Communications

Senator Bullard entered the Senate Chamber.

Recess

Senator DeGrow moved that the Senate recess subject to the call of the President.
The motion prevailed, the time being 10:03 a.m.

10:37 a.m.

The Senate was called to order by the President, Lieutenant Governor Binsfeld.

During the recess, Senators Dunaskiss, Cisky, Carl, Shugars, Emmons, Posthumus, Hoffman, Steil, Gougeon, McManus, Schwarz, Stille, Bouchard, Van Regenmorter, Schuette, Gast, Rogers and Bennett entered the Senate Chamber.

A quorum of the Senate was present.

Senator V. Smith moved that Senator Stallings be excused from today's session.
The motion prevailed.

Senator Geake entered the Senate Chamber.

Senators Byrum, Conroy, DeBeaussaert and Dingell asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Byrum's statement is as follows:

Executive Order 1996-12 attempts to transfer the authority found in 139 statutes from the State Board of Education to the State Superintendent of Public Instruction. This executive order should not stand. What is at stake is the integrity of the legislative authority, not Democrat or Republican power, but the ability of the legislative branch, House and Senate, to establish laws and rules; to be an equal branch of government and to play a rightful role in the checks and balances process.

In effect, Executive Order 1996-12 would transfer all administrative statutory powers, duties, functions and responsibilities contained in a list of 100 statutes, from the State Board to the Superintendent, including procedures for financial take-over of districts, the power to suspend charter school authorizing bodies, to receive or reject school contracts, the power to delay state aid, the power to approve ISD dissolutions, development of school accreditation, the power to determine teachers' certification, and on and on.

There has been a concern expressed among several legislators, especially those who serve on the JCAR committee with me, that the Governor has been over-reaching his authority in establishing rules without legislative oversight. This executive order transfers all rule-making powers, duties, functions and responsibilities contained in 39 statutes, including teachers' certification, pupil transportation, the waiver of special education rules, charter school applications, basic contracts, terms and enforcement and days and hours required for state aid.

House Concurrent Resolution No. 5 has passed the Michigan House 70-36, with support of Democrats and Republicans. This is not a partisan issue. This is not an internal struggle between the Governor and the State Board of Education. This is about preserving the integrity of the legislative branch so that we may play our appropriate role in the checks and balances of our government. I plead with my colleagues in the Senate to please uphold the integrity of this institution that we have sworn to preserve and protect. We should join our colleagues in the House and reject the Executive Order by support House Concurrent Resolution No. 5.

Senator Conroy's statement is as follows:

Last week the House of Representatives approved House Concurrent Resolution 5 on a bipartisan 70-36 vote. HCR 5 rejects the Executive Order which was filed by the Governor in December of 1996. The Executive Order transfers a substantial number of statutory powers and rule making responsibilities from the state Board of Education to the Superintendent. This Executive Order was rejected by the House for good reason. A bipartisan majority in the House recognized that this Executive Order is an illegal reach by the Executive in the powers that are constitutionally reserved to the Legislature. Ladies and Gentlemen, it is incumbent upon us to preserve the integrity of this body. This is not about the Executive, this is about the preservation of the legislative system. This is about the preservation of the peoples' rights as well. The people elected a constitutionally created state Board of Education to have supervision over education in this state. They did not elect this Superintendent and they deserve to have deliberations conducted in an open forum by the people they elected.

Senator DeBeaussiaert's statement is as follows:

Today may be the last day for this Senate to act to overturn Executive Order 1996-12. It may be up for consideration later today. I think that while some in this chamber may view this as a political battle between the Board of Education and the Executive Branch, it's important for the members of this body to recognize that we have a dog in that fight, too. In fact, there are a series of issues in which the legislature has specifically empowered the State Board of Education with oversight ability that would be stricken or authority moved over to the Superintendent.

Specifically, I'm concerned about the power to oversee some of the new activities of public school academies or charter schools in this state—the authority to receive charter school contracts or reject contracts, the power to delay state aid to charter schools and the power to suspend charter school authorizing bodies. These are new institutions, these charter schools. It seems to me that one of the important differences about them is that they are created by a separate body and don't have a locally elected body that the parents and members of the state can go to in a public forum to ask questions, to seek explanations and to have their voices heard. In the absence of a local elected board, the State Board of Education, which is an elected board, was empowered by the legislature to carry out that responsibility to give the public an opportunity in an open forum to seek answers to those questions and seek the kinds of input that is appropriate.

This executive order would move that authority away from the State Board and to the Superintendent, out of the sunshine and into the private decision making of an appointed bureaucrat rather than an elected body. I think that transfer of authority that this legislature originally approved for the State Board is one that we should not take lightly. We should consider, we should debate and I hope that we will take action on resolutions.

Another specific area that I'm concerned about relates to the high school proficiency test. We've already heard a great deal about that. Much more may be made of that test in the future. This order would also move the authority over the implementation of the test away from the State Board, who has expressed some concern about it and wanted to have some public input and discussion, to the Superintendent. It seems to me that our educational system has cheated the future of this state, that the greatest public input is important and should be advocated by the members of this body. I hope that we will take action later today to overturn the executive order and to continue this discussion.

Senator Dingell's statement is as follows:

I rise in support of House Concurrent Resolution No. 5, in an attempt to overturn the Governor's Executive Order No. 1996-12. This is particularly important to me because I am a member of the Joint Committee on Administrative Rules. Constituents and business people ask me what that is. I tell them that it is supposed to act as the traffic cop for administrative rule makings—standard makings by the state departments. This process is very important to me. Preserving the integrity of it is very important to me. The Governor's attempt to strip rule making authority from not just JCAR but here even the State Board of Education, just seems even more incredible than it has been. Ladies and gentlemen, it is time that the Legislature speak with one voice. It is time that the legislature keep the Governor from grabbing this power which is better placed somewhere else.

Senator V. Smith moved that the Senate proceed to the order of Resolutions.

On which motion Senator V. Smith requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The motion did not prevail, a majority of the members not voting therefor, as follows:

Roll Call No. 16

Yeas—15

Berryman
Byrum
Cherry
Conroy

DeBeaussiaert
Dingell
Hart
Koivisto

Miller
O'Brien
Peters
Smith, A.

Smith, V.
Vaughn
Young

Nays—22

Bennett	Dunaskiss	McManus	Schwarz
Bouchard	Emmons	North	Shugars
Bullard	Gast	Posthumus	Steil
Carl	Geake	Rogers	Stille
Cisky	Gougeon	Schuette	Van Regenmorter
DeGrow	Hoffman		

Excused—1

Stallings

Not Voting—0

In The Chair: President

The Secretary announced that the following House bill was received in the Senate and filed on Thursday, February 20:
House Bill No. 4238

The Secretary announced the printing and placement in the members' files on Monday, February 24 of:

Senate Bill Nos.	201	202	203	204	205	206	207	209	210	211	212	213	214	215
	216	217	218	219										
House Bill Nos.	4337	4338	4339	4340	4341	4342	4343	4344	4345	4346	4347	4348	4349	4350
	4351	4352	4353	4354	4355	4356	4357	4358	4359	4360	4361	4362	4363	4364
	4365													

House Joint Resolutions L M

Committee Reports

The Committee on Government Operations reported

Senate Bill No. 121, entitled

A bill to amend 1968 PA 173, entitled "An act naming certain state buildings," by amending section 1 (MCL 19.131), as amended by 1982 PA 229.

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Emmons, Hoffman, Miller and Hart

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Government Operations reported

Senate Resolution No. 11.

A resolution urging the Citizen's Stamp Advisory Committee to recommend to the Postmaster General that a lifesaving awareness stamp, "The Gift of Life," be included for the 1999 stamps.

(For text of resolution, see Senate Journal No. 4, p. 49.)

With the recommendation that the resolution be adopted.

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Emmons, Hoffman, Miller and Hart

Nays: None

The resolution was placed on the order of Resolutions.

The Committee on Government Operations reported

Senate Resolution No. 14.

A resolution to memorialize the Congress of the United States to pass and submit to the states for ratification a proposed amendment to the Constitution of the United States to require a balanced federal budget.

(For text of resolution, see Senate Journal No. 5, p. 62.)

With the recommendation that the resolution be adopted.

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Emmons, Hoffman and Miller

Nays: Senator Hart

The resolution was placed on the order of Resolutions.

The Committee on Government Operations reported

Senate Resolution No. 18.

A resolution to memorialize the Congress of the United States to enact legislation to provide for the enforcement of the Tenth Amendment to the United States Constitution.

(For text of resolution, see Senate Journal No. 7, p. 77.)

With the recommendation that the resolution be adopted.

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Emmons, Hoffman, Miller and Hart

Nays: None

The resolution was placed on the order of Resolutions.

The Committee on Government Operations reported

Senate Concurrent Resolution No. 9.

A concurrent resolution to memorialize the Congress of the United States to enact legislation to provide for the enforcement of the Tenth Amendment to the United States Constitution.

(For text of resolution, see Senate Journal No. 7, p. 79.)

With the recommendation that the concurrent resolution be adopted.

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Emmons, Hoffman, Miller and Hart

Nays: None

The concurrent resolution was placed on the order of Resolutions.

The Committee on Government Operations reported

Senate Resolution No. 20.

A resolution to memorialize the President and the Congress of the United States to repeal the federal unified gift and estate tax.

(For text of resolution, see Senate Journal No. 8, p. 89.)

With the recommendation that the resolution be adopted.

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Emmons and Hoffman

Nays: Senators Miller and Hart

The resolution was placed on the order of Resolutions.

The Committee on Government Operations reported

Senate Concurrent Resolution No. 11.

A concurrent resolution to memorialize the President and the Congress of the United States to repeal the federal unified gift and estate tax.

(For text of resolution, see Senate Journal No. 8, p. 90.)

With the recommendation that the concurrent resolution be adopted.

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Emmons and Hoffman

Nays: Senators Miller and Hart

The concurrent resolution was placed on the order of Resolutions.

COMMITTEE ATTENDANCE REPORT

The Committee on Government Operations submits the following:

Meeting held on Wednesday, February 19, 1997, at 1:00 p.m., Room 405, Farnum Building

Present: Senators Bullard, Emmons, Hoffman, Miller and Hart

COMMITTEE ATTENDANCE REPORT

The Subcommittee on State Police and Military Affairs submits the following:

Meeting held on Wednesday, February 19, 1997, at 2:00 p.m., Room 210, Farnum Building

Present: Senators Cisky, Hoffman and Vaughn

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Family Independence Agency submits the following:

Meeting held on Wednesday, February 19, 1997, at 3:00 p.m., Senate Appropriations Room, Capitol Building

Present: Senators Geake, Steil and Conroy

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Natural Resources and Environmental Quality submits the following:

Meeting held on Thursday, February 20, 1997, at 1:00 p.m., Senate Appropriations Room, Capitol Building

Present: Senators McManus, Gast, Koivisto and A. Smith

Excused: Senator Hoffman

COMMITTEE ATTENDANCE REPORT

The Committee on Families, Mental Health and Human Services submits the following:

Meeting held on Friday, February 21, 1997, at 9:00 a.m., Kent County Administration Building, 300 Monroe Avenue N.W., Grand Rapids, Michigan

Present: Senator Gougeon

Excused: Senators Bouchard, Geake, V. Smith and Peters

Scheduled Meetings

Agriculture and Forestry Committee - Wednesday, February 26, at 1:30 p.m., Room 210, Farnum Building (3-2413).

Human Resources, Labor and Veterans Affairs Committee - Thursday, February 27, at 1:00 p.m., Room 210, Farnum Building (3-2420).

Natural Resources and Environmental Affairs Committee - Thursday, February 27, at 8:30 a.m., 8th Floor Conference Room, Farnum Building (3-7350).

Revenue Sharing Task Force - Tuesday, March 11, at 3:30 p.m., Rooms 402 and 403, Capitol Building (3-1801).

Transportation Appropriations Subcommittee - Wednesdays, February 26 and March 5, at 8:30 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (3-2426).

Transportation and Tourism Committee - Wednesday, February 26, at 3:00 p.m., Room 405, Capitol Building (3-7670).

Senator DeGrow moved that the Senate adjourn.
The motion prevailed, the time being 11:14 a.m.

The President, Lieutenant Governor Binsfeld, declared the Senate adjourned until Wednesday, February 26, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

