

No. 3
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, January 28, 1998.

10:00 a.m.

The Senate was called to order by the President pro tempore, Senator John J.H. Schwarz.

The roll was called by the Secretary of the Senate, who announced that a quorum was present.

Bennett—present
Berryman—present
Bouchard—present
Bullard—present
Byrum—present
Cherry—present
Cisky—present
Conroy—present
DeBeausaert—present
DeGrow—present
Dingell—present
Dunaskiss—present
Emmons—present

Gast—present
Geake—present
Gougeon—present
Hart—present
Hoffman—present
Jaye—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—present
Steil—present
Stille—present
Van Regenmorter—present
Vaughn—present
Young—present

Pastor James Frank of the Galilee Baptist Church of Saranac offered the following invocation:

King of all places and Lord of all centuries, we acknowledge Thee in this place and at this time. We bring before You the day's work. We ask for Thy understanding and blessing to be with us. We thank You for truth and conscience. We pray that You might help us with our own. With the conscience and truth of this state we commit these things into Your hands. We have often great matters to discuss in this place. In times when life and death are discussed, we pray especially that You might help, bless and give understanding to these whom we trust in. We ask for Your blessings, especially on this particular day. We thank You for public duties. We also have private duties. We have families. We have private responsibilities. We pray that You might see and see the needs of every particular Senator today. We thank You again. To Thee be honor, glory and majesty. Amen.

Motions and Communications

Senator DeGrow moved that Senators Bullard, Dunaskiss, McManus, Posthumus and Schuette be temporarily excused from today's session.

The motion prevailed.

Senator V. Smith moved that Senators Stallings and O'Brien be temporarily excused from today's session.

The motion prevailed.

Senator DeGrow moved that the rules be suspended and that the following bill, now on Committee Reports, be placed on the General Orders calendar for consideration today:

Senate Bill No. 846

The motion prevailed, a majority of the members serving voting therefor.

Senators A. Smith, Schuette, Gast and Posthumus entered the Senate Chamber.

The following communication was received:
Office of Drug Control Policy

January 26, 1998

I am pleased to transmit the FY97 supplemental Byrne Memorial Formula Grant application from the Office of Drug Control Policy to the U.S. Department of Justice, Bureau of Justice Assistance for the drug enforcement grant program.

This application is being forwarded to your office for information and review pursuant to Section 1304(a)(2) of the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula grant program. This application requests \$34,864.

Should you have questions, please contact Ardith J. DaFoe, Director, Drug Law Enforcement Division at (517) 373-2952.

Sincerely,
Darnell Jackson
Director

The communication was referred to the Secretary for record.

The Secretary announced that the following House bill was received in the Senate and filed on Tuesday, January 27:
House Bill No. 4441

The Secretary announced the printing and placement in the members' files on Tuesday, January 27 of:

House Bill Nos. 5488 5489 5490 5491 5492 5493 5494

Senator DeGrow moved that the order of Messages from the House be postponed for today.

The motion prevailed.

Senators Dunaskiss and Jaye entered the Senate Chamber.

By unanimous consent the Senate proceeded to the order of
General Orders

Senator DeGrow moved that the Senate resolve itself into the Committee of the Whole for consideration of the General Orders calendar.

The motion prevailed, and the President pro tempore, Senator Schwarz, designated Senator Peters as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Binsfeld, having assumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bill:

Senate Bill No. 757, entitled

A bill to prohibit a state employer from expending money received from the state to provide certain benefits to persons not employed by that state employer.

The bill was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 846, entitled

A bill to amend 1996 PA 522, entitled "The Michigan biologic products institute transfer act," by amending the title and section 3 (MCL 333.26333) and by adding sections 3a, 3b, and 6a.

Substitute (S-1).

The Senate agreed to the substitute recommended by the Committee of the Whole and the bill as substituted was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

House Bill No. 4454, entitled

A bill to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts.

Substitute (S-2).

The following are the amendments to the substitute recommended by the Committee of the Whole:

1. Amend page 2, line 3, after "of" by striking out "1997" and inserting "1998".

2. Amend page 17, following line 27, by inserting:

"(5) In locations inaccessible to a motor vehicle as that term is defined by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, the authorized distribution agent shall arrange that a delivery of spirits to a retailer be in compliance with the following procedures:

(a) After processing an order from a retailer, an authorized distribution agent shall contact a retailer to confirm the quantity of cases or bottles, or both, and the exact dollar total of the order.

(b) The authorized distribution agent shall have the responsibility to coordinate with the retailer the date and time a driver is scheduled to deliver the order to a ferry transport dock, shall arrange any ferry, drayage, or other appropriate service, and shall pick up the retailer's payment at that time.

(c) The ferry transport company or company representing any other form of conveyance shall take the retailer's payment to the mainland dock and give that payment to the authorized distribution agent's driver.

(d) The ferry transport company or company representing any other form of conveyance shall transport the order to the drayage or other appropriate company at the island dock for immediate delivery to the retailer.

(e) The drayage or other appropriate company shall deliver the order to the retailer.

(6) The authorized distribution agent is responsible for the payment of all transportation and delivery charges imposed by the ferry, drayage, or other conveyance company and is responsible for all breakage and any shortages, whether attributable to the ferry, drayage, or other conveyance company or any combination of those companies, until the order is delivered to the retailer's establishment. This subsection does not in any way prevent the authorized distribution agent from seeking reimbursement or damages from any company conveying the authorized distribution agent's product." and renumbering the remaining subsections.

3. Amend page 20, line 22, by striking out all of section 207 and inserting:

“Sec. 207. This act does not apply to the following:

(a) The manufacture of cider from fruit for the purpose of making vinegar and non-intoxicating cider and fruit juice for use and sale, and cider and fruit juice when used or sold, or both, within 30 days after manufacture.

(b) Beer, wine, mead, honey-based beer, or cider of any alcoholic content made on the premises by the owner or lessee of those premises provided those premises are used and occupied by that owner or lessee as a dwelling and the beer, wine, mead, honey-based beer, or cider is made for family use and home consumption.

(c) The gift to an individual for noncommercial use or consumption of up to 20 gallons of beer, wine, mead, honey-based beer, or cider produced under the circumstances described in subdivision (b). This subdivision does not allow a person less than 21 years of age to possess, receive as a gift, or give beer, wine, mead, honey-based beer, or cider produced under the circumstances described in subdivision (b).

(d) The sale, gift, or keeping and storing for sale by druggists and general merchants and others of medicinal preparations manufactured in accordance with the formulas prescribed by the United States pharmacopoeia and national formulary, patent or proprietary preparations, and other bona fide medicinal and technical preparations, that contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in those preparations and no more alcohol than is necessary to hold the medicinal agents in solution and to preserve them, that are manufactured and sold as medicine and not as beverages, that are unfit for use for beverage purposes, and the sale of which does not require the payment of a United States liquor dealer's tax.

(e) The manufacture and sale of tinctures or of toilet, medicinal, and antiseptic preparations and solutions that are not intended for internal human use or that are not intended to be sold as beverages, that are unfit for beverage purposes, and upon the outside of each bottle, box, or package of which is conspicuously and legibly printed in English the quantity by volume of alcohol in those preparations.

(f) The manufacture and keeping for sale of the food product known as flavoring extracts that are manufactured and sold for cooking, culinary, or flavoring purposes and are unfit for use as a beverage or for beverage purposes, except that a person shall not manufacture or sell any toilet, medicinal, or antiseptic preparations or solutions, or any flavoring extracts or patent or proprietary medicines or preparations, if the manufacture and sale of those items require the payment of a United States liquor dealer's tax except as provided in this act.

(g) The manufacture or sale, or both, of ethyl, mechanical, or industrial alcohol, not used for or made unfit for beverage purposes.

(h) The purchase of alcoholic liquor for use in the manufacture of toilet, medicinal, or antiseptic preparations or solutions, or any flavoring extract or patent or proprietary medicines or preparations, by a manufacturer using alcoholic liquor exclusively for the manufacturing purposes and licensed by the commission for that use. A license issued for that use is predicated upon the payment of an annual fee of \$10.00 and the furnishing of a bond or bonds as the commission requires running to the people of the state of Michigan, for the faithful performance of the conditions of the license and compliance with this act. The license expires on May 1 following the date of its issuance.”.

4. Amend page 24, line 5, after “chairperson.” by inserting “If an administrative commissioner's permanent or temporary residence is within 100 miles of an office in which the commission regularly conducts business, the chairperson shall designate an office as the member's work station.”.

5. Amend page 28, line 9, by striking out all of section 221 and inserting:

“Sec. 221. (1) The commission is authorized to maintain a revolving fund that is to be derived from the money deposited to the credit of the commission with the state treasurer. From time to time, amounts shall be transferred from the revolving fund to the general fund in accordance with the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594. The fund provided for in this section shall be used for replenishing, maintaining, warehousing, and distributing liquor stock throughout the state and for administration of this act. The commission shall make a monthly report of the fund to the state treasurer and to the budget director. The report shall contain an itemized account of all money received and all expenditures made by the commission during the month covered in the report.

(2) Interest earnings on common cash attributable to the revolving fund shall be credited to the revolving fund and shall be available to the commission for administration of this act.

(3) All money received by the commission under this act shall be turned over to the state treasurer according to department of treasury procedures.

(4) All money deposited by the commission with the state treasurer shall be either credited to the revolving fund for expenditures authorized under subsection (1) or credited to the general fund to be available for the purposes for which the general fund is available.”.

6. Amend page 74, line 3, by striking out all of section 409 and inserting:

“Sec. 409. (1) Except as provided in this section, the commission shall levy and collect a tax on all beer manufactured or sold in this state at the rate of \$6.30 per barrel if the beer is sold in bulk or in different quantities. The tax shall be paid by the brewer or brewpub if manufactured in this state or by the wholesaler or the person from whom purchased if manufactured outside this state, whichever is designated by the commission. The commission shall establish by rule a method for the collection of the tax levied in this subsection. The rules shall be promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) The tax levied in subsection (1) shall not be collected with respect to beer that is consumed on the premises of the manufacturer or is damaged in the process of brewing, packaging, and storage and is not offered for sale, except that beer sold by a brewpub for consumption on the premises or beer produced and consumed on the premises of a micro brewer is subject to the tax levied under subsection (1).

(3) The tax levied under subsection (1) shall be rebated to the person who paid the tax if that person provides satisfactory proof to the commission that the beer was shipped outside of this state for sale and consumption outside this state.

(4) For the purposes of the tax levied under subsection (1), a barrel of beer contains 31 gallons.

(5) The commission may promulgate a rule that designates the states or the laws or the rules of other states that require a licensed wholesaler of beer to pay an additional fee for the right to purchase, import, or sell beer manufactured in this state; that denies the issuance of a license authorizing the importation of beer to any licensed wholesaler of beer in that state who may make application for the license; that prohibits licensed wholesalers of beer in that state from possessing or selling beer purchased in this state, unless the person from whom purchased has secured a license and paid a fee in that state, if the seller does not transport the beer into the state and does not sell the beer in the state; or that imposes any higher taxes or inspection fees upon beer manufactured in this state when transporting the beer into or selling the beer in that state than taxes or fees imposed upon beer manufactured and sold within that state. A rule promulgated under this subsection shall prohibit all licensees from purchasing, receiving, possessing, or selling any beer manufactured in any state designated in the rule. A rule promulgated under this subsection becomes effective as provided in section 47 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.247. Any licensee or person adversely affected by a rule promulgated under this subsection is entitled to review by leave to a court of competent jurisdiction regarding the question as to whether the commission acted illegally or in excess of its authority in making its finding under this subsection with respect to any state.

(6) An eligible brewer may claim a credit against the tax levied under subsection (1) in the amount of \$2.00 per barrel. As used in this subsection, "eligible brewer" means a brewer, whether or not located in this state, or brewpub that manufactures not more than 30,000 barrels of beer during the tax year for which the credit is claimed. In determining the number of barrels for purposes of the credit, all brands and labels of a brewer shall be combined and all facilities for the production of beer that are owned or controlled by the same person shall be treated as a single facility."

7. Amend page 90, line 9, by striking out all of section 523 and inserting:

"Sec. 523. (1) A person who holds or whose spouse holds, either by appointment or election, a public office which involves the duty to enforce any of the penal laws of the United States, or the penal laws of this state, or a penal ordinance or resolution of any municipal subdivision of the state, except civil defense volunteer police, mayors or council members of cities, or village presidents, or mayors of home rule cities whose law enforcement authority under the city charter is restricted to emergency situations, or the state treasurer of this state when acting in the capacity of custodian of the assets of the state retirement systems created by the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408; the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69; the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648; and the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, and members of these state retirement systems only if the state treasurer makes an investment in the name of the respective retirement system to which such members belong, shall not be issued a license, or have an interest, directly or indirectly, in a license if the activity regulated by the license occurs in the same local unit of government within which the person enforces those state or local penal laws unless the official is contractually prohibited from enforcing this act. This subsection does not apply to a spouse of an appointed or elected official holding an office which involves the duty to enforce a penal law described in this subsection if the spouse held a license or an interest in a license for not less than 3 years before marrying the appointed or elected official or if the spouse has voting rights in a public or private club holding the license, which voting rights are derived from ownership of shares to the club, and the spouse participates as a member in good standing of the public or private club or of an advisory board but does not participate in the day-to-day operation of the club. In the case of any licensee excepted from the general prohibition contained in this section, the commission may periodically review all circumstances of the licensee and his or her spouse regarding the exception. The commission has the authority to review and monitor any complaints it receives regarding inappropriate enforcement of this act by or against a person excepted from this section. However, a nonprofit fraternal organization incorporated under the laws of this state, whose membership is not totally composed of law enforcement personnel or public officeholders charged with the duty of enforcing any penal laws or ordinances of a governmental body, may be issued a club liquor license if the organization is otherwise qualified.

(2) As used in this section, "law enforcement personnel" does not include the mayor of a city or the state treasurer of this state when acting in the capacity of custodian of the assets of the state retirement systems created by the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408, the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648, and the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, and members of these state retirement systems only if the state treasurer makes an investment in the name of the respective retirement system to which such members belong."

8. Amend page 101, line 14, after "1997" by striking out the balance of the line through "met:" on line 15 and inserting a period and "The commission may issue any of the 25 licenses not issued but available for calendar year 1997 during the calendar year 1998. A person is eligible to apply for a license under this subsection upon submitting an application to the commission and demonstrating all of the following:".

The Senate agreed to the substitute, as amended, recommended by the Committee of the Whole and the bill as substituted was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with amendments, the following bill:

House Bill No. 5223, entitled

A bill to amend 1974 PA 198, entitled "An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties," by amending section 9 (MCL 207.559), as amended by 1996 PA 513.

The following are the amendments recommended by the Committee of the Whole:

1. Amend page 7, following line 17, by inserting:

"(vii) A FACILITY LOCATED IN AN EXISTING INDUSTRIAL DEVELOPMENT DISTRICT OWNED BY A PERSON WHO FILED AN APPLICATION FOR AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE IN FEBRUARY 1996 IF THE APPLICATION WAS APPROVED BY THE LOCAL GOVERNMENT UNIT IN APRIL 1996 AND THE REAL PROPERTY PORTION OF THE APPLICATION WAS DENIED BY THE STATE TAX COMMISSION IN SEPTEMBER 1996."

2. Amend page 9, following line 19, following subsection (8), by inserting:

"(9) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF A LOCAL GOVERNMENTAL UNIT PASSED A RESOLUTION APPROVING AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE FOR A NEW FACILITY ON MARCH 2, 1993 BUT RECLASSIFIED THAT FACILITY AND PASSED A RESOLUTION APPROVING AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE FOR THAT SAME FACILITY AS A REPLACEMENT FACILITY ON NOVEMBER 7, 1995, THE COMMISSION SHALL ISSUE FOR THAT FACILITY AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE FOR THE REPLACEMENT FACILITY THAT BEGINS DECEMBER 30, 1996 AND ENDS DECEMBER 30, 2006.

(10) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF A LOCAL UNIT OF GOVERNMENT APPROVED A REQUEST FOR AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE IN 1996 THAT WAS SUBSEQUENTLY DENIED BY THE COMMISSION IN 1996 DUE TO THE LATE RECEIPT OF THE APPLICATION AND A MODIFIED APPLICATION WAS APPROVED BY THE SAME LOCAL UNIT OF GOVERNMENT IN 1997 AND WAS SUBSEQUENTLY APPROVED BY THE COMMISSION WHICH ISSUED AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE ON MAY 27, 1997, THE FACILITY SHALL BE TAXED UNDER THIS ACT AS IF IT WAS GRANTED AN INDUSTRIAL FACILITIES EXEMPTION ON DECEMBER 30, 1996."

The Senate agreed to the amendments recommended by the Committee of the Whole and the bill as amended was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

House Bill No. 5120, entitled

A bill to amend 1962 PA 192, entitled "Professional service corporation act," by amending section 4 (MCL 450.224), as amended by 1990 PA 166.

Substitute (S-1).

The Senate agreed to the substitute recommended by the Committee of the Whole and the bill as substituted was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 816, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 722 (MCL 257.722), as amended by 1993 PA 22.

Substitute (S-1).

The following is the amendment to the substitute recommended by the Committee of the Whole:

1. Amend page 3, line 21, after "jurisdiction" by inserting "MAY GRANT".

The Senate agreed to the substitute, as amended, recommended by the Committee of the Whole and the bill as substituted was placed on the order of Third Reading of Bills.

During the Committee of the Whole, Senators McManus, Bullard, Stallings and O'Brien entered the Senate Chamber.

Resolutions

Senator DeGrow moved that consideration of the following resolution be postponed for today:

Senate Resolution No. 71

The motion prevailed.

Senator Berryman moved that rule 3.204 be suspended to permit immediate consideration of the following resolution:

House Concurrent Resolution No. 79.

A concurrent resolution to disapprove Executive Order 1997-18 on executive reorganization.

Whereas, On November 17, 1997, Governor Engler, pursuant to authority outlined in Article V, Section 2 of the Constitution of the State of Michigan, issued Executive Order 1997-18. This proposal on executive reorganization seeks to provide for changes in responsibilities within the Department of Consumer and Industry Services, the Michigan Jobs Commission, and the Michigan Employment Security Agency; and

Whereas, Article V, Section 2 of the Constitution of the State of Michigan also provides:

Where these changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full regular session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the members of the Michigan Legislature, pursuant to Article V, Section 2 of the Constitution of the State of Michigan, disapprove Executive Order 1997-18; and be it further

Resolved, That a copy of this resolution be transmitted to the office of the Governor.

The House of Representatives has adopted the concurrent resolution.

The motion did not prevail, a majority of the members serving not voting therefor.

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 serving not voting therefor, as follows:

Roll Call No. 3

Yeas—16

Berryman
Byrum
Cherry
Conroy

DeBeaussaert
Dingell
Hart
Koivisto

Miller
O'Brien
Peters
Smith, A.

Smith, V.
Stallings
Vaughn
Young

Nays—21

Bennett
Bouchard
Bullard
Cisky
DeGrow
Dunaskiss

Emmons
Gast
Geake
Gougeon
Jaye

McManus
North
Posthumus
Rogers
Schuette

Schwarz
Shugars
Steil
Stille
Van Regenmorter

Excused—0

Not Voting—1

Hoffman

In The Chair: President

The question being on referring the resolution to the Committee on Government Operations, Senator V. Smith requested the yeas and nays.

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

The motion prevailed, a majority of the members voting therefor, as follows:

Roll Call No. 4

Yeas—21

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

Nays—16

Berryman	DeBeaussiaert	Miller	Smith, V.
Byrum	Dingell	O'Brien	Stallings
Cherry	Hart	Peters	Vaughn
Conroy	Koivisto	Smith, A.	Young

Excused—0

Not Voting—1

Hoffman

In The Chair: President

Senator DeGrow moved that Senator Hoffman be excused from the balance of today's session. The motion prevailed.

Protests

Senators A. Smith, DeBeaussiaert, Berryman and Koivisto, under their constitutional right of protest (Art. 4, Sec. 18), protested against referring House Concurrent Resolution No. 79 to the Committee on Government Operations.

Senator A. Smith's statement is as follows:

I voted "no" on the referral to committee because this issue before us has a time line. The 60 days that we have to act on an Executive Order expires on Friday. So the timeliness of this issue is absolutely critical if we are going to have any discussion, and referral to committee essentially kills any opportunity to discuss the provisions of the Executive Order.

The problem with failing to take up this Executive Order for discussion is that it strips people who are opposed to the Executive Order of an opportunity to discuss some of the critical issues involved. The first critical issue, of course, is that the Department of Labor, which has statutory authority over some provisions of unemployment services, has said that this is against the federal law. Another concern is that companies that would have to be responsible for employment services under the Governor's Executive Order are also concerned about the way it will operate and the cost impact it will have on their operations. Jobs which were filled last September still show up on the data base as unfilled. We will be asking these regional privatized companies that will come into being to operate their employment services using computerized systems. If the data is old, people looking for work will be disadvantaged in a search.

One of the other problems discovered in a Massachusetts study of a system that parallels the system set up by the Executive Order, shows that the regionalized services become so competitive with private companies trying to prove that they can do better than the other private companies in another region, they hoard jobs. The study of the parallel service in Massachusetts and the action of the Massachusetts Job Commission to change the focus of the pilot in Massachusetts suggests that this is fraught with real problems that do great harm to individuals who do not have computer skills for job searches and who will not be able to apply for a job in a different region because there isn't a state-wide employment service available.

I think that the inability to discuss this issue and to see where other individuals in this body may have come down on the Executive Order did a disservice to the citizens of the state of Michigan.

Senator DeBeaussiaert's statement is as follows:

I voted against the motion to send House Concurrent Resolution No. 79 to committee because, as the previous speaker indicated, there is an important time deadline surrounding this issue. If this Senate does not act on the resolution by the end of this week, the Executive Order will, of course, take effect. The House of Representatives has already, by majority vote, rejected that Executive Order and I think that there's good reason that this issue should have at least had some debate here in the Senate.

We're talking about a program that is largely funded by the federal government to the tune of some \$22 million. The U.S. Department of Labor has serious concerns about the approach that is being put forward. In fact, they have suggested that process be suspended and rather than deal with the issues, apparently the Executive Office decided to withdraw the plan from consideration by the federal government and plans to proceed with that proposal anyway. So the question does need to be addressed, I think, by the Senate. If the funder of the program has serious concerns about the programs' new direction, should we not be also concerned about what the implication is for this Senate and for our obligation if we proceed and allow that to occur?

What happens to the local boards if they follow this process and are found to be in violation of the federal law and are not then eligible for the reimbursement of the dollars that have been laid out to carry out this new proposal? Who will be responsible? I understand that on the House side it was suggested that the state would make that reimbursement. That's an assumption that the Legislature, I guess, will accomplish. I think that this Legislature should have been involved in that discussion. The House has, and has said "no." The Senate needs to find its voice.

We were denied the opportunity to keep this resolution on the floor through a procedural motion—a suspension of the rules and having debate—so this is our only opportunity to raise some of the concerns. They are not just concerns of members of the Senate or the U.S. Department of Labor about this proposal. It's my understanding that the Commander's Group of the state of Michigan wrote to the Department of Labor in Washington suggesting that Michigan's amended plan would further fragment services to veterans and make it that much more difficult for them to become employed. I think that the voice of the Commander's Group of the state of Michigan on veterans' issues is something that this Senate used to always take great interest in hearing and I think that we should have had the opportunity in this process to hear that voice in this process as well.

My office has had a number of people who have expressed concerns about this new approach and about the protection of their personal privacy from the information that will be posted on the Internet. Suggestions, as I understand it from the Department, that people use their social security numbers as their personal identification numbers and that while it's said that that won't be made public, everyone knows that the imagination and the innovation of those people—the hackers and others who are much more sophisticated in computer science than probably most of us are here—could very easily find a way of accessing information that some people might think would be otherwise held confidential.

There are serious privacy concerns. There are serious fiscal concerns. There are serious concerns about the kinds of services that are going to be provided for unemployed people in this state and to special parts of that unemployed community as it relates to the handicapped and the veterans. Those issues should have been addressed in this process. By sending the resolution to the committee at this late date, it's simply an attempt, it seems to me, to deny the Senate the opportunity to have the debate that the people of Michigan deserve. That's why I voted against sending the resolution to committee.

Senator Berryman's statement is as follows:

I won't repeat what my colleagues have already talked about. I voted against referral because of the number of concerns that have already been addressed. When you can list everything from the U.S. Department of Labor have concerns, companies have concerns, individuals—and the individuals in my district who have contacted my office—they have concerns, state employees have voiced their concerns. With that much of an effort out just to get the attention that this can be discussed, we missed that opportunity once again in this chamber to have that debate.

House Concurrent Resolution No. 79 passed the House on a bipartisan vote. It came to the Senate and once again, instead of having that debate—letting people know where we stand on the issue and vote on that issue and have that vote recorded—we just refer to committee. From what I understand, a memo had already been sent out to the Workforce Development Boards, that implementation would occur on Monday, February 2. Obviously, the administration knew that this body, once again, would not override an Executive Order and give them what the Governor's looking for. Yes, you do have the voice to do that. But, at least in this body, I thought that we would have a chance to debate those issues. However, because we did not have that opportunity, I voted against referral.

Senator Koivisto's statement is as follows:

I rise to explain why I voted "no" on this particular issue. I feel it is very important. Every time we have a reorganization, we get stuck reacting to it and quite often we had nothing to do with establishing the reorganization ourselves. I think once this is fully implemented, we are going to have a lot of flack from people. We are going to see reduction in services. In my particular area, the rural area across northern upper Michigan and the Upper Peninsula, we are going to see a curtailment of services. We are going to see a consolidation of offices. We are going to see things like unemployed people being required to put their information on the Internet and use the Internet. They may not even have computer skills to do that. I think we should have looked at what is happening with this. With the MESC offices in the Upper Peninsula, I have heard very little criticism of the work they were doing. Once this is fully implemented, I think we are going to get a whole lot of criticism for the plan that is put into effect. It was a problem that I think the entire Legislature should have addressed and at least looked at so we could continue to provide good services to the people we represent.

The question was placed on the adoption of the following resolution consent calendar:

Senate Resolution No. 125

The resolution consent calendar was adopted.

Senators Posthumus, DeGrow, Gast, Geake, Hoffman, Emmons, McManus, North, Stille, Steil, Rogers, Shugars, Bennett, Gougeon, Schuette, Schwarz, Cisky, Jaye, Dunaskiss, Bouchard, Bullard and Van Regenmorter offered the following resolution:

Senate Resolution No. 125.

A resolution to pay tribute to John Peter McGoff.

Whereas, It is with deep sadness that we learned of the passing of John Peter McGoff, a dedicated public servant and caring person who enriched many lives. With genuine respect for his legacy of accomplishments, we join with the community in extending our condolences to his family and many friends. He will be sincerely missed and long remembered; and

Whereas, John McGoff came from a humble beginning as a son of a steelworker. He then attended Michigan State University where his interest in communications led him to employment at WKAR radio station. After graduating from Michigan State University, Mr. McGoff bought his first radio station in 1958. He purchased seven other radio stations and eventually built an enterprise that included nine broadcast outlets and more than 70 newspapers in Michigan, Indiana, Illinois, Texas and Florida; and

Whereas, John McGoff was a major philanthropist, always looking to give back to the community. He felt it was a duty and an obligation as a citizen. He donated money to the Wharton Center, the Lansing Center for the Arts, Sparrow Hospital and Williamston High School's auditorium. John counseled some of the state's top leaders and was a longtime contributor to the Republican Party; and

Whereas, John McGoff was a devoted family man. He always talked about his children and what they were doing, and expressed sincere pride in their accomplishments. He is survived by his loving wife, Margaret, and his five children, Andrew, Thomas, Steven, David and Susan; and

Whereas, Serving others was a well-established trait of John McGoff. He served his nation as a soldier of World War II. He served the community by supporting many community causes. He served his family with love and devotion. John's life had an impact on everyone who met him. In a brief interview before his passing, John stated, "My wife and I have left good legacies and the Lord has been good to us. For that I am grateful."; now, therefore, be it

Resolved by the Senate, That we extend our words of praise in remembrance of John Peter McGoff. May his family find comfort in their faith and their memories of this fine man and his distinguished accomplishments. We send our words of respect and gratitude for his outstanding contributions; and be it further

Resolved, That a copy of this resolution be transmitted to his family as evidence of our esteem.

Senators Miller, Young and Hart were named co-sponsors of the resolution.

Senate Concurrent Resolution No. 37.

A concurrent resolution to approve a designated open space land application and a local open space land application on appeal.

(For text of resolution, see Senate Journal No. 56 of 1997, p. 982.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

Introduction and Referral of Bills

Senator Shugars introduced

Senate Bill No. 854, entitled

A bill to permit the establishment and maintenance of health benefit accounts; to provide penalties and remedies; to provide for certain tax deductions; to prescribe the requirements of and restrictions on health benefit accounts; and to repeal acts and parts of acts.

The bill was read a first and second time by title and referred to the Committee on Health Policy and Senior Citizens.

Senator Stille introduced

Senate Bill No. 855, entitled

A bill to amend 1978 PA 34, entitled "An act to revise the laws relating to fences on certain lands and fence viewers; and to repeal certain acts and parts of acts," by amending sections 4, 5, and 6 (MCL 43.54, 43.55, and 43.56).

The bill was read a first and second time by title and referred to the Committee on Local, Urban and State Affairs.

Senators DeBeaussaert, Peters, Byrum, Conroy, Dingell, North and Berryman introduced

Senate Bill No. 856, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 6023 (MCL 600.6023), as amended by 1989 PA 5.

The bill was read a first and second time by title and referred to the Committee on Finance.

House Bill No. 4441, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2567 (MCL 600.2567), as amended by 1990 PA 346, and by adding section 2567b.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Local, Urban and State Affairs.

Statements

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

The motion prevailed.

Senator Koivisto's statement is as follows:

I just wanted to rise and make note of the fact that I gave all of you Super Bowl programs. They were printed by a company in my district— a company we are very proud of, Champion International, which is based in Quinnesec in Dickinson County. For the last several years, they've provided the paper for the Super Bowl programs. We have over a billion dollars worth of investment in the physical facility and we count the company as a good corporate citizen and are very proud of them. The economy up north— and I wanted to make note that those programs that were distributed to you were printed once again by Champion Printers.

Senator North's statement is as follows:

It was printed in Donnie's district but the wood that made it possible was probably cut in mine, but we've always had a good working relationship anyway.

I would like to correct a statement that Senator Dunaskiss had made earlier in talking about the sled dog race. Actually, Loren Bennett did beat me for several reasons. One is, he had three dogs on his team and I had two. Perhaps more important, one of mine was harnessed facing me and then the other one in the opposite direction. Having said that, I congratulate that city slicker and it was great to have him here again.

Senator Conroy's statement is as follows:

Last night I was pleased to see that the President of the United States proposed a major initiative in terms of lowering the class sizes in the early grades around the nation of our public school systems. His proposal would lower those class sizes down to 18 in first, second and the third grades of the public schools of this country. I think that's a very positive movement.

I have spoken to him repeatedly about this and have talked with Richard Riley, the head of the education department in Washington, who formerly was the Governor of South Carolina and found that it worked there. The original study was done by Lamar Alexander in Tennessee where they did a five-year study. Over 300 buildings, 78 school districts, millions and millions of dollars that study cost. They found that lowering the class sizes down to 17 was very helpful in the incremental learning abilities of those children who were in the stage of learning how to read, learning how to compute and at the time of their lives when they reach the age of reasoning. They have a teacher who is able to teach in groups or small numbers so children can learn and they've responded very well, I'd like to report to you. We've found that the classes no longer are wild—they're quiet and orderly. It just looks like something is happening that is productive. The children seem to be excited. The parents are increasing their involvement with their children and urging them to learn how to read and to compute. Some of these parents are at risk themselves. It is very helpful that these children are getting more attention so they can know how to read by the time they exit the third grade.

I understand the Governor is going to be speaking on the requirement that he would like to see occur on all third graders—that they know how to read and I applaud him for that. I also applaud him for agreeing to a \$20 million investment starting next fall and lowering those class sizes in various school districts that apply for those funds—schools that we've thought to be at risk. We are moving in this state along this direction.

The federal government is going to invest up to \$12 billion over a seven-year period making an average class size of 18 throughout this country. Now you should understand that in the city of Detroit right now there are 35 kids in those classrooms. In many of our suburban school districts there are 28, 30 or 32 kids; so going down to 18 is a huge difference. We think it's going to make a large change.

In Flint this past year our scores went up by 43 percent on those who passed the reading test in the fourth grade. Our scores went up 18 percent on those who passed the math test. So, we've got incremental improvement going on right here in our state. Port Huron is also involved in a lower class size project. Those are the only two school districts that have made this commitment.

I just hope the Governor increases on that commitment in the State of the State Address and I am most tickled that the President of this United States has taken that stand. When he came here and spoke to us, I urged him to do that. I also urged Dr. Riley. I wasn't sure that either one of them were going to, but I'm pleased to report, and I'm sure you saw in that long speech the comments the President made. We're very pleased. We think it's going to make a revolutionary change in public education, particularly for those students that we deem to be at risk.

Committee Reports

The Committee on Appropriations reported

Senate Bill No. 846, entitled

A bill to amend 1996 PA 522, entitled "The Michigan biologic products institute transfer act," by amending the title and section 3 (MCL 333.26333) and by adding sections 3a, 3b, and 6a.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

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

Harry Gast
Chairperson

To Report Out:

Yeas: Senators Gast, Geake, Cisky, DeGrow, Hoffman, McManus, Schwarz, Steil, Conroy, Koivisto, A. Smith, Young and Vaughn

Nays: None

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Appropriations submits the following:

Meeting held on Tuesday, January 27, 1998, at 2:00 p.m., Senate Appropriations Room, Capitol Building

Present: Senators Gast (C), Geake, Cisky, DeGrow, Hoffman, McManus, Schwarz, Steil, Conroy, Koivisto, A. Smith, Young and Vaughn

COMMITTEE ATTENDANCE REPORT

The Special Committee on Campaign Finance submits the following:

Meeting held on Wednesday, January 14, 1998, at 2:00 p.m., Rooms 425 and 426, Capitol Building

Present: Senators Geake (C), Byrum and Dingell

Excused: Senator McManus

Scheduled Meetings

Campaign Finance Special Finance Committee (HCR 34) - Thursday, January 29, at 11:00 a.m., Rooms 402 and 403, Capitol Building (3-1707).

Hunting, Fishing and Agriculture Committee - Thursday, January 29, at 4:00 p.m., Room 405, Capitol Building (3-7670).

Senator DeGrow moved that the Senate adjourn.

The motion prevailed, the time being 11:34 a.m.

The President, Lieutenant Governor Binsfeld, declared the Senate adjourned until Thursday, January 29, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

