

No. 27
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, March 25, 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—absent
Steil—present
Stille—present
Van Regenmorter—present
Vaughn—present
Young—present

Senator George Z. Hart of the 6th District offered the following invocation:

Dear God, as we gather our thoughts and energies are to do the work for the citizens of Michigan today. But our hearts are touched by a tragedy in Arkansas. Yesterday, violent and senseless death came to four young girls and a teacher. We lift our prayers for the families of those who died. We pray for the 11 who were wounded in the attack. Take our spirit of concern and compassion to them across the miles in the form of Your love and comfort.

Lord, lead us to feel the same concern and compassion for all those who suffer today, whether they live down the street or across a continent. Help us to do all we can through the positions we occupy in the Michigan Senate, to bring support and comfort to those in need. We pray this in Jesus' name. Amen.

Senator Rogers entered the Senate Chamber.

Motions and Communications

Senator DeGrow moved that Senators Bouchard, Jaye, Posthumus and Stille be temporarily excused from today's session.

The motion prevailed.

Senator V. Smith moved that Senator Miller be temporarily excused from today's session.

The motion prevailed.

Senator Stille entered the Senate Chamber.

The following communications were received:

Department of State

Administrative Rules Notices of Filing

March 10, 1998

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 1:09 p.m. this date, administrative rule (98-3-1) for the Department of Agriculture, Financial Programs Regulation Section, entitled "*Regulation No. 812. State Purse Supplements For Harness Horse Racing at Fairs and Licensed Pari-Mutuel Tracks*," effective 15 days hereafter.

March 11, 1998

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 1:00 p.m. this date, administrative rule (98-3-2) for the Department of Education, State Board of Education, entitled "*Driver Education*," effective 15 days hereafter.

March 16, 1998

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 1:00 p.m. this date, administrative rule (98-3-3) for the Department of Education, State Board of Education, entitled "*Financial Reports by School Districts*," effective 15 days hereafter.

Sincerely,
Candice S. Miller
Secretary of State
Helen Kruger, Supervisor
Office of the Great Seal

The communications were referred to the Secretary for record.

The following communication was received:
Office of the Auditor General

March 20, 1998

Enclosed is a copy of the following audit report and/or executive digest:
Performance Audit of the Arts and Cultural Projects Program - Cities, Townships, and Villages, Department of Consumer and Industry Services.

Sincerely,
Thomas H. McTavish, C.P.A.
Auditor General

The communication was referred to the Secretary for record.

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, March 24:
House Bill Nos. 4367 4860 5547

Messages from the Governor

The following messages from the Governor were received and read:

March 24, 1998

There are herewith presented for consideration and confirmation by the Senate, the following reappointments to office:

Michigan Board of Chiropractic

Dr. Bruce A. Rubenstein, 6097 Covered Wagon Trail, Flint, Michigan 48532, county of Genesee, as a member representing the general public, succeeding himself, for a term expiring on December 31, 2001.

Mr. James M. Hamilton, 3236 Bolgos Circle, Ann Arbor, Michigan 48105, county of Washtenaw, as a member representing the general public, succeeding himself, for a term expiring on December 31, 2001.

March 24, 1998

There is herewith presented for consideration and confirmation by the Senate, the following appointment to office:

Michigan Board of Nursing

Ms. Jonnie M. Hamilton, 18250 Mark Twain, Detroit, Michigan 48235, county of Wayne, as a member representing professionals, succeeding Ms. Patricia A. Kellan of Sault Ste. Marie, whose term has expired, for a term expiring on June 30, 2001.

March 24, 1998

There are herewith presented for consideration and confirmation by the Senate, the following appointment and reappointments to office:

Michigan Board of Physical Therapy

Ms. Christine E. Hendrickson, 50 Heritage Drive, Negaunee, Michigan 49866, county of Marquette, as a member representing professionals, succeeding herself, for a term expiring on December 31, 2001.

Ms. Katie Mawby, 530 Ottawa Avenue, Grand Haven, Michigan 49417, county of Ottawa, as a member representing professionals, succeeding herself, for a term expiring on December 31, 2001.

Mrs. Patricia M. Jewell, 125 High Street, Crystal Falls, Michigan 49920, county of Iron, as a member representing the general public, succeeding herself, for a term expiring on December 31, 2001.

Mrs. Maureen M. VanDrie, 1182 Parkdale Avenue, Manistee, Michigan 49660, county of Manistee, as a member representing the general public, succeeding herself, for a term expiring on December 31, 2001.

Ms. Jean E. Kordenbrock, 1647 Forest Hills, Okemos, Michigan 48864, county of Ingham, as a member representing the general public, succeeding Ms. Diane M. Krause of Sterling Heights, whose term has expired, for a term expiring on December 31, 2001.

Sincerely,
John Engler
Governor

The appointments were referred to the Committee on Government Operations.

Senators Posthumus and Jaye entered the Senate Chamber.

By unanimous consent the Senate proceeded to the order of
Third Reading of Bills

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

Senate Bill No. 256

Senate Bill No. 830

Senate Bill No. 865

Senate Bill No. 897

The motion prevailed.

Senator DeGrow moved that the following bills be placed at the head of the Third Reading of Bills calendar:

Senate Bill No. 909

Senate Bill No. 908

Senate Bill No. 907

Senate Bill No. 910

Senate Bill No. 911

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 909, entitled

A bill to make appropriations for the department of corrections and certain state purposes related to corrections for the fiscal year ending September 30, 1999; to provide for the expenditure of the appropriations; to provide for reports; to provide for the creation of certain advisory committees and boards; to prescribe certain powers and duties of the department of corrections, certain other state officers and agencies, and certain advisory committees and boards; to provide for the collection of certain funds; and to provide for the disposition of fees and other income received by certain state agencies.

The question being on the passage of the bill,

Senator Schuette offered the following amendments:

1. Amend page 25, following line 20, by inserting

“Access roads 293,900”.

2. Amend page 25, line 25, by striking out “\$725,700” and inserting “\$1,019,600” and adjusting the subtotals, totals, and section 201 accordingly.

3. Amend page 60, following line 11, by inserting:

“Sec. 1114. Of the funds allocated in section 149 for access roads, \$293,900.00 shall be spent in Webber Township to improve access roads to the youth correctional facility.”.

The amendments were adopted, a majority of the members serving voting therefor.

Senators Miller and Bouchard entered the Senate Chamber.

Senator V. Smith offered the following amendment:

1. Amend page 25, line 16, by striking out all of lines 16 through 25 and adjusting the subtotals, totals, and section 201 accordingly.

The amendment was not adopted, a majority of the members serving not voting therefor.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 128

Yeas—36

Bennett
 Berryman
 Bouchard
 Bullard
 Byrum
 Cherry
 Cisky
 Conroy
 DeBeaussaert

DeGrow
 Dingell
 Dunaskiss
 Emmons
 Gast
 Geake
 Gougeon
 Hart
 Hoffman

Koivisto
 McManus
 Miller
 North
 O’Brien
 Peters
 Posthumus
 Rogers
 Schuette

Schwarz
 Shugars
 Smith, A.
 Smith, V.
 Steil
 Stille
 Van Regenmorter
 Vaughn
 Young

Nays—1

Jaye

Excused—0**Not Voting—1**

Stallings

In The Chair: Schwarz

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 908, entitled

A bill to make appropriations for the department of community health and certain state purposes related to mental health, public health, and medical services for the fiscal year ending September 30, 1999; to provide for the expenditure of such appropriations; to create funds; to provide for reports; to prescribe the powers and duties of certain local and state agencies and departments; and to provide for disposition of fees and other income received by the various state agencies.

The question being on the passage of the bill,

Senator Young offered the following amendment:

1. Amend page 76, following line 10, by inserting

“Sec. 1661. From the funds appropriated in section 118 for health plan services, the capitated rates for qualified health plans in effect in December 1998 shall be increased by 4 percent on January 1, 1999. These rates shall be in effect for 1999.”.

The amendment was not adopted, a majority of the members serving not voting therefor.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 129**Yeas—36**

Bennett
Berryman
Bouchard
Bullard
Byrum
Cherry
Cisky
Conroy
DeBeaussaert

DeGrow
Dingell
Dunaskiss
Emmons
Gast
Geake
Gougeon
Hart
Hoffman

Koivisto
McManus
Miller
North
O'Brien
Peters
Posthumus
Rogers
Schuette

Schwarz
Shugars
Smith, A.
Smith, V.
Steil
Stille
Van Regenmorter
Vaughn
Young

Nays—1

Jaye

Excused—0

Not Voting—1

Stallings

In The Chair: Schwarz

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 907, entitled

A bill to make appropriations for community colleges for the fiscal year ending September 30, 1999; to provide for the expenditure of the appropriations; to establish or continue certain funds, programs, and categories; and to prescribe the powers and duties of certain state departments, officers, and employees.

The question being on the passage of the bill,

Senator Jaye offered the following amendment:

1. Amend page 11, line 4, by striking out all of section 215 and inserting:

“Sec. 215. (1) A community college shall not expend funds appropriated under this act to provide health care coverage for community college employees or their dependents for abortion services, other than for spontaneous abortion or to prevent the death of the woman upon whom the abortion is performed. A community college shall not approve a collective bargaining agreement or enter into any other employment contract that includes health care coverage for abortion services other than spontaneous abortion or to prevent the death of the woman upon whom the abortion is performed.

(2) If a community college expends funds appropriated under this act in violation of subsection (1), the community college shall repay to this state an amount equal to the amount of funds spent in violation of subsection (1).”.

The question being on the adoption of the amendment,

Senator Jaye requested the yeas and nays.

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

The amendment was adopted, a majority of the members serving voting therefor, as follows:

Roll Call No. 130**Yeas—24**

Bennett	Emmons	Koivisto	Rogers
Bouchard	Geake	McManus	Schuette
Bullard	Gougeon	Miller	Shugars
DeGrow	Hart	North	Steil
Dingell	Hoffman	O'Brien	Stille
Dunaskiss	Jaye	Posthumus	Van Regenmorter

Nays—13

Berryman	Conroy	Peters	Smith, V.
Byrum	DeBeaussaert	Schwarz	Vaughn
Cherry	Gast	Smith, A.	Young
Cisky			

Excused—0**Not Voting—1**

Stallings

In The Chair: Schwarz

Protests

Senators Cherry, A. Smith, Gast, Berryman and Schwarz, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senator Jaye to Senate Bill No. 907.

Senators Cherry, A. Smith and Gast moved that the statements they made during the discussion of the amendment be printed as their reasons for voting “no.”

The motion prevailed.

Senator Cherry’s statement, in which Senators A. Smith and Berryman concurred, is as follows:

On the question of abortion, I don’t believe anybody could have said it any better than the chairman of the committee just did. But there is a second issue here as well.

These health insurance contracts are really the result of a collective bargaining agreement or an employee benefit plan. You know, that agreement and that plan is much larger than simply health insurance. If we all try to insert our own individual concerns and predilections into what those bargaining agreements and employee benefits ought to look like, the laundry list of amendments would be unending. It would be as if we were talking about the employee benefits. That’s not to say anything about contracts with other vendors and whether we think this particular product that the community college buys is socially responsible. The list becomes endless. That’s ultimately why we don’t micro manage. And I think the problem here with the amendment is that it walks down a path where we’re going to micro manage what every community college in the state does in the way of its purchases and expenditures.

I concur with the comments that the chairman just made. I think that while on the surface, we are debating a very controversial amendment. We are all prepared to take a position on that issue, but you’ve got to understand that it launches us down a road, because ultimately, there are people and firms that my community college does business with that I have questions about. There are provisions in that collective bargaining that I have questions about. If I can resolve those questions with micro managing amendments—I may have a few down the road myself. I would suggest that we let these boards do what they’ve been elected to do, and that is to run the community college. Let’s limit ourselves to broad policy and as normally as expressed in this bill and avoid the kind of micro managing that this amendment suggests. I would urge a “no” vote.

Senator A. Smith’s statement is as follows:

I rise to support the opposition to this amendment. Senator Gast and Senator Cherry have both put issues forward that I think are important for us to understand. Health care benefits are a part of our pay. As a part of our pay, it is a part that we negotiate what is covered. As part of a negotiated benefit, I think it is absolutely important that the individuals who use the money they earn that is represented by their health benefit should have the opportunity and the right to determine what that health package would involve. The language that is currently in the bill suggests the intent of the legislature, but it also provides a remedy should the Legislature choose to act on that remedy that is provided in law. I oppose the Jaye amendment, and I urge my colleagues to do the same.

Senator Gast’s statement, in which Senators Schwarz and Berryman concurred, is as follows:

I don’t see where this should be any type of an abortion issue, personally. The intent language is in the bill now; it was last year and the year before. It is the intent of the Legislature that this money not be used for abortions—that’s intent language. There has been no demonstrated show that any of this money has ever been used for the community colleges for abortions. There are accusations that it could, maybe should or would be, but none of it has been used. Because clearly the intent is stated in the bill that this money is not to be used for that, and it is legislative intent. I think it is really pushing the button for those people who would like to have an abortion issue before this body every two weeks, for something to vote on. I think they are really pushing the button here to try to get a vote on this. But I personally believe that we should not micro manage our schools and especially our higher education institutions. So I would urge defeat of the amendment.

Senator Peters offered the following amendment:

1. Amend page 11, line 7, after “abortion” by inserting a comma and “or to protect the health of a woman, or in the case of rape or incest,”.

The question being on the adoption of the amendment,

Senators Peters requested the yeas and nays.

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

The question being on the adoption of the amendment,

Senator Peters withdrew the amendment.

Senator Peters offered the following amendment:

1. Amend page 11, line 4, section 215, subsection (1), after the second “abortion” by inserting a comma and “or to protect the health of a woman, or in the case of rape or incest,”.

The question being on the adoption of the amendment,

Senator DeGrow moved that further consideration of the bill be postponed temporarily.

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 910, entitled

A bill to make appropriations for the department of education and certain other purposes relating to education for the fiscal year ending September 30, 1999; to provide for the expenditure of the appropriations; to prescribe the powers and duties of certain state departments, school districts, and other governmental bodies; and to provide for the disposition of fees and other income received by certain legal entities and state agencies.

The question being on the passage of the bill,

Senators Peters, Schwarz and Bouchard offered the following amendment:

1. Amend page 20, following line 8, by inserting:

“Sec. 502. From the funds appropriated in section 106, at least one full-time equated position shall be designated for a fine arts consultant.”.

The amendment was adopted, a majority of the members serving voting therefor.

Protest

Senator Emmons, under her constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senators Peters, Schwarz and Bouchard to Senate Bill No. 910.

Senator Emmons' statement is as follows:

If I thought a government bureaucrat over in the Department of Education would help fine arts in my schools, then I would have voted for it. But, obviously, I think that a bureaucrat is just going to use up money that might have actually been used for a fine arts education in my school, so I voted no.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 131

Yeas—36

Bennett	DeGrow	Koivisto	Schwarz
Berryman	Dingell	McManus	Shugars
Bouchard	Dunaskiss	Miller	Smith, A.
Bullard	Emmons	North	Smith, V.
Byrum	Gast	O'Brien	Steil
Cherry	Geake	Peters	Stille
Cisky	Gougeon	Posthumus	Van Regenmorter
Conroy	Hart	Rogers	Vaughn
DeBeausaert	Hoffman	Schuetten	Young

Nays—1

Jaye

Excused—0

Not Voting—1

Stallings

In The Chair: Schwarz

The Senate agreed to the title of the bill.

The Assistant President pro tempore, Senator Hoffman, assumed the Chair.

Senators Peters and DeBeaussiaert asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Peters' statement is as follows:

This amendment deals with putting a position within the Department of Education, which we think is essential in promoting arts education in the state of Michigan. It would designate one position as a Fine Arts Consultant to work with schools throughout the state to develop a fine arts curriculum. There currently is a model curriculum that has been developed, or is in the stages of development, within the Department of Education. This position would allow an individual then to carry that model curriculum and work with schools throughout the state in developing important arts education.

There is no question that arts education develops critical thinking skills and has been shown to have a dramatic impact on test scores. In fact, according to a recent college board study, SAT scores for students who had studied the arts more than four years were 59 points higher in verbal and 44 points higher in math than students with no course work experience in the arts. Art education is a critical part of the learning process, and as we are discussing reforming and making our public education system stronger, arts education needs to be a component in that. Currently the Department of Education has a math consultant, two science consultants, a social studies consultant, and two English language arts consultants. It's time that we also have a fine arts consultant who can work with this important part of the curriculum, and I would urge adoption of this amendment.

Senator DeBeaussiaert's statement is as follows:

I'm going to support this bill, but I want to make a comment before we proceed to the vote. This bill does include a budget of over \$10 million for test development and implementation of the MEAP test changes and for the former High School Proficiency Test changes that the Legislature required last year. I think the assessment program is an important one because, despite the objections of members on this side of the aisle, the assessment is now what is left driving the curriculum in this state. We've already had the debate about whether we ought to have a mandatory core curriculum. Members on this side suggested that was the appropriate method to follow and that regardless of wherever a child lived in the state, he or she ought to expect the same academic standards and rigorous curriculum. We've had that debate, and we were not able to convince a majority here to follow that path, so now this assessment program is especially important because it will provide some method of trying to drive excellence in the system.

It is important to note that the assessment program has not been without some controversy. We can remember the kinds of concerns that were raised by the first rounds of the High School Proficiency Test that led to legislative changes. We all know the recent problems with the MEAP test where children are asked to write about a loss in their life to the point that there were children crying in the classrooms and where fifth grade science MEAP tests included provisions requiring fingerprints of children be conducted. Local school board members have brought to my attention that the department is now circulating pilot copies of social studies tests scheduled to be added soon that would also have some very controversial items.

So, while I support the idea of a fair assessment program that will measure our achievement against the curriculum benchmarks that are established by the Board of Education, I do want to take a moment to urge the department to review those assessments with a careful eye and more importantly to measure with a big dose of common sense before they are given to our children. I don't think its necessary that we add boilerplate language to this bill to require that the department use common sense, but I want to send the message that there are serious problems that have developed in the past and that I hope that the department will take every step to avoid them in the future.

The following bill was read a third time:

Senate Bill No. 911, entitled

A bill to make appropriations for the state institutions of higher education and certain state purposes related to education for the fiscal year ending September 30, 1999; to provide for the expenditures of those appropriations; and to prescribe the powers and duties of certain state departments, institutions, agencies, employees, and officers.

The question being on the passage of the bill,

Senator Jaye offered the following amendment:

1. Amend page 22, following line 23, by inserting:

"Sec. 427. (1) Included in the appropriation in part 1 of each state institution of higher education is an amount equal to 10% of the entire operating budget for each state institution of higher education. This set-aside amount is the incentive for equal treatment grant. To be eligible to receive the set-aside amount under this grant, a state institution of higher education shall certify to the state budget director by October 1, 1998, that all of the following are true:

(a) That the state institution does not and will not use funds appropriated in part 1 to implement an admissions policy that includes any quota, set-aside, numerical goal timetable, extension of application deadlines, grade adjustment, or other objective based on race, color, religion, sex, or national origin.

(b) That the state institution of higher education does not and will not use funds appropriated in part 1 for scholarships, employment, or contracts that are based on any quota, set-aside, numerical goal, timetable, grade adjustment, or other objective based on race, color, religion, sex, or national origin.

(2) By October 15, 1998, the state budget director shall allocate any remaining funding under the incentive for equal treatment grant among the eligible institutions pro rata to the total amount described in subsection (1) for all eligible institutions. The incentive for equal treatment grant funding shall be paid out of the state treasury in the same manner and time as provided in section 202.”.

The question being on the adoption of the amendment,

Senator Jaye requested the yeas and nays.

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

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

Roll Call No. 132

Yeas—15

Bennett	Emmons	North	Steil
Bouchard	Gougeon	Rogers	Stille
Bullard	Jaye	Schuetten	Van Regenmorter
Dunaskiss	Koivisto	Shugars	

Nays—22

Berryman	DeGrow	McManus	Schwarz
Byrum	Dingell	Miller	Smith, A.
Cherry	Gast	O'Brien	Smith, V.
Cisky	Geake	Peters	Vaughn
Conroy	Hart	Posthumus	Young
DeBeaussaert	Hoffman		

Excused—0

Not Voting—1

Stallings

In The Chair: Hoffman

Protests

Senators Schwarz, Berryman, Cisky, McManus and A. Smith, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senator Jaye to Senate Bill No. 911.

Senators Schwarz and A. Smith moved that the statements they made during the discussion of the the amendment be printed as their reasons for voting “no.”

The motion prevailed.

Senator Schwarz’ statement, in which Senators Berryman, Cisky and McManus concurred, is as follows:

I rise to oppose the Jaye amendment. What this does, and the maker of the amendment eluded to—what 200 percent of the poverty level is for a family of four; it is \$24,700. That isn’t a whole lot of money in this day and age. To limit the eligibility for certain grants and aid that can be minority based to a \$24,700 a year family income doesn’t make a whole lot of sense to me. In our public 4-year institutions, there are 15.8 percent of minority students in total all 15. The U.S. average is 21.3 percent. I think we are doing the right thing by allowing the University of Michigan, Michigan

State University, and Wayne State to make dollars available on a racial basis and sometimes on a gender basis as well. Perhaps it is not the best way to solve a problem, but right now it is the only way. I will end by saying we cannot afford to make it so difficult for minorities to get into college that they are not going to go to college anymore, and if they don't go to college anymore, we've lost an entire generation.

Senator A. Smith's statement is as follows:

As the former speaker noted, this amendment is aimed primarily at the University of Michigan, an institution in my district. Institutions of higher education have offered affirmative action programs for race and gender for several reasons. Prime among them is because it is the right thing to do. It addresses affirmative action programs that have been active at the institutions in the past—those that gave racial preference to white members of society by excluding totally from enrollment members of minority groups. Those policies changed over time to advance to a quota system where only a limited number of members of a minority group could enter the institution. Finally, the policies have evolved to affirmative action policies that attempt to give opportunities to individuals that not only promote the opportunities for those individuals, but the quality of education at the institution itself by bringing in people of diverse races, gender and opportunity.

Another reason the institutions have affirmative action policies and programs is that without them, we will never change the societal structure. We know what it takes to have success in this society. We know what the indicators of success are, and those are generally two-parent households where one or both parents have college degrees, parents have high incomes, or very good paying jobs. Thirdly, those parents stay involved in their children's education. Unless we change one of those factors in the minority communities, we will condemn a general minority population to a status of forever seeking a right to participate in this society.

A third reason that the universities have affirmative action policies is because of businesses in the state of Michigan and in the nation demand a cohort of individuals who are educated, who are diverse in the gender and their racial makeup. Because in order to compete in a global society, those businesses need a cadre of individuals who prepared to sit in leadership positions on the companies and negotiate with countries from Africa, Latin America, Asia, and the Middle East. In order to have credibility, those companies understand fully that they have to have people who look like those individuals on their boards and on their negotiating team.

A final reason why the institutions of higher education insist on maintaining their affirmative action programs is because governments like the Michigan Legislature have failed to address the societal, environmental, and educational needs of the poor urban and rural communities. Because we learn something new everyday, I want to share with you a statistic that Timothy Knowlton of the Kellogg Corporation shared with a bipartisan legislative forum on early childhood in the brain this morning. Eight percent of the factors that affect school performance happen outside of school. Kids who grow up in an urban setting, who go to school everyday, walking past drug dealers and drug users; who go to sleep every night to gunshots. Who have parents, or a parent who really is afraid of getting involved in their education because of the way he or she might have been treated when he or she was in high school. Do those kids who persevere and go through 12 years of education—who may only achieve a 3.0 or 2.5, or who have understood fully the importance of education in their lives and the opportunity that education gives them—do they merit less than other individuals who have passed a scholastic aptitude test? The University of Michigan defends its affirmative action program because of the diversity it brings to the university community, the enhancement that those different perspectives give to all of the students at the institution, and the changes that the participation of that diverse population allows the university to contribute to society. I urge you to defeat the Jaye amendment and to allow the institutions to go about their constitutional jobs of determining their admissions policies and the students that they will enroll.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 133

Yeas—36

Bennett	DeGrow	Koivisto	Schwarz
Berryman	Dingell	McManus	Shugars
Bouchard	Dunaskiss	Miller	Smith, A.
Bullard	Emmons	North	Smith, V.
Byrum	Gast	O'Brien	Steil
Cherry	Geake	Peters	Stille
Cisky	Gougeon	Posthumus	Van Regenmorter
Conroy	Hart	Rogers	Vaughn
DeBeaussaert	Hoffman	Schuette	Young

Nays—1

Jaye

Excused—0**Not Voting—1**

Stallings

In The Chair: Hoffman

The Senate agreed to the title of the bill.

Senator Shugars asked and was granted unanimous consent to make a statement and moved that the statement be printed in the Journal.

The motion prevailed.

Senator Shugars' statement is as follows:

I am voting for Senate Bill No. 911, for the fiscal year 1998-1999 higher education budget, with the expectation that Western Michigan University will be responsible with tuition and fees in return for a 3 percent increase in state funding. Despite last years' 4 percent increase in state funding, Western Michigan raised tuition in fees 9.5 percent, more than triple the rate of inflation. Parents of students and students who are paying their own way through college were hit twice by this increase. First, when they had to pay the higher tuition and fees, and the second time, when they found the state's tuition tax credit doesn't apply to schools who don't hold tuition increases to the rate of inflation. I've heard that Western Michigan University plans to raise room and board by 5 percent this year, more than twice the rate of inflation. Maybe this strategy is to try to convince the state Legislature that the school needs more money using students and parents as hostages. But I've got news for Western; keep raising tuition fees more than inflation, and you'll get less not more money and students.

By unanimous consent the Senate returned to consideration of the following bill:

Senate Bill No. 907, entitled

A bill to make appropriations for community colleges for the fiscal year ending September 30, 1999; to provide for the expenditure of the appropriations; to establish or continue certain funds, programs, and categories; and to prescribe the powers and duties of certain state departments, officers, and employees.

(This bill was read a third time earlier today, amendments offered and consideration postponed. See p. 460.)

The question being on the adoption of the amendment offered by Senator Peters,

Senator Peters withdrew the amendment.

Senator Cherry offered the following amendment:

1. Amend page 11, following line 12, by inserting:

"Sec. 216. (1) A community college shall not expend funds appropriated under this act if it fails or refuses to provide compensation equally for work or comparable value in terms of the composite skill, responsibility, effort, education, or training, and working conditions because of gender."

The question being on the adoption of the amendment,

Senator V. Smith requested the yeas and nays.

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

The question being on the adoption of the amendment,

Senator Shugars moved that further consideration of the amendment be postponed temporarily.

The motion prevailed.

Senator Peters offered the following amendment:

1. Amend page 11, following line 3, by inserting:

"Sec. 214a. Notwithstanding section 216, a community college shall not expend funds appropriated under this act to provide health care coverage for community college employees or their dependents for abortion services other than spontaneous abortion, or to protect the health of a woman, or in the case of rape or incest, or to prevent the death of the woman upon whom the abortion is performed."

The question being on the adoption of the amendment,

Senator Peters requested the yeas and nays.

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

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

Roll Call No. 134**Yeas—12**

Berryman
Byrum
Cherry

Conroy
DeBeaussaert
Gast

O'Brien
Peters
Smith, A.

Smith, V.
Vaughn
Young

Nays—25

Bennett
Bouchard
Bullard
Cisky
DeGrow
Dingell
Dunaskiss

Emmons
Geake
Gougeon
Hart
Hoffman
Jaye

Koivisto
McManus
Miller
North
Posthumus
Rogers

Schuetten
Schwarz
Shugars
Steil
Stille
Van Regenmorter

Excused—0**Not Voting—1**

Stallings

In The Chair: Hoffman

Protest

Senator Emmons, under her constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senator Peters to Senate Bill No. 907.

Senator Emmons' statement is as follows:

This is always a very difficult part of this whole debate. However, I don't believe you take away a person's civil right to life because the father was a predator. We have many situations where men do not do well by women. They do things that are very destructive to them, including fathers, including men predators who walk around parking lots looking for whoever they might be able to subdue. However, the child should not suffer because the father was a predator. It would be appropriate if this amendment actually said that we would set up crisis centers for women who are assaulted by predator men so that proper treatment could be given to them in a timely manner, so it would not result in a pregnancy. We have been somewhat successful in that, but we are not entirely successful in that. The child should not suffer. I believe the child has a right to life, and that should not be impaired because a father is a predator.

By unanimous consent the Senate returned to consideration of the amendment offered by Senator Cherry.

The question being on the adoption of the amendment,

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

Roll Call No. 135**Yeas—19**

Berryman
Byrum
Cherry

Dingell
Gougeon
Hart

Koivisto
Miller
North

Smith, A.
Smith, V.
Vaughn

Conroy
DeBeaussaert

Hoffman
Jaye

O'Brien
Peters

Young

Nays—18

Bennett
Bouchard
Bullard
Cisky
DeGrow

Dunaskiss
Emmons
Gast
Geake
McManus

Posthumus
Rogers
Schuette
Schwarz

Shugars
Steil
Stille
Van Regenmorter

Excused—0

Not Voting—1

Stallings

In The Chair: Hoffman

Senator V. Smith offered the following amendments:

1. Amend page 2, line 25, by striking out "31,249,334" and inserting "31,299,334".
2. Amend page 3, line 16, by striking out "279,237,670" and inserting "279,287,670" and adjusting the subtotals, totals, and section 201 accordingly.
3. Amend page 15, following line 10, by inserting:

"Sec. 404. From the funds appropriated in section 102 for Macomb Community College, \$50,000.00 is appropriated for diversity training. The program shall promote tolerance, civility, and respect among all Michigan citizens."

The question being on the adoption of the amendments,

Senator V. Smith requested the yeas and nays.

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

The amendments were not adopted, a majority of the members serving not voting therefor, as follows:

Roll Call No. 136

Yeas—13

Berryman
Byrum
Cherry
Conroy

DeBeaussaert
Hart
Miller

O'Brien
Peters
Smith, A.

Smith, V.
Vaughn
Young

Nays—24

Bennett
Bouchard
Bullard
Cisky
DeGrow
Dingell

Dunaskiss
Emmons
Gast
Geake
Gougeon
Hoffman

Jaye
Koivisto
McManus
North
Posthumus
Rogers

Schuette
Schwarz
Shugars
Steil
Stille
Van Regenmorter

Excused—0

Not Voting—1

Stallings

In The Chair: Hoffman

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 137**Yeas—36**

Bennett	Dingell	Koivisto	Schwarz
Berryman	Dunaskiss	McManus	Shugars
Bouchard	Emmons	Miller	Smith, A.
Bullard	Gast	North	Smith, V.
Byrum	Geake	O'Brien	Steil
Cherry	Gougeon	Peters	Stille
Conroy	Hart	Posthumus	Van Regenmorter
DeBeaussaert	Hoffman	Rogers	Vaughn
DeGrow	Jaye	Schuetz	Young

Nays—0**Excused—0****Not Voting—2**

Cisky

Stallings

In The Chair: Hoffman

The Senate agreed to the title of the bill.

The following bill was announced:

Senate Bill No. 944, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending section 57b (MCL 400.57b), as added by 1995 PA 223.

(This bill was announced on March 24, amendments offered and consideration postponed. See Journal No. 26, pp. 443, 445.)

The question being on the adoption of the amendment offered by Senator Young,

Senator Young withdrew the amendment.

Senator Young offered the following amendment:

1. Amend page 3, line 14, after "57E." by inserting "THE FAMILY INDEPENDENCE AGENCY OR THE APPROPRIATE DEPARTMENT RESPONSIBLE FOR THE SERVICE SHALL PAY FOR THE COST OF OR PROVIDE THE INDIVIDUAL ALL OF THE FOLLOWING:

(A) THE SUBSTANCE ABUSE TESTING REQUIRED UNDER THIS SUBSECTION.

(B) TRANSPORTATION TO AND FROM THE SUBSTANCE ABUSE TESTING SITE. COSTS FOR ALL ASSESSMENT AND TREATMENT PROCEDURES WILL BE COVERED BY THE MICHIGAN DEPARTMENT OF

COMMUNITY HEALTH BY USING AVAILABLE MEDICAID OR SUBSTANCE ABUSE BLOCK GRANT FUNDING OR BY PARTNERSHIPS WITH AGENCIES THAT CURRENTLY TREAT PATIENTS WITHOUT MEDICAL COVERAGE. TRANSPORTATION SERVICES FOR TREATMENT SHALL BE PROVIDED UNDER EXISTING MEDICAID TRANSPORTATION SERVICES.”.

The amendment was adopted, a majority of the members serving voting therefor.

The President pro tempore, Senator Schwarz, resumed the Chair.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 138

Yeas—20

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

Nays—17

Berryman	Dingell	Miller	Smith, A.
Byrum	Hart	North	Smith, V.
Cherry	Koivisto	O'Brien	Vaughn
Conroy	McManus	Peters	Young
DeBeaussaert			

Excused—0

Not Voting—1

Stallings

In The Chair: President

The Senate agreed to the title of the bill.

Protests

Senators Peters, Conroy, A. Smith, Byrum, Cherry, V. Smith, Berryman, Dingell and O'Brien, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 944.

Senators Peters, Cherry, Berryman, Dingell and O'Brien moved that the statements they made during the discussion of the bill be printed as their reasons for voting “no.”

The motion prevailed.

Senator Peters' statement, in which Senators Conroy, A. Smith and Byrum concurred, is as follows:

I also have some problems with this bill that is before us for final passage. The sponsor of the bill, Senator Gougeon, mentioned that this is an effort to help people find necessary treatment that they need to become self-sufficient. Unfortunately, I think this bill goes way beyond that. In fact, we already have procedures and policies in place to help individuals who are suffering from a substance abuse problem, which is a significant barrier for them to find independence and to find employment. When you sign a social contract with the Family Independence Agency, that contract requires you to stay drug free, and you have to go through mandatory drug testing if that is a problem—to ensure that you continue to stay drug free. So that procedure is already in place.

What this bill does is go beyond that and treats every single person who walks through the door of the Family Independence Agency as a suspect, treating them as if they must be a drug abuser—why else would they be poor. This is going to be a very expensive expansion of drug testing.

If you look at some very conservative estimates of what it is going to cost in order to drug test everybody receiving assistance—a recent study was done by a New York legal action center. It estimated a cost of about \$35 per drug test. And that is probably a low-end estimate as to the cost. The Family Independence Agency wasn't able to give us any estimate of the cost, but that is a New York study that placed a figure of \$35 per test. That doesn't even include other costs that may be involved such as transportation to drug testing sites, administrative costs in running the program, or if you have some kind of confirmatory test, which are also very expensive. So what does this mean for taxpayers in this state for a very questionable benefit? It means that we are going to spend an additional \$4 million to test individuals, even though we have no suspicion whatsoever that they actually have a drug abuse problem. What could that \$4 million be used for? Well, it could be used for additional substance abuse prevention programs or counseling programs, which right now have a very long waiting list. We could also use it to fund efforts to keep violence out of our schools. \$4 million would go a long way. We could also train 240 new State Police troopers to be on our highways, protecting our families and our children. Or we could take that \$4 million to hire 40 additional child protection service workers that would work against child abuse and neglect in homes in Michigan. Also, with that \$4 million, we could choose to double the number of children who would receive summer and after-school reading programs and bring up the literacy rates in this state.

The other unfortunate thing about that money is we could apply that drug testing to individuals who actually have been convicted of drug crimes. Currently, people who are out on parole and who have been convicted of drug crimes are not tested by wide-band drug testing. We do not test those individuals even though they have a track record of substance abuse and committing a drug-related crime as well. Those individuals aren't tested. The same occurs in the juvenile system. Juveniles are released with a drug abuse problem or a drug offense and yet are not tested. Instead, the state is going to put those scarce resources and test individuals simply on the basis of the fact that they are poor, and they are seeking help.

This bill also has a problem in that the amendment that was defeated by this body would have allowed some privacy protection in the bill. That was defeated. There was no privacy protection because of the recent amendment that was defeated—my amendment. The other amendment that I put in would have required some sort of confirmation testing and, that was also defeated. Meaning, as was mentioned by Senator Dingell, you're going to have false positives that are going to accuse people of having a substance abuse problem, when, in fact, they don't, and there is no mechanism to actually have some sort of confirmation testing. There are serious flaws in this bill. It doesn't make economic sense to test everyone unless you have some objective basis to believe that there is indeed a substance abuse problem. As it has been said by some of my other colleagues, it's very clear, and I believe this bill in conjunction with the fingerprinting bill, deals simply with stigmatizing poor individuals seeking help from the Family Independence Agency. What it says to those individuals is, if you are poor, you must either be out to defraud the system, or you must be abusing drugs. I think that is a misuse of scarce taxpayer resources. We shouldn't be spending money in that area. We should instead be spending money to help individuals in this state. This is a misguided policy. Perhaps it is politically motivated, and I think we have to stand up and say enough is enough of politically motivated legislation. Let's instead really work to help people in this state, and I would urge a "no" vote on the bill.

Senator Cherry's first statement, in which Senator V. Smith concurred, is as follows:

Is it a bill about money; is it a bill about jobs? Well, actually I think the bill is about politics and about intrusion. What we have here is a very politically vulnerable group: Michigan's welfare population. They are the group that is politically popular to beat up on, and that is what we want to engage in today. My good colleague Senator Miller expressed my concerns fairly eloquently last week, and I don't know that I can improve upon them at all.

Also, let me say that I've seen some of the bills that are to follow, and I'm not going to talk about those today, but I've seen them. I know that the best way to get the camel's nose under the tent is to pick the most vulnerable population and put this on their back today so that down the road we have a precedent and all the sudden others will be faced with this requirement of drug testing as they will be required for fingerprinting because of the previous legislation. It's about politics. This is an election year. This is an opportunity to put in place a precedent for intrusion against a citizen who has committed no crime.

Before you usually had to have some suspicion that a person was engaged in a behavior before you did things like this. Now we are going to be doing it simply because you are who you are. In this instance, you are an applicant for Michigan's welfare program. Tomorrow it may be somebody else. The precedent will be set today. I am, quite frankly, extremely bothered by this increasing effort to police Michigan citizens who have not engaged in crimes. We want to somehow define for them what their lifestyle ought to be: those who are less fortunate than us, or dress differently than us, or are less educated than us. To subject those who are more vulnerable to these kind of things like drug testing and fingerprinting bothers me a great deal. It seems to me that it's a road that we ought not even go down. But the bill here will launch us down that road, and for that reason I intend to vote "no." I don't want to be telling constituents who

I represent that because they are older than I, because they are less affluent, less educated than I, that they have to subject themselves to these sorts of socially negative criteria, like fingerprinting and drug testing. I hope that we as a body would reject this legislation.

Senator Cherry's second statement, in which Senator V. Smith concurred, is as follows:

The good Majority Leader is right. We have moved people off welfare, and I personally think in many of those instances, we've helped people in that we truly have a number of those former recipients engaged in productive employment. I personally hope that experience is launching them down a career that will lead to a more productive life for each and every one of them.

Those hopes that that would happen is why a number of us joined with him and others on the other side of the aisle in supporting those efforts to reform welfare because it was our hope, our belief that it would help those people. I think he's correct that what is happening is bearing out that guess that it would be productive. I think we will not regret what we did.

But I don't think this bill is intended to help people. If, in fact, it was our desire to help people, we would not have removed that part of the Young amendment that put in place treatment. That's ultimately the reason why you would drug test a person. If, in fact, what you're trying to do is make them more employable, you would discover their drug problem and then submit them to treatment so they could, in fact, engage in meaningful employment, that they could be work ready, that they would be on the job, that they wouldn't be experiencing the kind of health problems and lifestyle problems that go along with drug use and addiction. That's the test really about whether we're trying to help people is whether we're going to steer them into treatment. We had that opportunity during the debate on this bill. We chose to go the other way which tells me, quite frankly, that, in fact, it is about politics. It is about focusing in on this group of people because they are vulnerable politically. That if we get that focused in on this group today, if we succeed because of their vulnerable political status, that tomorrow we can focus in on someone else, the day after, someone else.

And believe me, you know the popular saying around here is, "We got trailer bills coming." I think there are trailer bills acoming on this one, too. And I'll be interested to see what they are, who those groups are, what citizen is next. On that basis, again, I intend to vote "no," and I would urge others as well.

Senator Berryman's first statement is as follows:

Again, I congratulate Senator Young for trying to make this bill a little bit better, but I think that this bill is such an invasion of privacy, and people in this state are very fearful of having their rights taken away one after another. In press releases you say all you want is nothing but to go after welfare fraud. This is about a subject much greater than that, and that is classing a group of individuals strictly because they sign up for assistance. Now we are going to drug test you, and with the bill passed yesterday, we are going to thumbprint you and put you in a category just because you sign up for assistance. You are somehow considered second-class citizens, you cheat the system, and we are going to weed you out. This puts everybody into that class. I think that is so offensive, because by far the majority of people who are eligible have never committed a crime and will never commit a crime. In your mind I guess it's a crime to be poor; that is the only crime they committed. And here is one more right—not with my vote—one more right that you are going to take away from citizens, and they should be scared to death because their rights are being taken away, especially in this chamber, day after day.

Senator Berryman's second statement is as follows:

I rise in opposition to passage, but to respond to the sponsor of the bill: Number one, I'm supposed to put all my faith in this FIA, an agency that time and time and time again put children back in the home until the father or the mother or the live-in boyfriend killed that child. I'm supposed to trust that agency.

You also brought up the point about political spin. It wasn't this side of the aisle that had a press conference and said before session, "Watch what we're going to do. We're going to pass these wonderful welfare reform bills," until fortunately people on both sides of the aisle had enough votes to stop it or at least to slow it down. And someone tells me this isn't about a political spin. I think someone sitting there, and this is certainly no reference to the Chair, but when someone can sit there and say this is not about politics, I think you must think that we on this side of the aisle are a sandwich short of being a picnic because this is more than about individuals who defraud the system and the taxpayer. We have said over and over and over again that we agree that people who abuse the system should be weeded out and leave the valuable resources to the people who truly need them, but you keep missing on your political spin that you want to test everybody to be eligible. You want to test everybody. You want to drug test everybody. You want to fingerprint anybody and everybody just to make sure that you're eligible. Those are rights that are being taken away from people who I'm not going to vote to give up those rights—to have those rights taken away just because of your economic standard of living, just because you happen to need help—and for a short period of time. Don't let somebody tell you that these are individuals who are lifestyle welfare people. These are individuals who are often on assistance for a short, short period of time. You want to drug test and fingerprint everyone, and that should scare everyone in the state.

And I thank this body on a bipartisan basis for at least slowing this legislation up and not thinking that this is the greatest thing since sliced bread. It's not. It's one more day where one more right or two more rights are being taken away from people who have never committed a crime. One more time for political purposes, for a political spin, you're willing to persecute the poor.

Senator Dingell's first statement is as follows:

I like the idea of drug testing people who are on welfare and people who are doing various other things where the state has an interest in promoting a drug-free environment, but I think it's important if we are going to do this that we assure that tests are accurate. I see nothing in this bill the way it is now that assures that will happen. The typical drug screening tests give a false positive between 5 and 15 percent of the time when they give a positive indication. That bothers me. I think we should require that if we are going to cut off benefits, then we require an accurate test. We are not doing that here.

I also have a problem in that there is no requirement that the bureaucrats conducting these tests keep the results confidential, at least until there is a follow-up test to make sure the person actually is using drugs. There is nothing here to prevent perspective employers or anyone else from finding out these things. That should horrify everybody in the chamber. This kind of sloppiness in drafting causes me to be unwilling to support this legislation today. I urge my colleagues to vote "no" also.

Senator Dingell's second statement is as follows:

Mr. President, I am probably the legislator that the previous speaker was talking about. I have seen no such letter from the Family Independence Agency, no such letter whatsoever. I think I should see that kind of letter, if it was going to be sent to me. I think that kind of letter ought to be distributed on the Senate floor, seeing as how the problem has been raised, not just by me but by other members of the Michigan Senate.

Also, I got other problems. How entirely trusting would I be of the Family Independence Agency? I got to say I've heard this kind of thing out of the Michigan Department of Corrections and learned not to be trusting of them. Why should I begin to be trusting of the Family Independence Agency? I don't think I should be anymore trusting to them than I should be of Corrections.

Also, I have not heard anything in the way of an answer about the problem with situations where you have a person who takes a prescription drug, and it shows up on a drug test. There's nothing I have seen. There's nothing I have heard about these things in all of the discussions from that side of the chamber. What this leads me to believe is that, frankly, we have a case of sloppy drafting, and anybody with any sense should vote "no."

Senator O'Brien's statement is as follows:

The promise that one who is poor is addicted to drugs—I don't even want to go there but, at best, it's ridiculous.

My district office is in a community center in my district that deals with and assists the poorest of the poor. And just because we are here—not the poorest of the poor—does not mean they are in support of drugs. Things happen. It's that simple. Be that drug—alcohol, be it beer, be it wine, be it whatever drug. I became involved with a young man one day who took a civil service test, medical exam,—whatever—he flunked it. Apparently they had discovered morphine in his system. Well he wasn't a drug user. Couldn't figure out what the problem was, and it definitely kicked back his morphine. As things went on in speaking with him and his physician, seems the young man had some type of bronchial problem. I certainly am not here to tell you I can make you aware of the brand name cough syrup the physician had prescribed. Apparently upon metabolism within the liver, there is a residue of morphine. Once it was determined that this individual was simply following the instructions of his physician and further testing and what does this really metabolize into and what is the residue left when that process is complete—it was, in fact, morphine.

The premise that poor automatically indicates some type of drug usage is far beyond my scope of understanding. I have had the pleasure—and I say that facetiously—of fighting with FIA for seven to eight months through the dead of winter for a woman who needed a furnace, who was taking care of her mother, who was taking care of her drug-addicted daughter's children—six or seven I believe. And FIA went in and said this house has got heat. The community center went in the same day and said we do not consider wood burning in the fireplace to be heat. Now, we fought for seven to eight months to get a furnace; now God forbid she goes to her physician and happens to get some cough syrup that might metabolize out into something else. I saw 40 some thousand dollars worth of home service money go back. Nobody knows why. I sat no longer than two months ago with House staff, Senate staff, House Fiscal staff, Senate Fiscal staff, various people within FIA, some of my staff—we left the room, and everybody understood what we were trying to do. The only one who came out with something different was FIA. I look at this.

There's a program in Detroit called "Heats On-Waters Off." I helped a number of years ago to bring that program on line, and it's in about its sixth year maybe seventh—at this point in time. We provide service to those who have nothing. There are enough roadblocks out there right now for people to get services than to come forth with the idea that to simply be needy, to be poor—you must be on drugs. It just has to be. That's a line I cannot draw. These individuals that are out there partaking of what little services we're able to deliver because the hurdles that they have to leap through. Not that I'm saying we should be providing a means or an outlet for someone to be on some sort of assistance

and yet be possibly spending their money on illegal substances, but the very hardcore assumption that to be poor requires a drug test does not sell on the corner. It doesn't sell in the community center. It doesn't sell with the clients within that community center. It does not sell with the social workers. We can't keep up with the number of publications that we put out through that group into the schools within the city of Detroit that are anti-drug, anti-alcohol, and anti-smoking. Coloring books where we're going in and dumping these on two- and three-year-old kids, and the thought that it makes some sense is we're here. You need to come off of this floor. You need to go where the poor people are. You need to go where they are fighting in the streets.

One of my community leaders called the precinct during one of the regular precinct meetings—had the local drug dealer on her front porch with a pit bull asking her to come outside so he could turn the dog loose. The neighbors turned out in the middle of the street; the whole block armed. The guy packed his bags and left the next day. These are very, very poor people. They detest drugs as much as anybody standing in this body and serving here or anybody within the reach of my voice.

I believe it's an absolute insult to these human beings who are fighting this on a daily basis, not with legislation, but actually living it, suffering through the threats and attempting to clean and watch houses raided. That's all our CB patrols do. That's all our community groups do. They fight it on a daily basis. There are a few. But I am here to tell you that those few certainly do not comprise those folks we're servicing in FIA or with whatever services we may provide them. Yes, there are exceptions to the rule. But the honest fact is, it's a battle fought in the streets with blood on their tennis shoes on a daily basis. It's these people that are making this fight—their only subsistence is what they get through FIA. To stand here and to look at them and say just because you're poor, you're exactly like the guy that you drove out down the street last month. That's the insult, and the sooner you realize the insult for what it is, possibly if you ever do that, you may decide to reject this legislation.

Senator Posthumus asked and was granted unanimous consent to make a statement and moved that the statement be printed in the Journal.

The motion prevailed.

Senator Posthumus' statement is as follows:

Well, despite the rhetoric of the previous speaker, this is not about politics. This is about helping people.

In 1991, when we said we were going to take able-bodied people off welfare to get them back to work, we had people out here demonstrating, saying that people were going to starve to death, that it was mean spirited, but instead that didn't happen. Instead, there are people working today, and we saved the state money.

When we said we were going to have welfare recipients required to work and have training, we heard from the other side that that was mean-spirited. But instead, we now have more people working and off welfare than any time in recent memory.

The only thing worse than being dependent on government and welfare is being dependent on both government and drugs. What we're doing here is not saying, "We're going to punish you." It's not saying, "We're going to take your benefits away." But it's saying, "If you're dependent on government and drugs, we're going to help you get off them." And "If you don't take the personal responsibility for it, then you take the personal responsibility for yourself, not government."

Senators Shugars, Stille and Dunaskiss moved that they be named co-sponsors of the following bill:

Senate Bill No. 944

The motion prevailed.

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 Emmons as Chairperson.

After some time spent therein, the Committee arose; and, the President pro tempore, Senator Schwarz, having resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 905, entitled

A bill to make appropriations for various state departments and agencies for the fiscal year ending September 30, 1998; and to provide for the expenditure of the appropriations.

Substitute (S-1).

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

1. Amend page 3, line 9, by striking out "Special revenue funds" and inserting "Interdepartmental grant revenues".
2. Amend page 3, line 10, by striking out "Game and fish protection fund" and inserting "IDG, department of community health, tobacco tax".

3. Amend page 9, following line 13, by inserting:

“Disease surveillance 500,000”.

4. Amend page 9, line 18, by striking “5,000,000” and inserting “5,500,000” and adjusting the subtotals, totals, and section 201 accordingly.

5. Amend page 11, following line 21, by inserting:

SEC. 108. LEGISLATURE

(1) APPROPRIATIONS SUMMARY:

GROSS APPROPRIATION..... \$ 100,000

Interdepartmental grant revenues:

Total interdepartmental grants and intradepartmental transfers..... 0

ADJUSTED GROSS APPROPRIATION \$ 100,000

Federal revenues:

Total federal revenues..... 0

Special revenue funds:

Total local revenues 0

Total private revenues 0

Total other state restricted revenues..... 0

State general fund/general purpose \$ 100,000

(2) LEGISLATIVE COUNCIL

Worker's compensation..... \$ 100,000

GROSS APPROPRIATION..... \$ 100,000

Appropriated from:

State general fund/general purpose \$ 100,000”

and adjusting the subtotals, totals, and section 201 accordingly.

6. Amend page 24, following line 3, by inserting:

“NATURAL RESOURCES

Sec. 901. It is the intent of the legislature that the Great Lakes fisheries trust fund shall provide financial support for fresh water research programs conducted by Grand Valley State University.”.

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 amendment, the following bill:

House Bill No. 5607, entitled

A bill to require contractors to provide certain notices to governmental entities concerning improvements on real property; to allow for the modification of contracts for improvement to real property; to provide for remedies; and to repeal acts and parts of acts.

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

1. Amend page 4, line 11, after “effective” by striking out “June 30, 2002” and inserting “December 31, 2001.

Enacting section 1. This act takes effect 180 days after the date this act is enacted.”.

The Senate agreed to the amendment 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 amendments, the following bill:

House Bill No. 5136, entitled

A bill to amend 1976 PA 399, entitled “Safe drinking water act,” by amending the title and sections 2, 4, 5, 7, 8, 9, 14, and 16 (MCL 325.1002, 325.1004, 325.1005, 325.1007, 325.1008, 325.1009, 325.1014, and 325.1016), the title and sections 2, 7, and 9 as amended by 1993 PA 165, and by adding section 3b.

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

1. Amend page 2, following line 8, by inserting:

“SEC. 1A. IT IS THE INTENT OF THE LEGISLATURE TO PROVIDE ADEQUATE WATER RESOURCES RESEARCH INSTITUTES AND OTHER FACILITIES WITHIN THE STATE OF MICHIGAN SO THAT THE STATE MAY ASSURE THE LONG-TERM HEALTH OF ITS PUBLIC WATER SUPPLIES AND OTHER VITAL NATURAL RESOURCES.”.

2. Amend page 14, line 23, by striking out all of section 14 and inserting:

“Sec. 14. (1) A supplier of water shall file with the department such reports and shall maintain such records as the department may by rule require. THE DEPARTMENT MAY BY RULE REQUIRE A SUPPLIER OF WATER TO PROVIDE ADDITIONAL REPORTS AND NOTICES TO ITS CUSTOMERS. THE RULES SHALL INCLUDE THE REQUIRED CONTENT OF THE REPORTS AND NOTICES AND THE FREQUENCY AND THE MANNER OF DELIVERY OF THE REPORTS AND NOTICES.

(2) A SUPPLIER OF WATER SHALL PROVIDE TO ITS CUSTOMERS CONSUMER CONFIDENCE REPORTS AS REQUIRED BY TITLE XIV OF THE PUBLIC HEALTH SERVICE ACT, CHAPTER 373, 88 STAT. 1660, POPULARLY KNOWN AS THE SAFE DRINKING WATER ACT. THE DEPARTMENT SHALL PROMULGATE RULES RELATING TO CONSUMER CONFIDENCE REPORTS INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(A) THE CONTENT OF THE REPORTS.

(B) THE MANNER OF DELIVERY OF THE REPORTS.

(C) STANDARDIZED FORMATS THAT MAY BE USED BY SUPPLIERS OF WATER FOR PROVIDING INFORMATION IN THE REPORTS.

(D) IF A SOURCE WATER ASSESSMENT HAS BEEN COMPLETED, A REQUIREMENT THAT THE REPORTS CONTAIN A NOTIFICATION OF THE AVAILABILITY OF THE SOURCE WATER ASSESSMENT AND THE MEANS TO OBTAIN A COPY.

(3) IF REGULATED CONTAMINANTS ARE DETECTED IN A PUBLIC WATER SUPPLY, AND CERTAIN SUBPOPULATIONS ARE PARTICULARLY VULNERABLE TO THE ADVERSE EFFECTS BECAUSE OF AGE, GENDER, PREGNANCY, OR PREEXISTING MEDICAL CONDITIONS, THE CONSUMER CONFIDENCE REPORT OR OTHER REPORTS AND NOTICES, OR BOTH, SHALL CONTAIN INFORMATION RELATED TO ALL OF THE FOLLOWING:

(A) THE CONTAMINANT THAT WAS DETECTED.

(B) THE LEVEL OF THE CONTAMINANT THAT WAS DETECTED.

(C) THE VULNERABLE POPULATION THAT MAY BE SUSCEPTIBLE TO THE LEVEL OF CONTAMINANT DETECTED.

(D) THE POTENTIAL ADVERSE HEALTH EFFECTS ASSOCIATED WITH EXPOSURE OF THE VULNERABLE POPULATION TO THE LEVEL OF CONTAMINANT DETECTED IN THE WATER SUPPLY.

(4) THE REQUIREMENT IN SUBSECTION (3) SHALL ONLY APPLY IF THE DEPARTMENT PROVIDES SUPPLIERS OF WATER WITH STATEMENTS DERIVED FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OR OTHER SOURCES DETERMINED BY THE DEPARTMENT TO BE RELIABLE CONCERNING THE ADVERSE EFFECTS OF REGULATED CONTAMINANTS ON VULNERABLE SUBPOPULATIONS. THE STATEMENTS SHALL BE IN A FORM THAT CAN BE EASILY INSERTED INTO THE CONSUMER CONFIDENCE REPORTS OR OTHER REPORTS AND NOTICES PROVIDED FOR IN THIS SECTION.

(5) IF FEASIBLE FROM A COST PERSPECTIVE, THE DEPARTMENT MAY MAKE CONSUMER CONFIDENCE REPORTS PROVIDED FOR UNDER THIS SECTION AVAILABLE AT A SINGLE WEBSITE ON THE INTERNET.”.

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.

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senators Geake, Bennett, Cisky, Rogers, Gougeon, Stille, McManus, Emmons, North, Bullard, Dunaskiss, Schwarz, Gast, Dingell, Steil, Shugars and Conroy introduced

Senate Bill No. 1034, entitled

A bill to amend 1982 PA 295, entitled “Support and parenting time enforcement act,” by amending section 3a (MCL 552.603a), as amended by 1996 PA 120.

The bill was read a first and second time by title and referred to the Committee on Families, Mental Health and Human Services.

Senators Geake, Bennett, Cisky, Rogers, Emmons, Stille, McManus, North, Gougeon, Bullard, Dunaskiss, Schwarz, Gast, Dingell, Steil, Shugars and Conroy introduced

Senate Bill No. 1035, entitled

A bill to amend 1956 PA 205, entitled “The paternity act,” by amending section 8 (MCL 722.718).

The bill was read a first and second time by title and referred to the Committee on Families, Mental Health and Human Services.

Senator DeBeaussiaert introduced

Senate Bill No. 1036, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” (MCL 257.1 to 257.923) by adding section 811d.

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

Senator DeBeaussaert introduced

Senate Bill No. 1037, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 30113 (MCL 324.30113), as amended by 1995 PA 171.

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

House Bill No. 4367, entitled

A bill to amend 1943 PA 240, entitled "State employees' retirement act," (MCL 38.1 to 38.69) by adding section 19g. 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 Appropriations.

House Bill No. 4860, entitled

A bill to amend 1967 PA 150, entitled "Michigan military act," by amending the title and sections 105, 159, and 179 (MCL 32.505, 32.559, and 32.579).

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 Government Operations.

House Bill No. 5547, entitled

A bill to repeal 1947 LA 9, entitled "The act to prevent hunting, on Sunday, for game animals and game birds in the county of Macomb;" and to provide for a referendum.

The House of Representatives has passed the bill by a 2/3 vote 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 Hunting, Fishing and Forestry.

Statements

Senators Young, Gougeon, Cherry and Berryman asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Young's statement is as follows:

Today, the Auditor General released the performance audit of a child day care and child welfare license division within the Department of Consumer and Industry Services. Their mission is to protect children who are vulnerable in virtue of their age, disability, or circumstance. Each staff member of a child day care license division is responsible for regulating and providing technical assistance and consultative services in assisting with ongoing review of licensing rules and investigations of alleged licensing violations for more than 218 child care homes and day care centers. This means that every single child day care licensing staff member is responsible for the protection of more than 3,408 children. Each staff member of the child welfare license division is responsible for regulating, providing technical and educational assistance, ongoing review of licensing rules and investigations of alleged licensing violations for more than 318 child care institutions, child placing agencies, children's camps, and foster care homes. This means, every single child welfare licensing staff member is responsible for the protection for more than 12,960 children. Under this caseload, we should not be surprised with what the Auditor General found. The statute requires annual on-site evaluation of each child home and child care licensee. Yet, the Auditor General found no evidence that any annual or site evaluations were conducted—none. The statute requires that a 10 percent sample of family day care homes in each county be visited each year or when a complaint is received. Only 12.5 percent of child day care licensing field offices conducted the required 10 percent family day care home visit as required.

When the office of the Auditor General sampled the license and regulation files, they found 30 percent missing important documentation required for original licensing and renewal. Three percent of all files were missing criminal record clearances. Seven percent were missing good moral character clearances. Seven percent were missing things like proof of smoke alarms, fire extinguishers, T.B. test results for staff, and emergency or discipline plans. The statute would seem to require licensing of child day camps which are used by many parents to provide child care in the summer months. Yet, the department excludes most day camps from licensing requirements, estimated to a number of approximately 900. These child day care programs have no oversight by state government at all. As noted by the Auditor General, these day camps can also involve higher-risk activities such as, waterfront activities, rope repelling, archery, and horseback riding.

Michigan parents should be able to rely on government oversight and licensure to provide protection for Michigan children in day care. Parents pay taxes to insure that services like this are provided to support families. I wish working families had the time to conduct criminal background checks on their child care providers. Working parents don't have the time to research all the necessary components of a safe day care facility. Most rely on the government to provide

minimal measures of safety and protection for Michigan children in day care. Just like so many other examples we have seen from this administration, the lack of oversight in the program and the failure of the executive branch to carry out the duties mandated by the Legislature that were placed in state law has put Michigan children at risk.

Senator Gougeon's statement is as follows:

During the past two weeks, the Senate has worked hard to pass legislation helping welfare recipients become self-sufficient while protecting our taxpayers from welfare fraud and abuse.

We've tackled several major issues, including encouragement of education over welfare, drug screening for applicants, and substance abuse counseling for those that test positive for drugs. Thumb imaging of welfare applicants to help detect fraud and reimbursement of casino winnings. The issues we addressed reflect our responsibility to the taxpayers, while also encouraging our families in need to take personal responsibility. Throughout discussions on this legislation, we've heard a great deal of rhetoric from our colleagues across the aisle that these bills punish recipients. Nothing can be further from the truth. By not helping welfare recipients become self-sufficient, we trap them into a life of despair. By providing counseling to help people get off of drugs, we help them to become independent.

By thumb imaging applicants, we ensure that the most vulnerable of our citizens are not hurt by those who would cheat the system. Michigan, like many other states, can uncover hidden fraud only when we have a process in place to determine if an applicant is eligible for benefits.

By insisting that children get the education that they need, we help them build self-esteem and break free of the welfare cycle. Children need to know welfare is only a temporary solution for those truly in need of assistance. The bills reported over to the House of Representatives these past two weeks bring accountability and responsibility to Michigan's welfare system, while still helping those truly in need.

I want to thank all of my colleagues for taking a leadership role on these issues that are so important to all Michigan citizens.

Senator Cherry's statement is as follows:

The previous speaker, the Senator from the 34th District, noted this week that we've worked very long and hard on this package to fingerprint and drug test welfare recipients, and he's right. Perhaps by this institution's practices, one might even say we worked overtime, we're generally not here at this hour of the afternoon. Let me point out, as I have said all along during this debate, that I don't think this is about welfare reform. We had a very effective package that we've done previously, in a bipartisan way. It's been productive, and quite frankly, we've seen numbers of people move from the rolls to work. You question the need for this package and what is its purpose? Quite frankly, Mr. President, if you look down the road, you begin to better understand what the purpose of this package was.

I note that Senate Bill No. 1020 was introduced, which is another fingerprinting bill. Today, yesterday, and this week, we required the fingerprinting of welfare recipients. Well, that is broadly expanded in Senate Bill No. 1020. In fact, what we will probably find in Senate Bill No. 1020 is that Medicaid applicants can be fingerprinted. Think of it—we're going to have the Family Independence Agency employees walking down the halls of our nursing homes fingerprinting seniors in wheelchairs, seniors on gurneys. This is really what this is all about—the camel's nose in the tent. We've got the most vulnerable population this week. But, next week, next month, and throughout this year, we will see efforts to broaden this requirement dramatically. That is why I do not wish to serve in this body. I do not wish to become big brother, all knowing intrusive government to the people I represent.

I do believe that our system must make sense, and I think we have made enormous progress in the recent past in accomplishing that. I think we need to be lauded for that. I think that Michigan is a better place. People on welfare have stronger hopes now. It's my personal hope that they are now experiencing a dream of a lifetime of work and productivity. But to somehow now suggest those that remain must be the criminals of the earth such that they need to be fingerprinted and drug tested, I think is inappropriate. Many of those people have legitimate needs; they ought to have the state's extended helping hand. Instead, we are asking them to extend their hand and their fingerprint. I would argue that really what this is all about is politics. It's getting the foot in the door. It's going after the most vulnerable citizen first, our seniors next, those children on Medicaid after that. Perhaps we don't know what else will come down the pike. This whole notion that Michigan ought to be a police state ought to be stopped here and now.

Senator Berryman's statement is as follows:

Well, just to add a couple of comments to our leader on this side of the aisle, I want to make sure that, even though most of the chamber is empty, we can feel good about at least having the debate on fingerprinting and drug testing innocent people.

I think a couple of bills were anticipated in flying through this Senate, probably with a lot of bipartisan support. I think because of the debate many were surprised that we were able to defeat one bill for a short period of time last week, that it wasn't passed on bipartisan support. In fact, the bipartisanship came on voting against those bills, an intrusion into one's privacy.

I think there are going to be people who believe they have done a good political vote will find out the people back in their districts are going to be absolutely furious that once again this Legislature has acted in a manner that intrudes on their very, very personal right to privacy where you fingerprint and drug test innocent people. I'm not going to allow

you to have the political spin of we're going after welfare cheats and to give them help. Number one, I don't think you want to give them help. I think you want to make them ineligible. But it's not just about welfare. It's about innocent people who have never done a thing wrong will be subjected to drug testing and to fingerprinting.

A bill that passed this Senate now came out of committee in the House this morning to the House floor where you also grouped minors just because of age discrimination. Just because of age you want to ban them from going into malls at certain times of the hours of the day and certain days of the week. I would hope our colleagues in the House defeat that bill. It now heads to the floor. Again, classing a group of people who have never done anything wrong. They just happen to be a minor. So, let's group them as kids who are troublemakers and take a right away from them the same as you want to persecute the poor, to subject them, to humiliate them to fingerprinting and drug testing, and you don't think that's a humiliation. You just ask someone that has never been fingerprinted and drug tested, and they've never done anything wrong and ask them if they think that's not a humiliation. Why, if I've never done anything wrong, if I haven't broken the law are you subjecting me to these fingerprints and drug testing? The old thing about it's okay because it's not me. What happens when you turn around, and there's no one else there to talk about you or talk for you? You've gone after everybody else. At some point, people ought to sit up and take notice because the next group they come after may be you.

Committee Reports

The Committee on Judiciary reported

Senate Bill No. 997, entitled

A bill to amend 1953 PA 232, entitled "An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending sections 34 and 36 (MCL 791.234 and 791.236), section 34 as amended by 1994 PA 345 and section 36 as amended by 1996 PA 554.

With the recommendation that the bill pass.

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

William Van Regenmorter
Chairperson

To Report Out:

Yeas: Senators Van Regenmorter, Cisky, Geake and Peters

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submits the following:

Meeting held on Tuesday, March 24, 1998, at 1:00 p.m., Rooms 402 and 403, Capitol Building

Present: Senators Van Regenmorter (C), Rogers, Cisky, Geake, Dingell and Peters

Excused: Senator V. Smith

Senator DeGrow moved that the Senate adjourn.

The motion prevailed, the time being 2:21 p.m.

The President pro tempore, Senator Schwarz, declared the Senate adjourned until Thursday, March 26, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

