

No. 74

JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, December 9, 1998.

10:00 a.m.

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

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

Bennett—present
Berryman—present
Bouchard—present
Bullard—present
Byrum—present
Cherry—present
Cisky—present
Conroy—present
DeBeussaert—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
Murphy—present
North—present
O'Brien—present
Peters—present

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

Senator Joanne G. Emmons of the 23rd District offered the following invocation:

Let us hear the word of the Lord! Revelation 22:12-13, "Behold I am coming soon! My reward is with me, and I will give it to everyone according to what he has done. I am the Omega and the Alpha, the first and the last, the beginning and the end."

We thank You for always being with us, in the beginning even when we didn't know we needed You. Give us the wisdom, knowledge, courage, and skill to be Your salt and light as we pass bills and work in this Senate. May we at the end hear You say, "Well done faithful servant." Lord Jesus come! Amen.

Motions and Communications

The following communications were received:
Department of State

Administrative Rules Notices of Filing

November 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 11:44 a.m. this date, administrative rule (98-11-7) for the Department of Corrections, entitled "*General Rules*," effective 15 days hereafter.

November 24, 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 9:55 a.m. this date, administrative rule (98-11-8) for the Department of Education, State Board of Education, entitled "*School Administrator Continuing Education*," effective 15 days hereafter.

November 24, 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 10:02 a.m. this date, administrative rule (98-11-10) for the Department of State, Bureau of Elections, entitled "*Campaign Financing*," effective 15 days hereafter.

December 1, 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 11:10 a.m. this date, administrative rule (98-12-1) for the Department of Agriculture, Pesticide and Plant Pest Management Division, entitled "*Regulation 523, Dry Edible Beans*," 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:
Management and Budget Department

November 25, 1998

SUBJECT: Notice of Surplus Federal Property
Granite Island Light Station
Granite Island Light Station, Lake Superior, Michigan
GSA Control Number: 1-U-MI-791

The General Services Administration has declared the above-mentioned property surplus. Attached is a "Notice of Surplus Determination" from the Federal General Services Administration. If your department is interested in the site, please contact the appropriate Federal Agency as listed in the notice and copy the undersigned no later than January 4, 1999.

If you have any questions, please call me at (517) 373-9319.

Sincerely,
Robert C. Mosher, Manager
Special Services Section
Real Estate Division

The communication was referred to the Secretary for record.

The following communications were received:

Office of the Auditor General

December 2, 1998

Enclosed is a copy of the following audit report/or executive digest:

Performance Audit of the Office of Racing Commissioner, Department of Agriculture, December 1998.

December 3, 1998

Enclosed is a copy of the following audit report/or executive digest:

Performance and Financial Audit of the Capital Outlay Project for the Learning Resource Center and the Health Careers Education Center, Henry Ford Community College, May 13, 1996, through January 12, 1998.

December 7, 1998

Enclosed is a copy of the following audit report/or executive digest:

Performance Audit of the Muskegon Correctional Facility, Department of Corrections, December 1998.

Sincerely,

Thomas H. McTavish, C.P.A.

Auditor General

The communications were referred to the Secretary for record.

Senator Gast entered the Senate Chamber.

Senator DeGrow moved that Senators Bullard, Bouchard and Dunaskiss be temporarily excused from today's session. The motion prevailed.

Senator Bouchard entered the Senate Chamber.

By unanimous consent the Senate proceeded to the order of

Resolutions

Senator DeGrow moved that rule 3.204 be suspended to permit immediate consideration of the following resolutions:

Senate Resolution No. 245

Senate Resolution No. 246

Senate Resolution No. 247

Senate Resolution No. 248

Senate Resolution No. 249

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

Senators Posthumus and Cherry offered the following resolution:

Senate Resolution No. 245.

A resolution of tribute for the Honorable Jon Cisky.

Whereas, With gratitude for his dedication to the people of his district and all of Michigan, we are proud to honor and thank Senator Jon Cisky upon the occasion of his departure from the Michigan Senate. His spirit of commitment has contributed a great deal to the process of crafting legislative responses to our state's problems, and it is fitting to acknowledge the impact of his efforts to better prepare Michigan for the future; and

Whereas, Jon Cisky brought a wealth of experiences and insights with him when he came to the Michigan Senate following his 1990 election. His background includes several years in law enforcement and accomplishments in higher education. His prior efforts include leadership in the development of the Crime Stoppers program, service with the St. Clair Sheriff's Department, and twelve years as a professor and chair of the criminal justice program at Saginaw Valley State University. Combined with his personal sense of responsibility and community-mindedness, Senator Cisky has shared important talents and perspectives over the course of his eight years as a lawmaker; and

Whereas, Senator Cisky has approached his legislative duties with the same thoroughness evident in all aspects of his life. He contributed to the central task of the legislative branch as a member of the Appropriations Committee. His work in chairing the Subcommittee on Corrections and the Subcommittee on State Police and Military Affairs has been especially noteworthy. Clearly, his efforts have enhanced the lives of many people through his dedication to the highest standards of public service; now, therefore, be it

Resolved by the Senate, That we offer this expression of tribute to the Honorable Jon Cisky as he completes his outstanding service to this legislative body; and be it further

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

The question being on the adoption of the resolution,

The resolution was adopted.

Senator DeGrow moved that rule 3.204 be suspended to name the entire membership of the Senate and the Lieutenant Governor as co-sponsors of the resolution.

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

Senators Posthumus and Cherry offered the following resolution:

Senate Resolution No. 246.

A resolution of tribute for the Honorable R. Robert Geake.

Whereas, It is with great respect for the strong positive impact he has had on our state over the past twenty-six years as a legislator that we honor Senator Bob Geake as he retires following his accomplishment-filled career. His concern for others and his commitment to efficiency in government have been important to the development of numerous legislative initiatives and to streamlining the delivery of services in our state; and

Whereas, Born in Detroit, Bob Geake earned his bachelor's, master's, and doctoral degrees at the University of Michigan. Prior to his election to the House of Representatives in 1972, he had distinguished himself as an educational psychologist. His professional background, combined with his thoroughness and sense of commitment to the lives of individuals and families have helped make him a most effective legislator, especially in certain issue areas. His leadership has been vital to numerous educational and health-related programs and legislation; and

Whereas, Since coming to the Senate in 1977 following a special election, Senator Geake has taken on many responsibilities. For many years, his experience and expertise have been put to good use through his exemplary efforts on the Appropriations Committee. As the vice chair of the committee and the chair of the Subcommittee on Community Health and the Subcommittee on the Family Independence Agency, Senator Geake has been a vital part of programs that impact millions of lives each year. His diligence in handling all elements of his work has been exemplary; now, therefore, be it

Resolved by the Senate, That we offer this expression of tribute to the Honorable R. Robert Geake as he completes his outstanding service to this legislative body; and be it further

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

The question being on the adoption of the resolution,

The resolution was adopted.

Senator DeGrow moved that rule 3.204 be suspended to name the entire membership of the Senate and the Lieutenant Governor as co-sponsors of the resolution.

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

Senators Cherry and Posthumus offered the following resolution:

Senate Resolution No. 247.

A resolution of tribute for the Honorable Jim Berryman.

Whereas, It is with appreciation for his commitment to our state and his contributions to the legislative process that we commend Senator Jim Berryman as he brings to a close his distinguished tenure with this legislative body. Through his energy, thoroughness, and heartfelt concern for others, he has served his district and our entire state with distinction and helped prepare Michigan for the future; and

Whereas, Jim Berryman has devoted himself to public service and civic involvement in some form for most of his adult life. Prior to his 1990 election to the Michigan Senate, he had held several posts within his home community of Adrian. These responsibilities included his efforts with the Adrian City Planning Commission, his work on the city commission for several years, and his leadership as the mayor of Adrian from 1985 to 1990. With this experience in local government, he came to Lansing well prepared for the challenges of lawmaking; and

Whereas, Over the course of his two terms, Senator Berryman has distinguished himself in several issue areas. He has been particularly active with initiatives in mental health and efforts protecting children, most especially those at risk or with special needs. He has consistently articulated his concerns and advanced debate on a wide range of issues. His committee assignments have included his work with the Agriculture and Forestry, Financial Services, and Technology and Energy Committees. Indeed, his sacrifices and vigor in public service have benefited our state and strengthened the resources available to our people; now, therefore, be it

Resolved by the Senate, That we offer this expression of tribute to the Honorable Jim Berryman as he completes his outstanding service to this legislative body; and be it further

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

The question being on the adoption of the resolution,

The resolution was adopted.

Senator DeGrow moved that rule 3.204 be suspended to name the entire membership of the Senate and the Lieutenant Governor as co-sponsors of the resolution.

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

Senators Cherry and Posthumus offered the following resolution:

Senate Resolution No. 248.

A resolution of tribute for the Honorable Michael J. O'Brien.

Whereas, It is with great respect for his long tenure of service to the people of this state that we extend our thanks and best wishes to Senator Michael O'Brien as he brings to a close his membership with this legislative body. Over the course of his twenty-four years as a lawmaker, he has witnessed and contributed to landmark changes in Michigan and the institution of government. We appreciate his dedication throughout this period and the manner in which his knowledge has contributed to sound public policy in service to our state; and

Whereas, A native of Detroit, Michael O'Brien was first elected to the Michigan Senate in 1974, at a special election. His career in public service followed the example set by his father, who served in the Michigan Legislature for more than a quarter of a century. Prior to his initial election and the six consecutive terms he came to serve, Michael O'Brien had distinguished himself in the public arena working for fourteen years as an employee of the Wayne County Road Commission; and

Whereas, Senator O'Brien has been involved in numerous issues before the Michigan Legislature over the years. He has been a strong voice for working people, sharing his concerns over initiatives involving labor, transportation, economic development, trade, and local government. He has been active through committee responsibilities and several leadership posts he has ably handled, including many years as Assistant Democratic Leader. Clearly, he leaves the Senate with many accomplishments and the gratitude of many people; now, therefore, be it

Resolved by the Senate, That we offer this expression of tribute to commend the Honorable Michael J. O'Brien as he brings to a close twenty-four years of commitment as a member of this legislative body; and be it further

Resolved, That a copy of this resolution be transmitted to him and his family as evidence of our admiration and best wishes.

The question being on the adoption of the resolution,

The resolution was adopted.

Senator DeGrow moved that rule 3.204 be suspended to name the entire membership of the Senate and the Lieutenant Governor as co-sponsors of the resolution.

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

Senators Cherry and Posthumus offered the following resolution:

Senate Resolution No. 249.

A resolution of tribute for the Honorable Joe Conroy.

Whereas, It is with great respect for his accomplishments during his long and distinguished service to Michigan as a lawmaker that we salute Senator Joe Conroy as he retires from the Michigan Senate. His compassion, integrity, and commitment have made him a most effective legislator in service to his district and to our entire state. We are proud to wish him well in the years to come; and

Whereas, Active in real estate and building in the Flint area for many years, Joe Conroy first came to Lansing as a lawmaker following his 1976 election to the House of Representatives. He brought with him to the Capitol experience in local government as a result of his years of involvement with the Flint Charter Revision Commission and service on the Genesee County Commission. These posts, as well as his personal sense of concern for working people and their families, prepared him well for the challenges of being a legislator; and

Whereas, Since coming to the Senate in 1983 following three terms in the House, Senator Conroy has earned the respect of fellow members and staff for his consistent hard work and devotion to solving Michigan's problems with sensitivity and common sense. He has been especially valuable to the process of shaping the state's budget as a long-time member of the Appropriations Committee. His in-depth understanding of programs and their impact on Michigan lives has had a strong positive impact. His work has been particularly significant in his subcommittee responsibilities with the areas of capital outlay projects, health, social service initiatives, and education; now, therefore, be it

Resolved by the Senate, That we offer this expression of tribute to the Honorable Joe Conroy as he completes his outstanding service to this legislative body; and be it further

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

The question being on the adoption of the resolution,

The resolution was adopted.

Senator DeGrow moved that rule 3.204 be suspended to name the entire membership of the Senate and the Lieutenant Governor as co-sponsors of the resolution.

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

Senator DeGrow moved that rule 3.901 be suspended to allow staff to film on the Senate floor.

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

Senator DeGrow moved that rule 3.902 be suspended to allow the guests of the retiring Senators admittance to the Senate floor.

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

Senator DeGrow moved that rule 3.507 be suspended to allow Senators to make statements during the order of Resolutions.

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

Senators Posthumus, Cherry, Conroy, Geake, Cisky 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 Posthumus' statement is as follows:

I'd like to take just a few moments to recognize the five members of the Senate who will be leaving the Legislature this year. When Bob Geake, Jon Cisky, Mike O'Brien, Joe Conroy, and Jim Berryman leave this body, they're going to be taking with them some 88 years of legislative experience, and I think it's important as we begin to close this session that we recognize the significant contributions that each of these individuals have made. Monday night at the Legacy Dinner in Dearborn, I recalled what one of my political heroes, Teddy Roosevelt, had said about people being involved in the arena. He had a great deal of disdain for people who would sit on the side lines and complain. He said, "The credit belongs to the one who's actually in the arena, whose face is marred by blood and sweat, who at best knows in the end the triumph of high achievement, and at the worst, if he fails, at least fails while daring greatly so that his place shall never be with those cold and timid souls who know neither victory or defeat." Well, each of these members has been bold participants in this arena in the Senate, and their faces from time to time have been marred, but it's been marred by hard work as they've chiseled out a lot of public policy that each one's believed in. They've known victories, and I'm sure they've known defeats, and as I look at each one of them, I see a different person, a person who, whether Republican or Democrat, has had something significant to offer.

As I look at Bob Geake, it's hard to summarize his legislative career because it spans nearly a quarter of a century, maybe more. His commitment and his compassion have left a great mark in this state and I know the beneficiaries have been those many individuals who have been struggling and needed help, and he's always been there. I know that just in our own caucus, he's always been that presence of reason when things got a little hot, Bob was there, and I think brought people together.

And as I look at Jon Cisky, I remember going a few years back trying to convince Jon that we needed him in the Senate and trying to get him to run. He may never forgive me for that, but I think the state is much better for it because his life has been that of trying to make Michigan a safer place. I think the legacy he leaves in this state is the efforts that he has made have come to fruition, and we see communities that are better because of him.

And as I look at Mike O'Brien, who started working on a whole lot of different issues as soon as I became leader, I see somebody who's always been here representing the view of the working person and who had a vision of what he believed government should stand for and would always stand up for it, even when he was in the minority.

And look at Joe Conroy, someone who's also leaving behind some twenty-five years or more of service to the Legislature. He has a vision and compassion that always has shown up. I've even seen some of the compassion on a negative side from time to time, but I've gotten to know Joe not only as a colleague but as a friend. We have had to chance to hunt together from time to time. And I know that everything he's done, he's done because he's believed that it's in the best interest of the state.

And I mention Jim Berryman, not last because he is least, but I look at him as somebody who has continued to offer—we've argued over and over again. He has been one of those true liberals in this Senate, and that's not bad. That's where Jim is, and I think that's a position that has been out there. And I think of what he's done to stand up for the children, in particular, who are at risk, and they are better for what he's done.

So, I mention each of these individuals because they've offered a lot. They've given a lot, and I believe that the Legislature will miss them. And this body and the public owe them a great deal of gratitude for the work that they have given. May God bless them, each and every one of them for what they do.

Senator Posthumus presented the resolutions and plaques to Senators Cisky and Geake.

Senator Cherry's statement is as follows:

I wish to join my esteemed colleague, the Majority Leader, in recognizing the very fine individuals and members of the Senate who are serving. This week is their last time in this distinguished body. They all have, in fact, as the Majority Leader has said, served with distinction. They have left indelible marks on the institution on state policy and in the hearts of the members here on the floor of the Senate.

Jim Berryman is one colleague who will be leaving the Senate. Jim came here in 1990, having served previously as the Mayor of Adrian. But he was a native of Flint, and oftentimes he and I were jointly before audiences—we would joke that we were perfect examples of two people who couldn't get elected in their home town because I had originally

come from Adrian. So, it was always a good joke to lighten the moment. Jim has been a compassionate member of this body. He has compassionately defended our most vulnerable citizens—our mentally ill and our children. He's chaired a Democratic task force on protecting Michigan's children and has joined you, Madam Governor, in advocating for a population that is so desperately in need of our attention and our support. He's been vigorous in attempting to champion those causes. I think his voice on behalf of the mentally ill and the children will be missed here on the floor of the Senate. I know they have benefitted from his compassion.

Joe Conroy is another member, one that I perhaps know the best, because from the minute I first became involved in politics, I was working with Joe Conroy. Joe has had a long history of involvement in Genesee County. He's an institution among local Democrats. I could go on and on about his record here in the state Senate or Michigan House previously. I think a couple of stories illustrate Senator Conroy's contribution. I can recall when President Clinton visited the Michigan House a few years ago to talk about education, and Senator Conroy was seated next to the Secretary of Education, he had folded in his pocket his plan for reducing class size. Joe made a point to press it into the Secretary and the President's hands, his proposal for reducing class size. It's something he had focused on when we were working on Proposal A. It's something he had focused on when we were contemplating every education budget here in the Senate. He pressed it on the President and the Secretary, and lo and behold, in the last State of the Union Message, the President put forward Senator Conroy's proposal for reducing class size.

Joe had an ability to take an issue and work it, work it, and see it through, and that has been for the benefit of not only the state but the school children that depend upon us for their assistance. He's approached every responsibility in that fashion. But most importantly, I think what we in Genesee County know is that Joe Conroy is a person who strongly believes in certain basic principles and that it is incumbent on those who care to champion those causes regardless of their political costs. You ought not calculate necessarily the politics of the situation. Joe was a champion in Flint for open housing, back when it wasn't popular to be supportive of open housing. We will have a lot of legacies that he will leave here in the Senate, but none will be more important and none will be more outstanding than the advocacy that Joe played back home on open housing. It cast his political character that guided him through the years in the Legislature. Joe ultimately knew that if he did what was right, he would prosper, and he did. I will always remember Joe Conroy and many others will in Genesee, because he has become a model for us all. We appreciate his service here.

Also, Madam Governor, I would like to recognize Mike O'Brien, who sits very close to me here on the Senate floor. Mike, I believe, is a dean of the Senate. He has served in this body since 1974 when he was elected in a special election. He's been a strong advocate for working men and women throughout this state. As a member of the Senate Transportation Committee and a temporary member of the Senate Appropriations Committee, he was very active in recent efforts to rewrite Michigan's transportation formula and fund, the very programs that are out there today in repairing Michigan roads, and he has served for many years as the Assistance Democratic Leader. But most importantly, he's been a very steady member of this caucus and a personal friend. I know that his strong support, his commitment to helping the underdog is going to be sorely missed.

Madam President, I also want to pay my respects and well wishes to the colleagues on the other side of the aisle who will be leaving. Bob Geake—I know I have not had the opportunity to work with Bob in committee, but my colleague Joe Conroy has, and it is clear that Bob is very committed to his responsibilities here in the Senate. He works very hard to put together bipartisan solutions. He cares very deeply for those who are in need. He's done an excellent job in his capacity as Vice Chair of the Appropriations Committee, the subcommittee that deals with the Family Independence Agency. We will miss the contributions that Bob Geake has quietly made year after year on the budget.

Jon Cisky—Jon is a neighbor. I represent Genesee County, and he represents Saginaw. I knew Jon before he came to the Senate. I am proud to say, I had the opportunity to work with him in the Senate, and I will miss not seeing him here day in and day out. He's a good man. I've appreciated his candor and his willingness to work with people on both sides of the aisle to solve problems that we all confront. And, Jon will not be leaving Saginaw; the people of Saginaw will benefit from his continued presence. I can say that I particularly have enjoyed the time I've served here in the Michigan Senate with Jon.

I would hope that all of these members, all five of them, enjoy their retirement—come back and visit, and continue to do the fine job in their capacity as private citizens as they have done here as members of the Senate.

Senator Cherry presented the resolutions and plaques to Senators Berryman, Conroy and O'Brien

Senator Conroy's statement is as follows:

It is nice that you have provided this tribute to us. I guess over the years I had felt that was my job. I was the one who was supposed to give out tributes, and I did a lot of that.

It has been a nice experience, working with you and serving in this place of ideas. It is not quite like working on the railroad, or as was my case, being a small business person building houses, selling houses, collecting rents, and doing that kind of work.

It has been a fun experience for me. I have enjoyed working with many of you. I see Senator David Jaye out here, who is a guy who comes up with ideas and works very hard to get notice of those. We go from one end of the spectrum to the other. Working with Senator Harry Gast on the Appropriations Committee. My Democratic colleagues on a myriad of different issues that were important to me and important to the state.

I guess probably, in a job like this, you ought to take notes each day so you kind of have an accumulation. When you get done, you can kind of look back at it. I did not do that, but I did not have many bad days here. I have enjoyed this work. I just now passed the amount of money that I earned in 1976, so I guess that is some kind of progress.

My wife put up with it. She always earned more money than I did, I guess because she was brighter. We raised five children. They got educated, and they are all doing well. They are nice people. They have advanced degrees, one and all. They are raising children that I am going to start paying a little more attention to. These grandchildren, something that I have discovered, are a whole lot of fun for a very short period of time. Not being such a great manager of diapers and that kind of thing, at least I can let them know that there is somebody older, who has lost his hair, who cares about their future.

I do appreciate all of the work. I have had terrific staff people. Connie Platte has been with me 12 or 13 years. Jeff Minore nearly that long. Tanya Roycraft is here, as well, and has done a terrific job. All of the Democratic policy staff. I have even relied on the Republican Central staff as well because they are extremely reliable with good information.

The fiscal agency has been, in my work, most important. I think Senator Gast and other chairs have made certain that that was a nonpartisan agency and gave us good information.

I have really had a great time here. It could not have been better. I do appreciate all of your friendships that we have made as well.

Senator Geake's statement is as follows:

At a time like this, it is certainly tempting to go back and think about the people who we have worked with over the years, all the things that we have done. I also think of all the things that we have gone through that the average citizen does not realize, that the average voter does not appreciate, what it means to live the life of a politician, or member of the Legislature.

It is really two full-time jobs. It is here in the Capitol, and it is in the district. It takes a lot out of every one of you. It takes a lot out of everybody. We get the honors; we get our pictures in the paper; we get to make the speeches; we get to be on television; and it is nice. There are also sacrifices to family and to friends, and you all know what they are.

There is a certain strain, and there is a certain stress that causes people to stay, grow old, and sometimes to pass-on. In the years that I have been here, there has hardly been a four-year term but that one—there are only 38 of us—that one has not died in office. I do not know of any sadder thing in all my life than to walk into the chamber and see that black wreath and that black bunting that says that one of us has succumbed to the strain and the stress that has led to premature death. Since 1970, seven Senators have passed away while serving in the Senate: Anthony Stamm of Kalamazoo, 1974; Michael O'Brien, Sr., of Detroit, 1974; John McCauley of Grosse Isle, 1975; Robert Welborn of Kalamazoo, 1985; David Holmes of Detroit, 1994; Gilbert J. DiNello of Clinton Township, 1996; and Doug Carl of Macomb Township, 1997.

So as I leave this chamber, I want to say, not to my fellow colleagues who are leaving, but to those of you who are carrying-on, carrying-on for us, and carrying-on for the people of your district and the people of the state of Michigan. I wish you well. I wish you success in all the bills that you need to get passed. I wish you success in serving your constituents. Most of all, I wish you four more years of no black wreaths and bunting.

Senator Cisky's statement is as follows:

Let my parting words be ones of thanks. I want to thank my staff, Ronda King, who I refer to as my alpha-omega girl. She was with me from the beginning, and she stayed with me right to the end, and I want to thank you, Ronda. Without you and your wonderful loyalty and confidence, we never could have done what we did. Ronda will be working with Representative-elect Howell when she leaves the Senate and goes to the House of Representatives.

Tom Hickson, another one of my staff members, is working with Representative Richner. Daphne Reznik, you know Daphne, she is now working with Representative Cassis. Chuck Hartman will be working with Senator-elect Goschka, who is taking my position, and Bill Adams is retiring to run his business in Chesaning.

I want to take a second, just a second, to say, those of those who haven't, read the book that we put together. It's called *The Michigan Legislator*. I toyed with the idea of calling it "After You've Found the Bathroom." It's designed for incoming people to get a plane of reference and show them how the system works. It's non-partisan or bi-partisan, whatever you want to call it. It's basic facts and pick it up and take a look at it. I think you'll enjoy it.

And last of all, I want to thank you, my many friends, for putting up with me over these many years and even laughing at my attempted humor during the times we needed humor.

Senator Berryman's statement is as follows:

Well, all of my friends who know me know that I am very emotional, but we're going to do this without getting that way.

I do want to thank, first of all, my leader, Senator Cherry. The plaque is absolutely beautiful, and when he handed it to me, he said, "I hope you have enough in your office budget to cover this." Thank you. Things don't change.

As my former colleagues have said, it's a day of thanks, and I didn't know this was going to be today, so I just tried to jot down a couple of notes. Obviously, the first thanks have to go to the men and women in my district that elected us. Without their support, we would have never gotten here in the first place, so I would like to thank everyone from my Senate district in Lenawee, Monroe, and part of Washtenaw County.

I obviously would like to thank my family. As everyone of you know—you don't have to be leaving to understand that being in office is a family sacrifice. It is a sacrifice for your spouse and for your children. And sometimes I feel most compassion for the children because children of politicians seem to have to live a little higher standard. As they expect of us, they expect that of our children. So, thanks to my three children, Steve, Eric, and Julie. Julie will be here this afternoon and my wife, Susan.

I would like to thank my staff, Don, Claire, Greg, Roger, Dave, and Chris. Don Tue, has been with me since Day One. He left the radio station where he was news director to come and work on my campaign, knowing that if we didn't win, he wouldn't have a job. I always remember the morning after because it was a long night. He called, and he said, "Senator, sounds good. When do we go to Lansing?"

I said, "Well, Don, just put an application in the mail, and we'll take a look at it." My wife never thought I'd have the courage—why do you do that to people? Don has been with me from Day One.

And when I say "staff," it's also the Democratic staff, the Republican staff that we've worked with. My Democratic staff who has worked so hard to try to make me look good, and I know how difficult that is. It is the staff that truly works after we go home, to do the investigation, to do the time, to put the schedule together, to put the information together so we can try to sound good.

And when I say "staff," I also mean the Sergeants, whether it's Kit or Mike. Mike, I always remember, came up behind me when I was talking to somebody and shook me, just really shook me and didn't know I had a cup of coffee in my hand. But thanks to all of you for your smiles and support every day.

To the Pages, when they weren't waiting on George Hart, they could come over to see me. So, thank you for all of your hard work.

To the interns, and believe me, President Clinton has given a whole new meaning to the term "intern." But our interns here and the interns in our office who work so hard, for no money—just for the experience. Your help and your time is much appreciated.

And of course, to my colleagues here in the Senate on both sides of the aisle. And I can't mention everybody's names, but from the sparring that we have back and forth, whether it's with the Senate Majority Leader Dick Posthumus or new Lieutenant Governor, the sage wisdom of Senator Gast always has a good joke, along with good advice. To all my leaders on this side of the aisle, John and Virgil, and the Lieutenant Governor. It has been eight years of great joy. The Lieutenant Governor really summed it up best. She wrote a little note, and she wrote, "Senator Jim, sometimes a challenge but mostly a joy." For someone being in the minority, you couldn't ask for anything better than a comment like that. It has been the joy of being elected to this chamber oftentimes coming in when you'd have a little bit of a lull, and there wouldn't be anyone here and just come in and sit down at your desk and look up and look around and know where you are and be thankful that you could have just a little slice of history in this great chamber that you could be a part of. To the eight years of probably going through the roughest time in my life is when I lost my mother. But knowing that she visited this chamber just once, two months before she died. But enough to come up and sit in the chamber and see me get an amendment passed. Only to see two minutes later it taken away, but that's still a great joy that I have.

To working on issues such as mental health, and protecting abused and neglected children, to working on roads where my own party didn't want anything to do with me, to just yesterday letting the blind go cross-bow hunting, thank you, Chris.

The only thing I will leave you with as a piece of advice from a rooky Senator is that before I came here and in the first four to six years that I was here this body had always been known as a deliberative body. This is where issues could be discussed thoroughly. The biggest thing that has changed in this chamber since I came eight years ago is limiting that discussion, putting time limits of five minutes in General Orders and five minutes here and there I think takes away from the process. Listen to the history of this institution; keep that. I think a tremendous, tremendous history of being known as the deliberative body and maybe now that I am leaving office they can take back the five minute rule. And why is my side clapping louder than the others?

But I am leaving the way I wanted to leave—I'm leaving voluntarily. Didn't want to leave as the way Senator Geake talked about certainly. Wanted to leave knowing that; that was my choice. So to the Majority Leader, Majority Floor Leader, my leaders on the Democratic side, John and Virgil and Art Miller, who was leader when I came here, thank you, it has been an honor and a privilege for me personally and my family to be able to serve with you for the last eight years, and while leaving, I'll only ask that you do one thing—please, don't forget the children! Thank you.

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

Senate Resolution No. 250

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

Senators DeGrow, North, McManus, Emmons, Schwarz, Van Regenmorter, Bouchard, Bullard, Shugars, Hoffman, Geake, Gast, Steil, Stille, Rogers, Gougeon, Dunaskiss, Bennett, Schuette and Cisky offered the following resolution:
Senate Resolution No. 250.

A resolution of tribute for the Honorable Dick Posthumus.

Whereas, It is with great admiration for his commitment to our state and appreciation for his skilled leadership of this legislative body that we honor Senate Majority Leader Dick Posthumus. His mastery of policy and procedure contributed enormously to the progress our state has made in recent years, and we are proud to thank him for his commitment to the highest standards of public service in a demanding position. We look forward to his continued dedication on behalf of our state in his new responsibilities; and

Whereas, Dick Posthumus has drawn upon the strengths of farm, family, and faith in his public service career. A graduate of Michigan State University, he worked with numerous civic and agricultural organizations and dedicated himself through various responsibilities with the House Republican staff prior to his 1982 election to the Michigan Senate. With his knowledge and ability to bring people together to find solutions to difficult problems, Senator Posthumus was elected as the Senate Majority Leader, a role he handled with great distinction over the past eight years; and

Whereas, Under his leadership, Michigan has advanced in many areas, most especially in education. Senate Majority Leader Posthumus played a key role in the landmark reshaping of the school financing landscape in Michigan and in furthering opportunities for students through increased options and higher standards. In an era of great change, he has guided this legislative body with great sensitivity to both its institutional history and its importance to the state's future. These achievements reflect the integrity he has brought to his duties and the trust he has earned from his fellow lawmakers and staff; now, therefore, be it

Resolved by the Senate, That we offer this expression of our thanks and admiration to the Honorable Dick Posthumus as he completes his distinguished service as a member of this legislative body and embarks upon his new responsibilities as Lieutenant Governor; and be it further

Resolved, That a copy of this resolution be transmitted to Senator Posthumus as evidence of our respect.

The question being on the adoption of the resolution,

The resolution was adopted.

Senator DeGrow moved that rule 3.204 be suspended to name the entire membership of the Senate and the Lieutenant Governor as co-sponsors of the resolution.

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

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

The motion prevailed.

Senator DeGrow's statement is as follows:

Change is inevitable. It is one of the things that this body goes through. People have talked about term limits and how now they have a large class; actually in 1982 in the Senate Republican Caucus, 10 of the 18 members were new. There were 10 of us who came in with that class, including yourself Madam President. As I look around today, I will be the only member left from that class. I am not sure what that says, other than I have some grey hair. It does seem strange, indeed, that starting next year, for the first time, Senator Dick Posthumus will not be here when I look back to this corner. He and I have served together for 16 years. We are the last two left of that class.

I remember well coming in. We served together on the Finance Committee. We were here when we took control. We have served together for a long time. During that time, you do develop friendship, a respect for individuals. Certainly that is how I feel about him.

I have always admired his leadership in the caucus. He certainly is more patient, calm than I have been and am, although I am trying. I am learning. I think in the last six weeks, I have learned even more to appreciate him as I get ready to assume the mantle of the Senate Majority Leader. I am beginning to realize how difficult that job can be at times and how rewarding it can be. Having watched him do it, I have grown to appreciate him even more in terms of his patience and his leadership skills. It is not easy to have that job. You balance a number of balls in the air, try to work with a large number of very talented people to help them. It is a very difficult job.

During his tenure as Majority Leader, we have seen so many things go through this Senate that have helped this state. Most of them have been bipartisan in nature. I well remember, as anyone who was here remembers, December 23 and early morning 24, 1993, as he and many of us struggled to try to put together a new way to finance schools—one of the many highlights that have been accomplished under his leadership here in the Senate. I could go on and on and name the things that have been done to help this state. Certainly they all went through this body, which meant that it was his job to help put that together.

I have also watched him try to balance the responsibilities of that job and at the same time watch four children grow up. As someone who has three children in the process of watching them grow up, I can appreciate how difficult that balance is. He came to realize, as I have, there are times you have to miss some things here. I have watched him put that ahead of it. I have watched him go home to attend some games, to attend some conferences, and to attend events

back at home. I think it is important that we have had a Majority Leader who understood those things because I think that when he understands those things it helps us make better decisions as Senators.

Senator Dick Posthumus, we are not saying goodbye to you exactly. Next year I will be up there hopefully just sustaining your rulings, never reversing them. So he is still going to be here with us, but obviously it will be a different role. That is part of life. That change has to take place. I am very happy for him. I think he is going to enjoy that new role. We are still going to enjoy having him around. We wish you well. I have enjoyed it. You have done a great job, and it is my honor to give you this plaque and a resolution that all the members have co-sponsored. Good luck, and we will be working with you still.

Senator DeGrow presented the resolution and plaque to Senator Posthumus.

Senator Posthumus' statement is as follows:

In the last 16 years that I've had the opportunity to serve in this great body, there's hardly a week that didn't go by that I didn't thank God for the blessings that I've had for being able to serve here. It's, as each of you who have served here and continue to serve here know, a great honor, and it's a great privilege. So I thank, certainly first and foremost, my constituents from Kent and Ottawa Counties who have given me that privilege. I thank my colleagues here, in particular on the Republican side of the aisle, who have given me the privilege to serve as their leader. In my entire professional career, the last eight years have been the most rewarding of my life, and I owe that to you, and I say, "Thank you."

But in particular, I also want to thank all of the staff. When we work here every day, they go on notice, whether it's the Secretary of the Senate or whether it's our fiscal agencies, they've all worked hard, and I want to thank all of them.

Also my personal staff. Since I've been here, I've tried, as Dan said, to balance an important professional job that we all have with my family and with my farm. I continue to farm in many cases. It's really been my staff who's made all of those things possible. With the work they've done, they've made it possible for me to do what I think has been a decent job as Majority Leader. They made it possible for me to spend time at home with my family from time to time, and at least to some extent, continue to do the thing that I love, and that is to work the soil. So I do want to thank them.

I've had three great chiefs of staff: Saul Anuzis, Lori Wortz, and David Hansen. I thank them specifically. The entire rest of the staff, and I do want to have them stand and be recognized. They're here. They've done a lot of work. They're on the floor and up in the Gallery. Please, I want you to stand and be recognized because you've done the work for me, and I really appreciate it.

Finally, I want to thank my family. My wife, Pam, was going to be here today, but she's recovering from pneumonia, and we decided that it would probably be best that she just kind of got rested with all of the things that are going to happen in the next couple of weeks. They've been very patient. Many of you know she actually served here in the Senate as a staff person before I came, and when I came, she had to leave although it was somewhat by choice to go home or be the primary person who raised the family. I can tell you, she worked harder almost each and every day back there than I did here. I thank her for that, and I thank my kids for being patient when I couldn't make one of their ball games or couldn't make one of their conferences. They've been great. As Jim said, they're asked to even reach sort of a higher plane, as we're asked to reach a higher plane. We're elected to do that, and we do that by choice. They don't really—they're not elected, and they don't do that by choice. They have to because that's expected of them. I appreciate that.

I hope that as you go forward that each of you who remains here continues to understand just how important this great chamber is. I've come to really appreciate and honor what the Senate means in our great democracy. We sit here and argue; we sit here and debate, as Lyn Jondahl said a couple of nights ago at the Legacy Dinner, "Democracy sometimes is ugly, but it is a great system of government," and one that each and every one of you is involved with. I am very proud to have served with all of you. I can't think of a better group of people who I could have been a colleague with than all of you who are sitting here. So I thank you for your work and look forward to working with you, hopefully not calling you out of order too often. Thanks.

Senator Cherry's statement is as follows:

People assume, oftentimes, that partisanship is what defines what we do here in a legislative body like the Senate. Disagreements can, in fact, do things to encourage partisanship, but by and large the vast majority of the work that we do here in the Senate is done in a collegial and a bipartisan manner. I think we will all attest to that. I find that has been especially true with my personal involvement with the Senate Majority Leader Dick Posthumus.

I think Senator Dick Posthumus has an unusual ability to engage in the political debate, knowing what his responsibilities are as a member of a political caucus, as a leader of a political caucus. At the same time, while being able to engage in the debate and express his point-of-view, he is still able to stand back, understand how the institution operates, understand the importance of the institution, and approach his responsibilities there in a nonpartisan way. That is, in fact, an unusual ability. So often, we dive into one responsibility with all our heart and forget what our other responsibility is. Senator Dick Posthumus has time and time again shown his ability to carry both his responsibilities out in an outstanding, professional way.

I know we have had our loud arguments and differences over particular bills or particular proposals. But in the final analysis, he has been able to maintain the good name and the integrity of this body by working with us in the minority on institutional questions about the institution itself.

I believe we have had a strong working relationship. I have enjoyed working with Senator Dick Posthumus. He is honest. He is straightforward, and he has done a very good job of, when it is important to keep the institution moving forward, backing away from simply a straight forward partisan approach and saying what is best for the institution. It is unusual, as I said, to have both of those qualities, but Senator Dick Posthumus has possessed them. He has exercised them and done it with a great deal of honesty, integrity, and he has certainly earned my respect and the respect of every member of the institution.

I want to add to the fine words that Senator DeGrow offered my comments. Also let him know that we know he will operate that gavel with that same sort of nonpartisan, accommodating style next year.

Senate Concurrent Resolution No. 89.

A concurrent resolution approving the conveyance of property to the State Building Authority and approving a lease between the State of Michigan and the State Building Authority relative to the State Prison of Southern Michigan Reorganization Project - Phase II.

(For text of resolution, see Senate Journal No. 54, p. 1294.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

Senate Concurrent Resolution No. 95.

A concurrent resolution approving the conveyance of property to the State Building Authority and approving a lease among the State of Michigan, the State Building Authority, and the Board of Control of Grand Valley State University relative to the Grand Valley State University School of Business and Graduate Library.

(For text of resolution, see Senate Journal No. 62, p. 1674.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

Senate Concurrent Resolution No. 100.

A concurrent resolution approving the conveyance of property to the State Building Authority and approving a lease between the State of Michigan and the State Building Authority relative to the Department of State Police Two-Way Radio System and Microwave Backbone System Phase II.

(For text of resolution, see Senate Journal No. 68, p. 1928.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

Senator DeGrow moved that rule 2.106 be suspended to allow the Legislative Retirement Board of Trustees to meet during Senate session.

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

By unanimous consent the Senate returned to the order of

Motions and Communications

Senators Bullard and Dunaskiss entered the Senate Chamber.

Senator V. Smith moved that the Committee on Judiciary be discharged from further consideration of the following bill:
House Bill No. 4674, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 147b (MCL 750.147b), as added by 1988 PA 371.

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

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

The question being on the motion to discharge,

Senator DeGrow moved that further consideration of the motion be postponed until Wednesday, December 30.

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

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

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

Roll Call No. 865**Yeas—20**

Bouchar	Emmons	McManus	Schwarz
Bullard	Gast	North	Shugars
Cisky	Gougeon	Posthumus	Steil
DeGrow	Hoffman	Rogers	Stille
Dunaskiss	Jaye	Schuetter	Van Regenmorter

Nays—18

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

Excused—0**Not Voting—0**

In The Chair: President

Protests

Senators A. Smith and Peters, under their constitutional right of protest (Art. 4, Sec. 18), protested against the motion to postpone consideration of the motion to discharge the Committee on Judiciary from consideration of House Bill No. 4674.

Senator A. Smith's statement is as follows:

I voted "no" on the postponement because I think it is appropriate for this body to take up legislation that has a critical impact on the lives and the safety of many individuals in the state of Michigan. I understand that some of the people who are opposing discharge and who oppose the bill suggest that we are creating a separate category of individuals and singling them out for protection. This legislation, in fact, does not do that.

This legislation looks at all people, regardless of sexual orientation, and says that regardless of whether you are a homosexual or whether or not you are a heterosexual, you are entitled to protection under the law of the state of Michigan. I would also argue that this bill does not single out individuals for protection against hate crimes. Other people have singled out individuals for persecution and attack because they disagree with their orientation. It is because other people have identified people as being vilifiable and being the objects of hate. It is necessary for the Legislature of the state of Michigan to pass laws that say we understand that condition exists in our society. We wish it did not, but because it does, we have to establish additional protections and opportunities for enforcement in order to preserve the safety and the lives of the citizens that we are charged to protect.

Senator Peters moved that the statements he made during the discussion of the motion be printed as his reasons for voting "no."

The motion prevailed.

Senator Peters' first statement is as follows:

I voted "no" on postponing the discharge of House Bill No. 4674 because I strongly believe that it is an issue that needs to come before the Legislature now. I am afraid with a postponement, the Senate has effectively killed the bill, and I believe that it will be unlikely that it will come up in the next session. As I mentioned in my previous comments, this is a very serious problem. It's impacting the lives of many Michigan residents. I believe it is very unfortunate that the Michigan Legislature refused to take up this important issue today. Particularly the Michigan Senate refused to take up this issue after the wonderful work done by the Michigan House of Representatives.

Senator Peters' second statement is as follows:

Just a brief comment on what the bill is, in order to understand what this discharge is. This bill would amend Michigan's ethnic discrimination law, which was sponsored by our former colleague, which we all know here in this chamber, David Honigman. It would include the word sexual orientation in the list of categories of protection under

the Ethnic Intimidation Act. Currently, the list includes race, color, religion, gender, and national origin. This would add sexual orientation to it. I know most members in this chamber are already very familiar with this bill. In fact, many members in this chamber have already voted on this bill. I know the chairperson of the Senate Judiciary Committee was a “yes” vote when the bill was before the Michigan House of Representatives—it has been out for sometime, as well as the inclusion of sexual orientation on that list. The good chairman will note I am sure, that he voted for that particular language being include in that prior House bill.

I’ve also placed on the desk of every member here in the Senate chamber an information sheet related to this bill to review prior to making this discharge vote, which will briefly discuss the bill but also highlights the long list of endorsements that this particular bill has, including the Sheriff Association, the Prosecuting Attorneys Association of Michigan, which has very strong feelings that this should be adopted, as well as a number of other law enforcement officials and Republican and Democratic leaders strong bipartisan support. The discharge, I believe, is necessary now because it addresses a very serious problem in our society. And that is the targeting of gay and lesbian people by hate groups and by individuals for assault, harassment, and in some instances, murder. All of us are aware of the recent murder which occurred in the state of Wyoming, in which a gentleman, a young college student, by the name of Matthew Shepard was brutally murdered because of his sexual orientation. But this is not a problem that is unique to Wyoming. It’s a problem that exists throughout the United States. In fact, here in Michigan, hate crimes against gays and lesbians has increased 12 percent, and the U.S. Department of Justice findings indicate that gays/lesbians are the most likely victims of biased-motivated criminal activity, and that is why 22 states have currently adopted this bill.

I believe the reason it needs to be discharged now is if it doesn’t get discharged now, it will die; it will not go forward. And I was outlining the fact that this is a critical problem now because we are seeing an increase in these crimes. As I mentioned, a 12 percent increase in these hate-related crimes in Michigan, and the Department of Justice says that this group of individuals are the most likely target of this biased-motivated criminal activity. There is urgency in discharging this bill, getting it to the floor, and not letting it die in the Judicial Committee, which it would. I hope members don’t look at this as just simply a procedural vote. I know that many members on both sides of the aisle have expressed that they support this bill. They believe this a critical human rights issue, that this type of behavior should not be tolerated by society, and I hope that this discharge vote is not looked at as a cover that they don’t really want to put their vote on the record. If you believe that this is important human rights protection, you will vote “yes” on the discharge and put this bill before the floor, so we can fully debate it and move it on.

Senator V. Smith moved that the Committee on Appropriations be discharged from further consideration of the following bill:

House Bill No. 4176, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending section 21720a (MCL 333.21720a).

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

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

The question being on the motion to discharge,

Senator DeGrow moved that further consideration of the motion be postponed until Wednesday, December 30.

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

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

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

Roll Call No. 866

Yeas—22

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

Nays—16

Berryman	DeBeaussaert	Miller	Smith, A.
Byrum	Dingell	Murphy	Smith, V.
Cherry	Hart	O’Brien	Vaughn
Conroy	Koivisto	Peters	Young

Excused—0

Not Voting—0

In The Chair: President

Protest

Senator A. Smith, under her constitutional right of protest (Art. 4, Sec. 18), protested against the motion to postpone consideration of the motion to discharge the Committee on Appropriations from consideration of House Bill No. 4176.

Senator A. Smith's statement is as follows:

I voted "no" on the motion to postpone House Bill No. 4176 for a number of reasons. I appreciate that the vote, that broke down on partisan lines, was a vote on procedure and not a vote on the merits of the legislation that would have been discharged. I particularly appreciate that because I am not sure anybody knew what the bill was because we did not have an opportunity to explain what it was.

House Bill No. 4176 is a compromise bill that was sent over from the House of Representatives in September on a bipartisan vote of 96 to 2. It deals with nursing home staffing ratios. Nursing home staffing ratios are important here in the state of Michigan because Michigan has not yet adopted the federal standard. Because we have not done that, only half of the nursing homes in the state currently meet the federal staffing levels.

What does that mean? For the seniors and the ill in nursing homes, it means that 95 percent of the nursing homes in the state of Michigan have been found by the healthcare financing agency to have failed to pass their state inspections. The majority of those who failed, failed because they failed to meet state staffing levels. What does that mean to the clientele? It means there is less opportunity for them to receive immediate and appropriate healthcare in the nursing homes. It means that many of our senior parents languish in wet clothing or soiled clothing for hours until somebody comes along and takes care of them.

Because this bill addresses a Medicaid component, some would argue that it costs too much. In reality, the compromise bill that came over from the House of Representatives has no cost to be realized unless the Senate and the House Appropriation Committees and the Legislature agree to appropriate additional Medicaid dollars to compensate the nursing homes in the state for additional staff. One of the sections in the bill, and I'm sorry right now I have lost track of the section, would say that if we fail to appropriate money, the nursing homes would not have to meet the staffing requirements.

Why push for the bill, you might ask. We need to know, in the state of Michigan, what the current staffing level is in each of the nursing homes if we are ever to have a hope of knowing how much money we appropriate in the future to bring this state up to the federal standard. The federal standard increases the ratio of staff to patients by a half a percent. We are not asking for a lot. Two to three individuals per nursing home that do not currently meet the federal level. Again, half of the institutions meet the federal level.

This is a bill that is supported by the Home Care Association of Michigan, that is an association of institutions that are for profit, the for-profit nursing homes in the state of Michigan. They understand that the whole industry is dragged down because of the failure of half of the institutions in the state to meet standards. The bill and the discharge motion was supported by the Michigan Association of Homes and Services for the Aging. That is the entity that represents the nonprofit nursing homes in the state of Michigan. So the industry was supportive of this bill the advocacy groups were supportive of this bill, and more importantly, the families and friends of people in nursing homes are supportive of this bill because they know how critically important it is to care.

I regret the procedural motion that did not give us an opportunity to take up the bill that would give us in the Legislature a good head count on staffing-to-patient ratios so that we could address this problem with sound information—not the information we get from the department that suggests that all of the entities meet the requirements, when I know for a fact that there are two nursing homes in my district that do not meet the state standard, let alone the higher standard of three nursing care givers.

Others would argue that this bill was introduced only to increase union membership. Nothing could be further from the truth. The union currently represents only a third of the employees in the industry. This bill would represent an increase of a range of 900 to 1,300 employees, and it does not specify which employees would be increased. The unions represent primarily the nursing aides, the clerical, and the dietician staff, the kitchen staff in the institutions. It has a lot of opportunity for nurses to be hired, who are not represented by the union, and for other types of employees to be hired. What this bill would do, again, is increase the staffing ratio so that the people who are in the nursing homes have an opportunity for more immediate and more thorough care.

Again I regret the procedural vote that did not allow this to come to the floor. It is my hope that when this bill is reintroduced next year, the new chair of the Department of Community Health Subcommittee will allow this bill to be discussed, to be voted on by the full appropriation committee, and to come to the Senate.

Recess

Senator DeGrow moved that the Senate recess until 1:00 p.m.
The motion prevailed, the time being 11:40 a.m.

The Senate reconvened at the expiration of the recess and was called to order by the President pro tempore, Senator Schwarz.

Recess

Senator Van Regenmorter moved that the Senate recess subject to the call of the President.
The motion prevailed, the time being 1:01 p.m.

1:31 p.m.

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

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills**House Bill No. 5989, entitled**

A bill to amend 1971 PA 140, entitled "State revenue sharing act of 1971," by amending sections 11, 12a, and 13 (MCL 141.911, 141.912a, and 141.913), section 11 as amended by 1996 PA 468 and section 12a as added and section 13 as amended by 1996 PA 342; and to repeal acts and parts of acts.

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.

Senator DeGrow moved that the rules be suspended and that the bill be placed on its immediate passage.

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

House Bill No. 5391, entitled

A bill to amend 1964 PA 284, entitled "City income tax act," by amending sections 3 and 3c of chapter 1 (MCL 141.503 and 141.503c), section 3 of chapter 1 as amended and section 3c of chapter 1 as added by 1988 PA 520.

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.

Senator DeGrow moved that the rules be suspended and that the bill be placed on its immediate passage.

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

By unanimous consent the Senate returned to the order of

Third Reading of Bills

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

House Bill No. 5989, entitled

A bill to amend 1971 PA 140, entitled "State revenue sharing act of 1971," by amending sections 11, 12a, and 13 (MCL 141.911, 141.912a, and 141.913), section 11 as amended by 1996 PA 468 and section 12a as added and section 13 as amended by 1996 PA 342; and to repeal acts and parts of acts.

The above bill was read a third time.

The question being on the passage of the bill,

Senator Steil offered the following substitute:

Substitute (S-7).

The question being on the adoption of the substitute,

Senator Jaye offered the following amendments to the substitute:

1. Amend page 9, line 11, after "cause" by striking out the balance of the line through "(13)" on line 12.
2. Amend page 9, line 12, after "paid" by inserting "ON A PER CAPITA BASIS".
3. Amend page 10, line 1, after "(6)" by striking out the balance of the subsection through "(16)" on line 5 of page 23 and renumbering the remaining subsections.

The question being on the adoption of the amendments,
 Senator Jaye requested the yeas and nays.
 The yeas and nays were not ordered, 1/5 of the members present not voting therefor.
 The amendments to the substitute were not adopted.

Senator V. Smith moved that Senator Murphy be temporarily excused from the balance of today's session.
 The motion prevailed.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 21, line 10, by striking out all of subsection (12) and renumbering the remaining subsections.
 The amendment to the substitute was not adopted.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 23, following line 21, by inserting:

“SEC. 13E. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, 50% OF ANY INCREASE IN A DISTRIBUTION TO A CITY, VILLAGE, OR TOWNSHIP UNDER THIS ACT FOR A STATE FISCAL YEAR ABOVE THE AMOUNT OF THE DISTRIBUTION TO THAT CITY, VILLAGE, OR TOWNSHIP FOR THE IMMEDIATELY PRECEDING STATE FISCAL YEAR SHALL BE USED BY THE CITY, VILLAGE, OR TOWNSHIP FOR THE CONSTRUCTION OR IMPROVEMENT OF ROADS IN THE CITY, VILLAGE, OR TOWNSHIP.”

The amendment to the substitute was not adopted.

Senator Bullard offered the following amendment to the substitute:

1. Amend page 21, line 27, after the second “A” by striking out “15%” and inserting “10%”.
 The amendment to the substitute was adopted.

Senators McManus and Gast offered the following amendment to the substitute:

1. Amend page 22, line 15, after “FOR” by striking out “FULL-TIME”.
 The amendment to the substitute was adopted.

Senator Murphy entered the Senate Chamber.

Senator A. Smith offered the following amendments to the substitute:

1. Amend page 22, line 17, after “MORE” by inserting “ON DECEMBER 31, 1998”.
2. Amend page 22, line 18, after “MORE” by inserting “ON DECEMBER 31, 1998”.
3. Amend page 22, line 20, after “TOWNSHIP” by inserting “FOR DETERMINING DISTRIBUTIONS UNDER THIS SECTION”.

The amendments to the substitute were not adopted.

Senator A. Smith requested the yeas and nays.

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

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

Roll Call No. 867

Yeas—16

Berryman	DeBeaussaert	Murphy	Smith, A.
Byrum	Dingell	O'Brien	Smith, V.
Cherry	Hart	Peters	Vaughn
Conroy	Miller	Schwarz	Young

Nays—22

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

Excused—0

Not Voting—0

In The Chair: Schwarz

The President, Lieutenant Governor Binsfeld, resumed the Chair.

Senator Stille offered the following amendment to the substitute:

1. Amend page 3, line 14, after "BASIS." by inserting "IF THE AMOUNT APPROPRIATED UNDER THIS SECTION TO COUNTIES IS LESS THAN 25.06% OF 21.3% OF THE SALES TAX RATE OF 4%, ANY REDUCTION MADE NECESSARY BY THIS APPROPRIATION IN DISTRIBUTIONS TO COUNTIES SHALL FIRST BE APPLIED TO THE DISTRIBUTION UNDER THIS SUBDIVISION.".

The amendment to the substitute was adopted.

Senators Peters and Young offered the following amendment to the substitute:

1. Amend page 23, following line 18, by inserting:

"(19) FOR STATE FISCAL YEARS AFTER THE 1997-1998 STATE FISCAL YEAR AND NOT WITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE TOTAL COMBINED AMOUNT RECEIVED BY EACH CITY, VILLAGE, AND TOWNSHIP IN EACH STATE FISCAL YEAR UNDER THIS SECTION AND SECTION 10 OF ARTICLE IX OF THE STATE CONSTITUTION OF 1963 SHALL NOT BE LESS THAN THE TOTAL COMBINED AMOUNT RECEIVED BY THAT CITY, VILLAGE, OR TOWNSHIP IN THE IMMEDIATELY PRECEDING STATE FISCAL YEAR.".

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 to the substitute was not adopted, a majority of the members not voting therefor, as follows:

Roll Call No. 868

Yeas—16

Berryman	Dingell	Murphy	Smith, V.
Byrum	Hart	O'Brien	Van Regenmorter
Cherry	Koivisto	Peters	Vaughn
Conroy	Miller	Smith, A.	Young

Nays—22

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

Excused—0

Not Voting—0

In The Chair: President

Senator V. Smith offered the following amendment to the substitute:

1. Amend page 10, line 9, after "PAID" by striking out "\$333,200,000.00" and inserting "\$333,900,000.00".

The amendment to the substitute was adopted.

Senator Jaye requested the yeas and nays.

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

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

Roll Call No. 869**Yeas—22**

Berryman	DeBeausaert	Miller	Schwarz
Bouchard	DeGrow	Murphy	Smith, A.
Byrum	Dingell	O'Brien	Smith, V.
Cherry	Geake	Peters	Vaughn
Cisky	Hart	Posthumus	Young
Conroy	Koivisto		

Nays—16

Bennett	Gast	McManus	Shugars
Bullard	Gougeon	North	Stille
Dunaskiss	Hoffman	Rogers	Stille
Emmons	Jaye	Schuette	Van Regenmorter

Excused—0**Not Voting—0**

In The Chair: President

Senator Jaye moved to reconsider the vote by which the amendment offered by Senator V. Smith was adopted. The motion did not prevail.

Senator V. Smith offered the following amendment to the substitute:

1. Amend page 23, line 1, after "FROM" by striking out "\$333,200,000.00" and inserting "\$333,900,000.00".

The question being on the adoption of the amendment,

Senator Jaye requested the yeas and nays.

The yeas and nays were not ordered, 1/5 of the members present not voting therefor.

The amendment to the substitute was adopted.

Senator Rogers offered the following amendments to the substitute:

1. Amend page 22, line 15, after "POLICE" by inserting "OR".

2. Amend page 22, line 16, after "WATCH" by striking out the comma.

3. Amend page 22, line 16, after "RESIDENTS" by striking out the balance of the line through "MORE" on line 17.

The amendments to the substitute were not adopted.

The substitute, as amended, was adopted, a majority of the members serving voting therefor.

Senator Hoffman moved to reconsider the vote by which the substitute was adopted.

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

The question being on the adoption of the substitute,

Senator Hoffman offered the following amendments to the substitute:

1. Amend page 10, line 6, after "THROUGH" by striking out "2005-2006" and inserting "2002-2003".

2. Amend page 10, line 7, after the first "AND" by striking out the balance of the line.

The question being on the adoption of the amendments,

Senator Hoffman requested the yeas and nays.

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

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

Roll Call No. 870**Yeas—13**

Bullard	Gougeon	North	Shugars
Dunaskiss	Hoffman	Rogers	Stille
Emmons	Jaye	Schuette	Van Regenmorter
Gast			

Nays—25

Bennett	DeBeaussaert	McManus	Schwarz
Berryman	DeGrow	Miller	Smith, A.
Bouchard	Dingell	Murphy	Smith, V.
Byrum	Geake	O'Brien	Steil
Cherry	Hart	Peters	Vaughn
Cisky	Koivisto	Posthumus	Young
Conroy			

Excused—0**Not Voting—0**

In The Chair: President

Senator Bullard offered the following amendment to the substitute:

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

“Sec. 7. (1) A city, village, or township may contract with the secretary of state or the United States bureau of the census to have conducted a special census of its population. The entire cost of the census shall be borne by the city, village, or township. The special census shall provide for separate identification by institution of wards, patients, or convicts in tax supported institutions in accordance with definitions used by the united states bureau of the census in the enumeration of the preceding statewide federal census. The results of the special census shall be certified to the department of management and budget by the secretary of state.

(2) The results of the special census as certified in subsection (1) shall be utilized for the purpose of making distributions under section 14a starting on the July 1 next following the date of certification of the results. Only 1 special census may be utilized between 2 statewide federal censuses. The enumeration date of a special census utilized under this act shall not be less than 3 years from the enumeration date of a regular statewide federal decennial census.

(3) A city, village, or township that on the enumeration date of a special census is determined to have an increase of population of ~~15%~~ 10% or more over its population as determined by the last preceding statewide federal census shall receive its share of revenues distributed under section 14a based on its population increases which exceeds the estimated state growth rate. Estimated state growth rate means the estimate determined by the department of management and budget as of the enumeration date of a special census.”.

The amendment to the substitute was adopted.

The substitute, as amended, was adopted, a majority of the members serving 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. 871**Yeas—32**

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

Nays—6

Berryman	Jaye	Smith, A.	Van Regenmorter
Hoffman	Peters		

Excused—0

Not Voting—0

In The Chair: President

Senator DeGrow moved that the bill be given immediate effect.

The motion prevailed, 2/3 of the members serving voting therefor.

Senator Steil offered to amend the title to read as follows:

A bill to amend 1971 PA 140, entitled "An act to provide for the distribution of certain state revenues to cities, villages, townships, and counties; to impose certain duties and confer certain powers on this state, political subdivisions of this state, and the officers of both; to create reserve funds; and to establish a revenue sharing task force and provide for its powers and duties," by amending sections 1, 7, 11, 12a, and 13 (MCL 141.901, 141.907, 141.911, 141.912a, and 141.913), section 11 as amended by 1996 PA 468, section 12a as added and section 13 as amended by 1996 PA 342, and by adding section 13d; and to repeal acts and parts of acts.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

Protests

Senators Jaye, Berryman and Hoffman, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of House Bill No. 5989 and moved that the statements they made during the discussion of the substitute and the bill be printed as their reasons for voting "no."

The motion prevailed.

Senator Jaye's statement is as follows:

There is one other element of this revenue sharing debate that has not had discussion today, and that is the promises that were made are promises that were broken regarding the \$30 million in revenue sharing that was supposed to be in a lock-box. Since both the House and the Senate couldn't come to a revenue sharing agreement last year, we decided to put \$30 million for the people—for the folks back home—in the lock-box. We won't touch it. We'll have an agreement. We'll make a promise—promises made, promises kept—that that money will come back to our local communities once we come to an agreement on a future revenue sharing formula.

We learned today that that lock-box was a paper bag. It was a broken promise. It was fraud. So for all of you who told your townships and cities and villages, "Don't worry. Trust us. You can count on us. That extra \$30 million, that's your money for local units of government, for seniors, for roads, for police and fire—we'll bring it back to you." It's gone. The Legislature spent it—without any briefing, without any explanation, and certainly, without any justification. Thirty million dollars of broken promises are now codified by this formula. No wonder elected officials are held in such low esteem. I can understand a little fudge here or there, and an extra \$700,000 increase for Detroit, which is still kind of called a freeze, but \$30 million! A lock-box, a solemn oath and promise? Those certainly are new definitions in the dictionary that Webster wrote years ago and is still in use in Macomb County. It certainly wouldn't pop up on a spell check in our computers.

Thirty million dollars is a broken promise that is part of this deal, and I'm certainly, certainly disappointed that we didn't have an opportunity to have a straight up or down vote on \$30 million. We may disagree and say the money is needed for \$15 million in underground parking for the judges or whatever else. But at least we should have an up or down vote on funds of the scope of \$30 million, as opposed to just having it flittered away because leadership came to a different conclusion than the Legislature—both bodies—and the Governor did, and promise to the folks back home a year ago.

So I recommend for many other reasons, including this \$30 million, that we vote "no" on this bill.

Senator Berryman's first statement is as follows:

I would like to see what this bill looks like when it comes back from conference. Because of the sunset of revenue, this vote effectively eliminating revenue sharing after the year 2006, I voted against it.

Senator Berryman's second statement is as follows:

I was in support of this bill until many of the changes that were made. One of the major difficulties I have is that there is a sunset to this. In the year 2006, revenue sharing statutorily does not exist. I am not going to put a vote to a bill, even though I am leaving this Legislature, that in essence eliminates, other than the constitutional portion, revenue sharing.

That is an awful great promise to have to be able to go home and tell my constituents, "Well, trust us, we will deal with this." You can look back at a lot of the things we have done, and one was Proposal A. We eliminated property tax and then said "trust us." Then we put it together finally on a Christmas Eve. We are still trying to make corrections and recoveries from that.

Again, it is my understanding, I do not even know if the House of Representatives is going to accept these changes, or accept one that has a sunset on this legislation. I would ask my colleagues to look, obviously, how it treats your local districts, but also do you want to put your name in the affirmative to a bill that eliminates revenue sharing which is so important to each and every one of our communities? Whether you are a township, city, or village, it is eliminated. I do not think the term "trust me" will go very far back home, because it does not.

I would hope when this bill, if it does pass, when it goes to the House of Representatives and probably ends up in conference, that this issue is dealt with and that some form of statutory revenue sharing will continue on after the year 2006.

Senator Hoffman's statement is as follows:

Madam President and members, on final passage I just want to express a couple thoughts I had on this bill. It certainly is a strong improvement over what the House of Representatives sent to us, and for that I'm thankful. To Senator Glenn Steil, I appreciate his leadership on the issue.

I am, however, disappointed that our chief executive was so adamant about an eight-year, six-month freeze for the city of Detroit. I just think it's way too long to indebt a future administration and future Legislatures. The proposal had come so far and looked so good and so appealing that it sure seems awful sad to maybe see this thing get derailed because we have to live with it for eight years and six months. But I guess the Governor and probably many of you here feel that it's preferable to doing nothing. I just have some concerns about that and just wanted to raise them.

I am also appreciative and thankful to the members who at least gave me an opportunity to put my amendment forward. They gave me the opportunity to reconsider the vote, and I am appreciative of that.

As far as the final passage goes, I'm still going to have to think about how I'm going to vote on it.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator DeGrow moved that the Committee on Finance be discharged from further consideration of the following bill:

House Bill No. 6045, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 7d (MCL 211.7d), as amended by 1987 PA 200.

The motion prevailed, a majority of the members serving voting therefor, and the bill was placed on the order of General Orders.

Senator DeGrow moved that the Committee on Local, Urban and State Affairs be discharged from further consideration of the following bill:

House Bill No. 6033, entitled

A bill to authorize the state administrative board to convey certain parcels of state owned property in Oakland county; to provide for certain powers and duties of the department of management and budget and certain municipalities in regard to that property; to prescribe conditions for the conveyances; and to provide for disposition of the revenue derived from the conveyances.

The motion prevailed, a majority of the members serving voting therefor, and the bill was placed on the order of General Orders.

Senator DeGrow moved that the Committee on Judiciary be discharged from further consideration of the following bill:

House Bill No. 5987, entitled

A bill to amend 1974 PA 163, entitled "L.E.I.N. policy council act of 1974," by amending section 4 (MCL 28.214), as amended by 1998 PA 82.

The motion prevailed, a majority of the members serving voting therefor, and the bill was placed on the order of General Orders.

Senator DeGrow moved that the Committee on Families, Mental Health and Human Services be discharged from further consideration of the following bill:

House Bill No. 6034, entitled

A bill to amend 1975 PA 238, entitled "Child protection law," by amending section 7 (MCL 722.627), as amended by 1997 PA 168.

The motion prevailed, a majority of the members serving voting therefor, and the bill was placed on the order of General Orders.

Senator DeGrow moved that the Committee on Finance be discharged from further consideration of the following bill:

House Bill No. 5546, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 30 (MCL 206.30), as amended by 1997 PA 86; and to repeal acts and parts of acts.

The motion prevailed, a majority of the members serving voting therefor, and the bill was placed on the order of General Orders.

Senator DeGrow moved that the rules be suspended and that the following bills, now on the order of General Orders, be placed on their immediate passage:

House Bill No. 6045

House Bill No. 6033

House Bill No. 5987

House Bill No. 6034

House Bill No. 5546

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

Senator DeGrow moved that the conference committee be discharged from further consideration of the following bill:

Senate Bill No. 479, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 266.

The motion prevailed, a majority of the members serving voting therefor, and the bill was placed on the order of Messages from the House.

By unanimous consent the Senate returned to the order of

Messages from the House

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

Senate Bill No. 386

House Bill No. 4259

House Bill No. 5261

House Bill No. 5317

The motion prevailed.

Senator DeGrow moved that consideration of the following bill be postponed temporarily:

Senate Bill No. 240

The motion prevailed.

By unanimous consent the Senate proceeded to the order of

Conference Reports

House Bill No. 4738, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 248 (MCL 257.248), as amended by 1993 PA 300, and by adding sections 1d, 1e, and 4c.

The House of Representatives has adopted the report of the Committee of Conference.

The Conference Report was read as follows:

FIRST CONFERENCE REPORT

The Committee of Conference on the matters of difference between the two Houses concerning

House Bill No. 4738, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 248 (MCL 257.248), as amended by 1993 PA 300, and by adding sections 1d, 1e, and 4c.

Recommends:

First: That the House and Senate agree to the Substitute of the Senate as passed by the Senate amended to read as follows:

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 251 (MCL 257.251), as amended by 1998 PA 384.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 251. (1) Each new vehicle dealer, ~~and~~ used vehicle dealer, AND BROKER shall maintain a record in a ~~form as~~ MANNER prescribed by the secretary of state of each vehicle of a type subject to titling under this act that is bought, sold, or exchanged by the dealer or received or accepted by the dealer for sale or exchange.

(2) Each record shall contain the date of the purchase, sale, or exchange or receipt for the purpose of sale, a description of the vehicle, together with the name and address of the seller, the purchaser, and the alleged owner or other persons from whom the vehicle was purchased or received, or to whom it was sold or delivered. The record shall contain a copy of all odometer mileage statements received by the dealer upon purchasing or acquiring a vehicle and a copy of the odometer mileage statement furnished by the dealer upon sale of a vehicle as prescribed in section 233a. IF THE VEHICLE IS PURCHASED, SOLD, LEASED, OR EXCHANGED THROUGH A BROKER, THE RECORD SHALL INCLUDE THE BROKER'S NAME AND DEALER LICENSE NUMBER AND THE AMOUNT OF THE BROKER'S FEE, COMMISSION, COMPENSATION, OR OTHER VALUABLE CONSIDERATION PAID BY THE PURCHASER OR LESSEE OR PAID BY THE DEALER, OR BOTH. THE RECORDS OF ALL VEHICLES PURCHASED, SOLD, LEASED, OR EXCHANGED THROUGH A BROKER MAINTAINED BY THE SECRETARY OF STATE SHALL BE IN AN ELECTRONIC FORMAT DETERMINED BY THE SECRETARY OF STATE. A dealer shall retain for not less than 5 years each odometer mileage statement the dealer receives and each odometer mileage statement furnished by the dealer upon the sale of a vehicle. The description of the vehicle, in the case of a motor vehicle, shall also include the vehicle identification number and other numbers or identification marks as may be on the vehicle, and shall also include a statement that a number has been obliterated, defaced, or changed, if that is the fact. For a trailer or semitrailer, the record shall include the vehicle identification number and other numbers or identification marks as may be on the trailer or semitrailer.

(3) Not more than 20 days after the delivery of the vehicle, the seller shall deliver to the buyer in person or by mail to the buyer's last known address a duplicate of a written statement, on a form prescribed by the secretary of state in conjunction with the department of treasury, describing clearly the name and address of the seller, the name and address of the buyer, the vehicle sold to the buyer, the cash sale price of the vehicle, the cash paid down by the buyer, the amount credited the buyer for a trade-in, a description of the trade-in, the amount charged for vehicle insurance, stating the types of insurance covered by the insurance policy, the amount charged for a temporary registration plate, the amount of any other charge and specifying its purpose, the net balance due from the buyer, and a summary of insurance coverage to be affected. If the vehicle sold is a new motor home, the written statement shall contain a description, including the year of manufacture, of every major component part of the vehicle that has its own manufacturer's certificate of origin. The written statement shall disclose if the vehicle sold is a vehicle that the seller had loaned to a political subdivision of this state for use as a driver education vehicle. The written statement shall be dated, but not later than the actual date of delivery of the vehicle to the buyer. The original and all copies of the prescribed form shall contain identical information. The statement shall be furnished by the seller, shall be signed by the seller or the seller's agent and by the buyer, and shall be filed with the application for new title or registration. Failure of the seller to deliver this written statement to the buyer does not invalidate the sale between the seller and the buyer.

(4) A retail vehicle sale is void unless both of the following conditions are met:

(a) The sale is evidenced by a written memorandum that contains the agreement of the parties and is signed by the buyer and the seller or the seller's agent.

(b) The agreement contains a place for acknowledgment by the buyer of the receipt of a copy of the agreement or actual delivery of the vehicle is made to the buyer.

(5) Each dealer record and inventory, including the record and inventory of a vehicle scrap metal processor not required to obtain a dealer license, shall be open to inspection by a police officer or an authorized officer or investigator of the secretary of state during reasonable or established business hours.

(6) A dealer licensed as a distressed vehicle transporter shall maintain records in a form as prescribed by the secretary of state. The records shall identify each distressed vehicle that is bought, acquired, and sold by the dealer. The record shall identify the person from whom a distressed vehicle was bought or acquired and the dealer to whom the vehicle was sold. The record shall indicate whether a certificate of title or salvage certificate of title was obtained by the dealer for each vehicle.

(7) A dealer licensed under this act shall maintain records for a period of 5 years. The records shall be made available for inspection by the secretary of state or other law enforcement officials. The secretary of state shall inspect a dealer once every 4 years and as determined necessary by the secretary of state or a law enforcement officer. The secretary of state may issue an order summarily suspending the license of a dealer pursuant to section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, based on an affidavit by a person familiar with the facts set forth in the affidavit that the dealer has failed to maintain the records required by this act or failed to provide the records for inspection as requested by the secretary of state, or has otherwise hindered, obstructed, or prevented the inspection of records authorized under this section. The dealer to whom the order is directed shall comply immediately, but on application to the department shall be afforded a hearing within 30 days pursuant to the administrative

procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. On the basis of the hearing, the summary order shall be continued, modified, or held in abeyance not later than 30 days after the hearing.

(8) A dealer licensed as a vehicle salvage pool operator or broker shall maintain records in a form as prescribed by the secretary of state. The records shall contain a description of each vehicle or salvageable part stored by the dealer, the name and address of the insurance company or person storing the vehicle or salvageable part, the period of time the vehicle or salvageable part was stored, and the person acquiring the vehicle or salvageable part. In the case of a late model vehicle, a record of the purchase or sale of a major component part of the vehicle shall be maintained identifying the part purchased or sold, the name and address of the seller or purchaser, the date of the purchase or sale, and the identification number assigned to the part by the dealer. The record of the purchase or sale of a part shall be maintained in or attached to the dealer's police book or hard copy of computerized data entries and reference codes and shall be accessible at the dealer's location. In addition, a dealer licensed as a broker shall maintain a record of the odometer mileage reading of each vehicle sold pursuant to an agreement between the broker and the buyer or the broker and the seller. The record of odometer mileage shall be maintained for 5 years and shall contain all of the information required by section 233a.

(9) A dealer licensed as a used vehicle parts dealer or an automotive recycler shall maintain records in a form prescribed by the secretary of state. The records shall contain the date of purchase or acquisition of the vehicle, a description of the vehicle including the color, and the name and address of the person from whom the vehicle was acquired. If the vehicle is sold, the record shall contain the date of sale and the name and address of the purchaser. The record shall indicate if the certificate of title or salvage or scrap certificate of title was obtained by the dealer. In the case of a late model vehicle, a record of the purchase or sale of a major component of the vehicle shall be maintained identifying the part purchased or sold, the name and address of the seller or purchaser, the date of the purchase or sale, and the identification number assigned to the part by the dealer, except that a bumper remanufacturer is not required to maintain a record of the purchase of a bumper. However, a bumper remanufacturer shall assign and attach an identification number to a remanufactured bumper and maintain a record of the sale of the bumper. The record of the purchase or sale of a part shall be maintained in or attached to the dealer's police book or hard copy of computerized data entries and reference codes and shall be accessible at the dealer's location.

(10) A dealer licensed as a vehicle scrap metal processor shall maintain records as prescribed by the secretary of state. As provided in section 217c, the records shall contain for a vehicle purchased from a dealer a copy of the scrap vehicle inventory, including the name and address of the dealer, a description of the vehicle acquired, and the date of acquisition. If a vehicle is purchased or acquired from a person other than a dealer, the record shall contain the date of acquisition, a description of the vehicle, including the color, the name and address of the person from whom the vehicle was acquired, and whether a certificate of title or salvage or scrap certificate of title was obtained by the dealer.

(11) A dealer licensed as a foreign salvage vehicle dealer shall maintain records in a form prescribed by the secretary of state. The records shall contain the date of purchase or acquisition of each distressed vehicle, a description of the vehicle including the color, and the name and address of the person from whom the vehicle was acquired. If the vehicle is sold, the record shall contain the date of sale and the name and address of the purchaser. The record shall indicate if the certificate of title or salvage or scrap certificate of title was obtained by the dealer. In the case of a late model vehicle, a record of the purchase or sale of each salvageable part purchased or acquired in this state shall be maintained and the record shall contain the date of purchase or acquisition of the part, a description of the part, the identification number assigned to the part, and the name and address of the person to or from whom the part was purchased, acquired, or sold. The record of the sale, purchase, or acquisition of a part shall be maintained in the dealer's police book. The police book shall only contain vehicles and salvageable parts purchased in this state or used in the repair of a vehicle purchased in this state. The police book and the records of vehicle part sales, purchases, or acquisitions shall be made available at a location within the state for inspection by the secretary of state within 48 hours after a request by the secretary of state.

(12) The secretary of state shall make periodic unannounced inspections of the records, facilities, and inventories of automotive recyclers and used or secondhand vehicle parts dealers.

(13) The secretary of state may promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Second: That the House and Senate agree to the title of the bill to read as follows:

A bill to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide

for the creation of and to prescribe the powers and duties of certain state and local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 251 (MCL 257.251), as amended by 1998 PA 384.

Tom Alley
Michael J. Griffin
Kim A. Rhead
Conferees for the House

Bill Schuette
Jon A. Cisky
Conferees for the Senate

Pursuant to joint rule 9, the conference report was laid over one day.

House Bill No. 4740, entitled

A bill to amend 1981 PA 118, entitled "An act to regulate motor vehicle manufacturers, distributors, wholesalers, dealers, and their representatives; to regulate dealings between manufacturers and distributors or wholesalers and their dealers; to regulate dealings between manufacturers, distributors, wholesalers, dealers, and consumers; to prohibit unfair practices; to provide remedies and penalties; and to repeal certain acts and parts of acts," by amending sections 13 and 14 (MCL 445.1573 and 445.1574).

The House of Representatives has adopted the report of the Committee of Conference.

The Conference Report was read as follows:

FIRST CONFERENCE REPORT

The Committee of Conference on the matters of difference between the two Houses concerning

House Bill No. 4740, entitled

A bill to amend 1981 PA 118, entitled "An act to regulate motor vehicle manufacturers, distributors, wholesalers, dealers, and their representatives; to regulate dealings between manufacturers and distributors or wholesalers and their dealers; to regulate dealings between manufacturers, distributors, wholesalers, dealers, and consumers; to prohibit unfair practices; to provide remedies and penalties; and to repeal certain acts and parts of acts," by amending sections 13 and 14 (MCL 445.1573 and 445.1574).

Recommends:

First: That the House and Senate agree to the Substitute of the Senate as passed by the Senate and to the following amendments:

1. Amend page 6, line 16, after "or" by striking out the balance of the line through "AGREEMENT," on line 17.

2. Amend page 6, line 19, after "be" by striking out the balance of the subdivision and inserting "referred to a person other than the duly constituted courts of ~~the~~ THIS state or OF the United States LOCATED IN THIS STATE, if the referral would be binding upon the new motor vehicle dealer UNLESS THE PARTIES AGREE AT THE TIME OF A CONTROVERSY TO REFER A CONTROVERSY TO A COURT OF THE UNITED STATES LOCATED OUTSIDE THIS STATE OR AGREE AT THE TIME OF THE ARBITRATION TO CONDUCT ARBITRATION EITHER WITHIN OR OUTSIDE THIS STATE. SUCH A PROVISION IN A DEALER AGREEMENT IS VOID AND UNENFORCEABLE."

3. Amend page 6, line 26, after "manufacturer" by inserting a comma and "IMPORTER,".

Second: That the House and Senate agree to the title of the bill to read as follows:

A bill to amend 1981 PA 118, entitled "An act to regulate motor vehicle manufacturers, distributors, wholesalers, dealers, and their representatives; to regulate dealings between manufacturers and distributors or wholesalers and their dealers; to regulate dealings between manufacturers, distributors, wholesalers, dealers, and consumers; to prohibit unfair practices; to provide remedies and penalties; and to repeal certain acts and parts of acts," by amending sections 2, 3, 5, 13, and 14 (MCL 445.1562, 445.1563, 445.1565, 445.1573, and 445.1574), section 2 as amended by 1983 PA 188, and by adding section 22a.

Tom Alley
Michael J. Griffin
Kim A. Rhead
Conferees for the House

Bill Schuette
Jon A. Cisky
Conferees for the Senate

Pursuant to joint rule 9, the conference report was laid over one day.

By unanimous consent the Senate returned to the order of
Messages from the House

Senate Bill No. 866, entitled

A bill to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act," by amending section 2950a (MCL 600.2950a), as amended by 1997 PA 115.

The House of Representatives has amended the Senate amendment to the House amendments as follows:

1. Amend the Senate amendment to the House amendments, page 10, following line 4, enacting section 1, by striking out "January" and inserting "March".

The House of Representatives has concurred in the Senate amendment to the House amendments as amended.

Pursuant to rule 3.202, the bill was laid over one day.

Senate Bill No. 874, entitled

A bill to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act," by amending section 2950 (MCL 600.2950), as amended by 1997 PA 115.

The House of Representatives has amended the Senate amendment to the House amendments as follows:

1. Amend the Senate amendment to the House amendments, page 11, following line 20, enacting section 1, by striking out "January" and inserting "March".

The House of Representatives has concurred in the Senate amendment to the House amendments as amended.

Pursuant to rule 3.202, the bill was laid over one day.

House Bill No. 5564, entitled

A bill to amend 1939 PA 288, entitled "An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties," by amending section 21 of chapter X and sections 2, 2a, 2c, 14, 15, 17, 17c, 18, and 26 of chapter XIIA (MCL 710.21, 712A.2, 712A.2a, 712A.2c, 712A.14, 712A.15, 712A.17, 712A.17c, 712A.18, and 712A.26), sections 2, 2a, and 2c of chapter XIIA as amended by 1996 PA 409, section 14 of chapter XIIA as amended by 1988 PA 224, section 15 of chapter XIIA as amended by 1987 PA 72, section 17 of chapter XIIA as amended by 1998 PA 325, section 17c of chapter XIIA as amended by 1997 PA 169, and section 18 of chapter XIIA as amended by 1997 PA 163.

The House of Representatives has amended the Senate substitute (S-3) as follows:

1. Amend page 34, line 19, after "effect" by striking out "January" and inserting "March".

The House of Representatives has concurred in the Senate substitute (S-3) as amended and agreed to the title.

Pursuant to rule 3.202, the bill was laid over one day.

House Bill No. 5567, entitled

A bill to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the

examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 15b and 15c of chapter IV (MCL 764.15b and 764.15c), as amended by 1996 PA 15.

The House of Representatives has amended the Senate substitute (S-1) as follows:

1. Amend page 9, line 21, by striking out "January" and inserting "March".

The House of Representatives has concurred in the Senate substitute (S-1) as amended and agreed to the full title. Pursuant to rule 3.202, the bill was laid over one day.

House Bill No. 5717, entitled

A bill to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding sections 82126a, 82126b, and 82126c.

The House of Representatives has amended the Senate amendments as follows:

1. Amend Senate Amendment No. 2, page 2, line 14, after "CARELESS" by striking out the comma and "RECKLESS;".

2. Amend Senate Amendment No. 3, page 2, line 20, after "(2)" by inserting "A PERSON WHO, BY THE OPERATION OF A SNOWMOBILE IN A CARELESS AND HEEDLESS MANNER IN WILLFUL AND WANTON DISREGARD OF THE RIGHTS OR SAFETY OF OTHERS, OR WITHOUT DUE CAUTION AND CIRCUMSPECTION AND AT A SPEED OR IN A MANNER SO AS TO ENDANGER OR BE LIKELY TO ENDANGER ANY PERSON OR PROPERTY, CAUSES THE SERIOUS IMPAIRMENT OF BODILY FUNCTION, BUT DOES NOT CAUSE THE DEATH OF ANOTHER, IS GUILTY OF THE OFFENSE OF FELONIOUS OPERATION, AND SHALL BE IMPRISONED FOR NOT MORE THAN 2 YEARS OR FINED NOT MORE THAN \$2,000.00, OR BOTH.

(3)" and renumbering the remaining subsection.

The House of Representatives has concurred in the Senate amendments as amended and agreed to the full title. Pursuant to rule 3.202, the bill was laid over one day.

By unanimous consent the Senate returned to the order of

Third Reading of Bills

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

Senate Joint Resolution A

The motion prevailed.

The following bill was read a third time:

House Bill No. 4789, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 16263 (MCL 333.16263), as amended by 1995 PA 126, and by adding section 16336 and part 179.

The question being on the passage of the bill,

Senator Shugars offered the following amendment:

1. Amend page 4, line 17, after "INJURIES" by striking out the balance of the line through "TRAINER" on line 19 and inserting "WHILE THE INDIVIDUAL".

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

Senator Shugars offered the following amendment:

1. Amend page 3, following line 19, by inserting:

“(Q) “RESPIRATORY THERAPIST”, “REGISTERED RESPIRATORY THERAPIST”, “R.T.”, AND R.R.T.”.

(R) “THERAPEUTIC RECREATOR”, “T.R.”, “REGISTERED THERAPEUTIC RECREATION SPECIALIST”, “R.T.R.S.”, “RECREATION THERAPIST”, “R.T.”, “RECREATIONAL THERAPIST”, “CERTIFIED RECREATION THERAPIST”, “C.R.T.”, “THERAPEUTIC RECREATION SPECIALIST”, AND “T.R.S.” and relettering the remaining subdivision.

The amendment was adopted, a majority of the members serving 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. 872

Yeas—34

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

Nays—1

Jaye

Excused—0

Not Voting—3

Bouchard	Bullard	Smith, V.
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In The Chair: President

Senator DeGrow moved that the bill be given immediate effect.

The motion prevailed, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

“An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates.”.

The Senate agreed to the full title.

Senator Cherry moved that Senator V. Smith be temporarily excused from the balance of today's session. The motion prevailed.

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

The following bill was read a third time:

House Bill No. 5986, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16131 and 16263 (MCL 333.16131 and 333.16263), as amended by 1995 PA 126, and by adding section 16338 and part 179.

The question being on the passage of the bill,

Senator Shugars offered the following amendment:

1. Amend page 4, following line 20, by inserting:

"(S) "ATHLETIC TRAINER", "REGISTERED ATHLETIC TRAINER", "CERTIFIED ATHLETIC TRAINER", "ATHLETIC TRAINER CERTIFIED", "A.T.", "A.T.R.", "C.A.T.", AND "A.T.C."."

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

Senator Emmons offered the following amendments:

1. Amend page 8, line 1, by striking out all of subdivision (C) and inserting:

"(C) "RECREATION THERAPIST" MEANS AN INDIVIDUAL WHO, UNDER THE SUPERVISION AND DIRECTION OF A LICENSED ALLOPATHIC OR OSTEOPATHIC PHYSICIAN, IS RESPONSIBLE FOR PROVIDING RECREATION SERVICES TO AN INDIVIDUAL WITH A DISABLING CONDITION AS DIAGNOSED BY A LICENSED ALLOPATHIC OR OSTEOPATHIC PHYSICIAN, AND WHO IS REGISTERED UNDER THIS ARTICLE AS A RECREATION THERAPIST."

2. Amend page 8, line 12, by striking out all of subdivision (E).

3. Amend page 9, line 17, after "REGISTRATION" by inserting "AS A RECREATION THERAPIST".

4. Amend page 11, line 13, after "REGISTRATION" by inserting "AS A RECREATION THERAPIST".

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

Senator V. Smith entered the Senate Chamber.

Senator Emmons offered the following amendments:

1. Amend page 7, line 24, by striking out all of subdivision (B) and relettering the remaining subdivisions.

2. Amend page 8, line 9, by striking out all of subdivision (D) and relettering the remaining subdivision.

The amendments were adopted, a majority of the members serving 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. 873

Yeas—35

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

Nays—1

Jaye

Excused—1

Bouchard

Not Voting—1

O'Brien

In The Chair: President

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

“An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates.”

The Senate agreed to the full title.

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

By unanimous consent the Senate returned to the order of

Messages from the House

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

Senate Bill No. 479, entitled

A bill to amend 1967 PA 281, entitled “Income tax act of 1967,” (MCL 206.1 to 206.532) by adding section 266.

Senator DeGrow moved that rule 3.311 be suspended to permit reconsideration of the vote by which the House substitute was not concurred in.

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

Senator DeGrow moved to reconsider the vote by which the House substitute was not concurred in.

The motion prevailed.

The question being on concurring in the substitute made to the bill by the House,

The substitute was concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 874**Yeas—32**

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

Nays—4

Emmons	Geake	Jaye	Posthumus
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Excused—1

Bouchard

Not Voting—1

Van Regenmorter

In The Chair: Hoffman

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor. The Senate agreed to the title as amended. The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

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 Assistant President pro tempore, Senator Hoffman, designated Senator Dingell as Chairperson.

After some time spent therein, the Committee arose; and, the Assistant President pro tempore, Senator Hoffman, having resumed the Chair, the Committee reported back to the Senate, favorably and with amendment, the following bill:

House Bill No. 5129, entitled

A bill to designate an official flag month of this state and to provide guidelines for display and handling.

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

1. Amend page 1, following line 2, subsection (2)(e), after “vertically” by striking out “against a wall”.

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.

By unanimous consent the Senate returned to the order of

Introduction and Referral of Bills**House Bill No. 5137, entitled**

A bill to amend 1974 PA 163, entitled “L.E.I.N. policy council act of 1974,” by amending section 4 (MCL 28.214), as amended by 1998 PA 82.

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.

Senator DeGrow moved that the rules be suspended and that the bill be place on the order of Third Reading of Bills.

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

House Bill No. 6208, entitled

A bill to amend 1957 PA 261, entitled “Michigan legislative retirement system act,” by amending sections 11, 17b, 21, 21a, 22, 22c, 23d, 26, 50a, 75, and 79 (MCL 38.1011, 38.1017b, 38.1021, 38.1021a, 38.1022, 38.1022c, 38.1023d, 38.1026, 38.1050a, 38.1075, and 38.1079), sections 21, 22, 23d, and 26 as amended by 1994 PA 359, section 11 as amended by 1988 PA 512, section 17b as amended and section 21a as added by 1987 PA 58, section 22c as amended and sections 75 and 79 as added by 1996 PA 486, and section 50a as amended by 1998 PA 80, and by adding sections 36a and 58a.

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.

Senator DeGrow moved that the rules be suspended and that the bill be place on the order of Third Reading of Bills.

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

House Bill No. 6251, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 6 (MCL 205.56), as amended by 1998 PA 265.

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.

Senator DeGrow moved that the rules be suspended and that the bill be place on the order of Third Reading of Bills.

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

House Bill No. 6271, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 205, 501, 513, 522, 531, 533, 811, 903, and 1113 (MCL 436.1205, 436.1501, 436.1513, 436.1522, 436.1531, 436.1533, 436.1811, 436.1903, and 436.2113), section 522 as added and section 531 as amended by 1998 PA 282.

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.

Senator DeGrow moved that the rules be suspended and that the bill be place on the order of Third Reading of Bills.

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

Statements

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

The motion prevailed.

Senator Gougeon's statement is as follows:

I am delighted to rise today to congratulate a Class C football team in the area that I represent, the Unionville-Sebewaing Area Patriots, for their fine season and state championship victory recently against the Traverse City Saint Francis team that was formerly a state champion and a perennial powerhouse here in the state of Michigan. It was the first time the Thumb was recognized with a state championship team, and I want them to know and all of the state of Michigan to know how very proud I am of them.

On December 17 of this month, I will be attending a banquet to honor the 23 football players who have played both ways for the U.S.A. Patriots in their state championship victory and will be getting a very, very special state tribute from all of us. And I know that my colleagues here, indeed all of the citizens of the state of Michigan, join with me in congratulating the U.S.A. Patriots on their Class C State Championship.

Senator McManus' statement is as follows:

I want to compliment the previous speaker on his Class C football team over there in the Thumb. They did win the state championship against my alma mater, Saint Francis High School in Traverse City. I would like the chamber to know that I have a grandson, Ryan McManus, the center of that Saint Francis team, and two nephews, Chris Gallagher and Tim Wolf, who play on the team. These three guys, along with a lot of others are juniors, this was their build up year—next year is the biggie. So Senator, we're going to send you over a cherry pie to present to that Unionville-Sebewaing team at your dinner, but we expect some bean soup next year when we take the state.

Senator Jaye's statement is as follows:

We were not able to vote on the discharge of House Bill No. 4674, which would have extended more protections to a certain class of victims, people of homosexual orientation under the law. What were those extra protections? A mandatory two years of prison and triple damages. However, these extra penalties of another two years in prison and triple damages wouldn't have extended to somebody that would brutalize a young mother with children. These extra penalties wouldn't extend to a criminal that would attack a senior citizen, a blind person, or somebody in a wheelchair, or somebody with a mental disability, or somebody that was physically weaker, nor to priest, to nuns, or people like the Amish, or the others that are generally known not to fight back or not to be able to defend themselves. It's wrong to say that people should get special privileges—special protections based on their orientation. It's horrific to have read about and to hear about any crimes against any person, and it diminishes us as human beings to say that violence, rape, assault, murder, or torture against one human being is more important than another. I would be in favor of increasing by two years in prison and triple damages for any assault or crime of the nature that spawned these hate crime bills.

However, it is hypocritical for those gay advocates to say treat us like everyone else in jobs and in housing, but give us special privileges, give us special protections. Impose upon our attackers special penalties that we don't impose on

young moms with kids. We don't impose on four- or five-year-old victims. We don't impose upon those who prey on seniors, the blind, wheelchair-bound folks, mentally disabled, or religious folks. It's time that we break away from group rights and return to the American traditions and ideas of individual rights, individual liberties, and individual accountability.

Next legislative session, I will be introducing a bill to extend by two years a mandatory prison time and triple damages to any individual that's convicted of assaulting and hurting any human being. Those should be our standards as Senators that represent the entire state of Michigan.

Scheduled Meeting

Conference Committee on House Bill No. 5857 - Thursday, December 10, at 10:00 a.m., Room 424, Capitol Building (3-1801).

Senator DeGrow moved that the Senate adjourn.
The motion prevailed, the time being 4:09 p.m.

The Assistant President pro tempore, Senator Hoffman, declared the Senate adjourned until Thursday, December 10, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.