

No. 83
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Tuesday, November 4, 1997.

10:00 a.m.

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

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

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

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

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

Pastor Greg Martin of United Methodist Church of Reed City offered the following invocation:

Almighty God, ruler of the universe, on this election day we are mindful of voters going to the polls in towns and cities and counties across our state. We ask that Your wisdom would guide them as they flip the switches in the voting booths. Be with candidates, too, and all of the workers who have worked so hard to come to this day. We ask, O God, that You would help all those elected on this day to work in partnership with those here in this chamber so that the common good of our entire state may be kept in mind.

Almighty God, as this body moves through this session, we ask, too, that You would guide them from the bumps and the potholes of self-interest and things that would move them from Your ways. We ask, O God, Your wisdom that You would keep them ever mindful of the needs of the children of this state, our most precious resource. All this we ask through the name of the one who is the Lord of the universe. Amen.

Motions and Communications

Recess

Senator Hoffman moved that the Senate recess until 10:20 a.m.
The motion prevailed, the time being 10:03 a.m.

The Senate reconvened at the expiration of the recess and was called to order by the President, Lieutenant Governor Binsfeld.

During the recess, Senators A. Smith and Stallings entered the Senate Chamber.

Pursuant to rule 3.203, the Majority Leader made the following committee reassignments:

Senate Bill No. 776

Senate Bill No. 778

Senate Bill No. 779

The bills were referred to the Committee on Finance.

The Secretary announced that the following House bills were received in the Senate and filed on Thursday, October 30:
House Bill Nos. 4264 4757 4828 5309

The Secretary announced the enrollment printing and presentation to the Governor on October 31, for his approval the following bills:

Enrolled Senate Bill No. 706 at 2:37 p.m.

Enrolled Senate Bill No. 707 at 2:39 p.m.

The Secretary announced the printing and placement in the members' files on Monday, November 3 of:

Senate Bill No. 774

House Bill Nos. 5320 5321 5322 5327

Recess

Senator Schwarz moved that the Senate recess until 10:30 a.m.
The motion prevailed, the time being 10:22 a.m.

The Senate reconvened at the expiration of the recess and was called to order by the President, Lieutenant Governor Binsfeld.

During the recess, Senator DeGrow entered the Senate Chamber.

A quorum of the Senate was present.

Senator DeGrow moved that Senator Van Regenmorter be excused from today's session.

The motion prevailed.

Senator Van Regenmorter is on the faculty of the National Judicial Institute and is representing his work on victims' rights.

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

The motion prevailed.

Senators Gougeon, Gast, Rogers, Geake, McManus, Bennett, North, Bullard, Stille, Steil, Posthumus, Schuette, Dunaskiss and Cisky entered the Senate Chamber.

Messages from the Governor

The following messages from the Governor were received:

Date: October 31, 1997

Time: 5:17 p.m.

To the President of the Senate:

Madam—I have this day approved and signed

Enrolled Senate Bill No. 227 (Public Act No. 122), being

An act to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 2001 (MCL 339.2001), as amended by 1992 PA 103.

(Filed with the Secretary of State on November 3, 1997, at 9:50 a.m.)

Date: October 31, 1997

Time: 5:20 p.m.

To the President of the Senate:

Madam—I have this day approved and signed

Enrolled Senate Bill No. 228 (Public Act No. 123), being

An act to amend 1993 PA 23, entitled "An act to provide for the organization and regulation of limited liability companies; to prescribe their duties, rights, powers, immunities, and liabilities; to prescribe the powers and duties of certain state departments and agencies; and to provide for penalties and remedies," by amending section 904 (MCL 450.4904), as amended by 1997 PA 52.

(Filed with the Secretary of State on November 3, 1997, at 9:54 a.m.)

Respectfully,
John Engler
Governor

The following messages from the Governor were received and read:

October 28, 1997

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

Barrier Free Design Board

Mr. Eric J. Colthurst, 1635 Whitehaven, Northville, Michigan 48167, county of Wayne, as a member representing wheelchair users, succeeding himself, for a term expiring on October 31, 2000.

Mr. Paul A. Maxwell, 336 Burr Oak Drive, Ann Arbor, Michigan 48103, county of Washtenaw, as a member representing professional engineers, succeeding himself, for a term expiring on October 31, 2000.

Ms. Mary Kathryn DeCuir, 22834 Newport Street, Southfield, Michigan 48075, county of Oakland, as a member representing the general public, succeeding Ms. Ann Davis of Coldwater, whose term has expired, for a term expiring on October 31, 2000.

October 28, 1997

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

Board of Real Estate Appraisers

Mr. Peter C. Cubba, 1037 North Woodward Avenue, Unit No. 2, Birmingham, Michigan 48009, county of Oakland, as a member representing the general public, succeeding Mr. Terry L. Johnson of Inkster, whose term has expired, for a term expiring on June 30, 2001.

October 28, 1997

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

Electrical Administrative Board

Mr. Randy James Bouwens, 1029 129th Avenue, Wayland, Michigan 49348, county of Allegan, as a member representing electrical manufacturers, succeeding himself, for a term expiring on August 10, 2000.

Mr. Philip L. Smith, 16556 Jones Road, Grand Ledge, Michigan 48837, county of Eaton, as a member representing electrical contractors, succeeding Mr. Philip M. Ramon of Alma, whose term has expired, for a term expiring on August 10, 2000.

Ms. Delvenia Beason, 7675 Sandy Hollow Lane SE, Alto, Michigan 49302, county of Kent, as a member representing the general public, succeeding Ms. Barbara L. Sewick Strachan of Lansing, whose term has expired, for a term expiring on August 10, 2000.

October 28, 1997

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

Michigan Tax Tribunal

Mr. Charles C. Fuller, 2900 Northwind Drive, No. 213, East Lansing, Michigan 48823, county of Ingham, as a member representing certified public accountants, succeeding Mr. Thomas G. Pegler of Farmington Hills, who has resigned, for a term expiring on June 30, 2001.

October 30, 1997

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

Michigan Underground Storage Tank Financial Assurance Policy Board

Mr. Robert A. Hayes, 1240 Sherwood, Williamston, Michigan 48895, county of Ingham, as a member representing environmental public interest organizations, succeeding Mr. William B. French of Augusta, whose term has expired, for a term expiring on September 17, 1999.

Sincerely,
John Engler
Governor

The appointments were referred to the Committee on Government Operations.

Messages from the House

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

Senate Bill No. 178

House Bill No. 4642

House Bill No. 4643

The motion prevailed.

Senate Bill No. 546, entitled

A bill to amend 1961 PA 236, entitled "Revised judiciary act of 1961," by amending section 8117 (MCL 600.8117). The House of Representatives has amended the bill as follows:

1. Amend page 3, line 10, after "section" by striking out "8176" and inserting "8177".
2. Amend page 3, line 11, after "MCL" by striking out "600.8176" and inserting "600.8177".
3. Amend page 3, following line 12, by inserting:

"Enacting section 3. If the implementation of this amendatory act requires a transfer of court employees or a change of employers, all employees of the former court employer shall be transferred to, and appointed as employees of, the new employer subject to all rights and benefits they held with the former court employer. An employee who is transferred shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as an employee of the former court employer. The rights and benefits protected by this section may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the new employer. An employee who is transferred shall not be made subject to any residency requirements by the new employer. The new employer shall

assume and be bound by any existing collective bargaining agreement held by the former court employer and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement. A transfer of court employees shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement.”.

The House of Representatives has passed the bill as amended, ordered that the bill be given immediate effect and pursuant to Joint Rule 20, inserted the full title of the bill.

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

Third Reading of Bills

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

House Bill No. 4509

House Bill No. 4939

The motion prevailed.

Senators Emmons and Bouchard entered the Senate Chamber.

General Orders

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

The motion prevailed, and the President, Lieutenant Governor Binsfeld, designated Senator Byrum as Chairperson.

After some time spent therein, the Committee arose; and, the President pro tempore, Senator Schwarz, having resumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bills:

House Bill No. 5092, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 14801, 14802, 14804, 14805, and 14808 (MCL 324.14801, 324.14802, 324.14804, 324.14805, and 324.14808), as added by 1996 PA 132.

House Bill No. 5093, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending section 14809 (MCL 324.14809), as added by 1996 PA 132.

House Bill No. 4944, entitled

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

Senate Bill No. 459, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 30510 and 30512 (MCL 324.30510 and 324.30512), as added by 1995 PA 59.

Senate Bill No. 460, entitled

A bill to amend 1943 PA 183, entitled “County zoning act,” by amending section 20 (MCL 125.220).

Senate Bill No. 461, entitled

A bill to amend 1943 PA 184, entitled “Township zoning act,” by amending section 20 (MCL 125.290).

Senate Bill No. 462, entitled

A bill to amend 1921 PA 207, entitled “City and village zoning act,” by amending section 5 (MCL 125.585), as amended by 1986 PA 191.

House Bill No. 4814, entitled

A bill to authorize the department of state police to convey certain state owned property in Iron county; to prescribe conditions for the conveyance; and to provide for the disposition of revenue derived from the conveyance.

House Bill No. 5079, entitled

A bill to authorize the department of natural resources to convey certain state owned property in Berrien county; to prescribe conditions for the conveyance; and to provide for disposition of the revenue from the conveyance.

Senate Bill No. 611, entitled

A bill to repeal 1935 PA 140, entitled "An act to prohibit endurance contests known as walkathons and similar endurance contests; to prescribe a penalty for the violation thereof, and to repeal Act No. 65 of the Public Acts of 1933," (MCL 752.161 to 752.162).

Senate Bill No. 761, entitled

A bill to amend 1996 PA 376, entitled "Michigan renaissance zone act," (MCL 125.2681 to 125.2696) by adding section 8a.

Senate Bill No. 775, entitled

A bill to amend 1962 PA 192, entitled "Professional service corporation act," by amending sections 2, 8, and 10 (MCL 450.222, 450.228, and 450.230), sections 2 and 10 as amended by 1990 PA 166.

The bills were placed on the order of Third Reading of Bills.

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

House Bill No. 4049, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding part 518.

Substitute (S-4).

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

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

Senate Bill No. 714, entitled

A bill to authorize the department of natural resources to convey certain state owned property in Mackinac county; to prescribe conditions for the conveyance; and to provide for disposition of the revenue derived from the conveyance.

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

1. Amend page 3, line 9, after "2," by striking out "& 3" and inserting "3, & 4".

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

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

Senate Bill No. 463, entitled

A bill to amend 1950 (Ex Sess) PA 23, entitled "Motor vehicle sales finance act," by amending section 24 (MCL 259.454).

Substitute (S-1).

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

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

Senate Bill No. 411, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," (MCL 400.1 to 400.119b) by adding section 13a.

Substitute (S-1).

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

By unanimous consent the Senate returned to the order of

Motions and Communications

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

House Bill No. 5092

House Bill No. 5093

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

The following bill was read a third time:

House Bill No. 5092, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 14801, 14802, 14804, 14805, and 14808 (MCL 324.14801, 324.14802, 324.14804, 324.14805, and 324.14808), as added by 1996 PA 132.

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. 559

Yeas—35

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

Nays—0

Excused—2

Berryman

Van Regenmorter

Not Voting—0

In The Chair: Schwarz

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.

Pursuant to Joint Rule 20, the full title of the bill shall read as follows:

"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,".

The Senate agreed to the full title of the bill.

The following bill was read a third time:

House Bill No. 5093, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 14809 (MCL 324.14809), as added by 1996 PA 132.

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. 560

Yeas—35

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

Nays—0

Excused—2

Berryman

Van Regenmorter

Not Voting—0

In The Chair: Schwarz

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.

Pursuant to Joint Rule 20, the full title of the bill shall read as follows:

"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,".

The Senate agreed to the full title of the bill.

Resolutions

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

Senate Resolution No. 71

The motion prevailed.

House Concurrent Resolution No. 70.

A concurrent resolution to urge the President of the United States to reject any agreement on limiting greenhouse gas emissions that apply restrictions only to developed nations and exempt other nations.

Whereas, The United States government is involved in United Nations negotiations aimed at reducing greenhouse gas emissions in the post-2000 period; and

Whereas, These negotiations are expected to culminate in an agreement by the end of 1997, which will legally bind the United States to reduce energy usage; and

Whereas, The “Berlin Mandate Decision” already specifically exempts all developing countries from emission reduction requirements, which will preclude meaningful progress worldwide to stabilize carbon dioxide concentrations; and

Whereas, The United Nations negotiating parties made a fundamental error when they agreed to negotiate legally binding carbon restrictions on the United States and other industrialized countries but agreed to exempt high-growth developing countries like China, Mexico, Brazil, and Korea from any new carbon reduction commitments; and

Whereas, As much as 60 percent of global carbon emissions are expected to come from developing countries in the next few decades; and

Whereas, The exclusion of new commitments by developing nations will create a powerful incentive to export jobs and capital from the United States, shift greenhouse gas emissions to other countries, and do little or nothing to stabilize atmospheric concentrations of carbon; and

Whereas, Such an uneven playing field will cause the loss of high-paying United States jobs in mining, manufacturing, energy, transport, and other sectors; and

Whereas, Programs to limit greenhouse gases may have the effect of raising energy costs; and

Whereas, The United States government has not completed a thorough economic analysis of the effects of a treaty on the United States economy, even though United States negotiators have been at the bargaining table for over eighteen months and have agreed to a December 1997 deadline for finalizing this far-reaching treaty or protocol; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we urge the President of the United States to reject any agreement, in Kyoto in December 1997 or later, on limiting greenhouse gas emissions that apply restrictions only to developed nations and exempt other nations, or that adversely affect the people, prosperity, or employment stability of the United States or any region or sector; and be it further

Resolved, That a copy of this resolution be transmitted to the office of the President of the United States and the members of the Michigan congressional delegation.

The House of Representatives has adopted the concurrent resolution.

Pending the order that, under rule 3.204, the concurrent resolution be referred to the Committee on Government Operations,

Senator DeGrow moved that the rule be suspended.

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

The question being on the adoption of the concurrent resolution,

Senator DeGrow moved that the concurrent resolution be referred to the Committee on Natural Resources and Environmental Affairs.

The motion prevailed.

Senator Schwarz was named co-sponsor of the concurrent resolution.

Senators Stille, McManus, Gast, Van Regenmorter, North, Schuette, Rogers and Gougeon offered the following resolution:

Senate Resolution No. 106.

A resolution to accept and endorse the findings of the Michigan Environmental Science Board regarding directional drilling under the Great Lakes; to urge the Department of Natural Resources and the Department of Environmental Quality to implement the report’s recommendations promptly; and to offer legislative support for efforts to further protect Great Lakes bottomlands.

Whereas, On August 12, 1997, Governor Engler requested the Michigan Environmental Science Board to evaluate the issue of directional drilling under the Great Lakes. The panel has completed its work and presented its findings; and

Whereas, The Michigan Environmental Science Board has concluded that, while there is little or no risk of contamination to the Great Lakes bottomlands or waters, there is risk to the shoreline environment from the wellhead. The report includes several suggestions and recommendations to streamline the process and provide increased protection to the Great Lakes and to adjacent lands; and

Whereas, The report identifies the need to make changes in the permit process, to assure the suitability of locations for drilling, to conduct an inventory of coastal lands, to minimize the impact of infrastructure use and maintenance, and to provide for handling and monitoring residues from the drilling process. The study includes discussion of both ecological and aesthetic concerns; and

Whereas, The recommendations of the board offer an opportunity to deal with the issue of directional drilling near the Great Lakes in a responsible manner; now, therefore, be it

Resolved by the Senate, That the members of this legislative body accept and endorse the findings of the Michigan Environmental Science Board regarding directional drilling under the Great Lakes. We urge the Department of Natural Resources and the Department of Environmental Quality to implement the report’s recommendations promptly, and we offer legislative support for efforts to further protect Great Lakes bottomlands; and be it further

Resolved, That copies of this resolution be transmitted to the Department of Environmental Quality, the Department of Natural Resources, and appropriate representatives of the oil and gas industry in Michigan.

Pending the order that, under rule 3.204, the resolution be referred to the Committee on Government Operations, Senator DeGrow moved that the rule be suspended.

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

The question being on the adoption of the resolution,

Senator DeGrow moved that the resolution be referred to the Committee on Local, Urban and State Affairs.

The motion prevailed.

Senator Schwarz was named co-sponsor of the resolution.

Introduction and Referral of Bills

Senator Berryman introduced

Senate Bill No. 782, entitled

A bill to amend 1984 PA 431, entitled "The management and budget act," by amending section 442 (MCL 18.1442), as added by 1991 PA 72.

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

Senator Berryman introduced

Senate Bill No. 783, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 2a (MCL 211.2a), as amended by 1982 PA 539; and to repeal acts and parts of acts.

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

Senators Stallings and Hart introduced

Senate Bill No. 784, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 626c.

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

Senators Hart, Young, Berryman, Dingell, Conroy, DeBeaussaert, Miller, Peters, Byrum, Cherry, Stallings, McManus and North introduced

Senate Bill No. 785, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 145d.

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

Senators Rogers, DeBeaussaert, Steil and Stille introduced

Senate Bill No. 786, entitled

A bill to amend 1969 PA 317, entitled "Worker's disability compensation act of 1969," by amending sections 836 and 837 (MCL 418.836 and 418.837), as amended by 1994 PA 271.

The bill was read a first and second time by title and referred to the Committee on Human Resources, Labor and Veterans Affairs.

House Bill No. 4264, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 411i (MCL 750.411i), as amended by 1997 PA 65.

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

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

House Bill No. 4757, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding section 2111a.

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

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

House Bill No. 4828, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1204a (MCL 380.1204a), as amended by 1996 PA 159, and by adding section 1279g.

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

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

House Bill No. 5309, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 36 (MCL 211.36), as amended by 1994 PA 343.

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

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

Statements

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

The motion prevailed.

Senator Young's statement is as follows:

The Capital Outlay Committee last Thursday approved a lease between the state and Wackenhut Corporation for a new youth correctional facility. Well, that vote was 10 to five.

Under this lease agreement the Wackenhut Corporation will build, own and operate the prison according to state plans and specifications. It will be 163,251 sq. ft. and have 480 beds. It has a yearly lease rate of \$5,589,060.00. It has a 20-year lease with two five-year options. It has an option for the state to buy after five years. The cost of the lease over the full 20 years will be \$111,781,200. To put this in perspective, it is important to note that in 1996 we passed House Bill No. 4085, which would allow for this correctional facility to be constructed by the state only if cost-effective agreements for private development of this facility cannot be secured.

Well, I guess our Senate Democratic Caucus must have a different opinion of what cost effective means. If the state were to build this facility, it would cost between \$55 and \$65 million, even with finance charges included, it would only cost between \$80 and \$90 million.

Under the Wackenhut proposal the state will be paying in excess of \$111,700,000. This lease represents a cost increase between \$22 and \$32 million over what it would cost the state to build this facility. It is because of this greatly increased cost that it is important to note that not only I, but every member of my caucus voted against this lease agreement.

Not only will the state be giving this lucrative contract to Wackenhut to build this facility, we are also guaranteeing them that they will be the company in charge of running it for the state once it is built.

This would then be the only facility in the nation that will be both constructed and run by the same private company. I don't think it's prudent for us to use our taxpayers' dollars in this kind of way and this kind of experiment on running correctional facilities. I am not necessarily against privatization of certain services that the state provides, however privatization should only be considered when a private company can provide a service either better, or cheaper than the state could do themselves. In this case, no one has made the argument that Wackenhut can build this facility any better, and as I have said earlier this will cost dramatically more than if the state built it themselves. So this ends up being a case of privatization for nothing more than privatization sake.

We must then ask why are we willing to spend twice as much to have a private company build this facility rather than the state. The only answer can be ideology! Some members of our legislature are pushing their ideological sacred cows so hard that they are looking for a way out to serve those interests and not the interest of the state's taxpayers. In cases such as this one where so much taxpayer money is involved, we should put aside our personal experiments in government and do what's best for the taxpayers and the people of the state of Michigan.

Senator Conroy's statement is as follows:

In this large rush to privatize I think we are giving away the ship. The reason I say that is that there is \$5.5 million that we are agreeing to lease for at least five years. Apparently, we can walk away from this at the end of five years. If we walked away from this at the end of five years, that is \$28 million that we've spent, and we have nothing to show for it except that we used that facility. Apparently, there is some indecision whether or not it's a good idea to have this kind of a facility or you wouldn't write that into the contract. It seems to me what the state ought to do is build the building. We ought to own the building, then if you want somebody else to run it, lease it out or rent their management.

But why do you put the state into a hole on the construction side of it. This is a building where there are various estimates as to what it costs. Apparently, that company thinks it is going to cost them \$40 million to build the building. We will have paid them \$28 million by the end of the fifth year. So they will have 70% of their costs recaptured. It just doesn't make sense to me. It seems to me that if this is a good idea to have this kind of a facility for young people who have violated the law, we ought to build the building, own the building and then manage it however we want to do that—that is, decide if we want the state corrections systems to run it, or we want some private system to run it. But at least we would then own the building at the end of approximately ten years if you amortize that out. So, I think it's a bad deal for the state. It's not economical. It's poor planning dollarwise and apparently it's easier to get a building leased in this state through the capital outlay process, than it is to have the state own and build one themselves. So I presume we ought to work on that problem. Clearly, we are giving away a huge amount; millions and millions of dollars to this company over this five year period—\$28 million, which they can amortize a good share of that for the \$40 million cost of the building, and we still don't have anything over that five-year period. All we have are youngsters in this facility, and we'll probably just renew that lease. I think it's a bad deal for the state and I am glad that Senator Young brought this up for discussion this morning.

Recess

Senator DeGrow moved that the Senate recess until 3:45 p.m.
The motion prevailed, the time being 11:42 a.m.

Pursuant to rule 1.101, in the absence of the Presiding Officers, the Senate was called to order by the Secretary of the Senate.

Senator DeGrow moved that rule 3.506 be suspended to allow a statement made by Senator Cherry to be printed in the Journal.

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

Senator Cherry's statement is as follows:

I know that speaking twice on statements has been an issue of dispute and I may be corrected by the Majority Floor Leader, but I think that at some point we are going to allow someone to rebut but I don't know that we've reached that agreement yet. In that respect, I do want to comment that I did listen to the good Senator from the 1st District as he raised his concerns about the cost of this capital outlay project, and I also listened to the response of the Senator from the 9th. As I heard the Senator from the 9th suggest that the initial comments were in error because if you took into effect the interest costs then the private project would be less expensive than the state doing it itself. But what I heard my colleague point out initially in his remarks is if you even considered the interest costs here, the private proposal approved yesterday is still more expensive than what it would cost the state to do it itself. I don't know that the good Senator from the 9th didn't hear that, and just operate on the assumption that the interest costs were not included. But in fact, the Senator from the 1st addressed that point—that if you include it, the interest costs the state would incur for this private contract is still more expensive. Not only is it more expensive on its face, but it is still more expensive if you include the financing costs. So I think the Senator's point ought to be made clear. He didn't miss that. He didn't ignore it. In fact, he looked at it and dealt with it. It's his conclusion that the cost of the contract, approved last week, that the cost is more expensive than if the state had built it itself and had even financed. So that the combination is cheaper than the one that was approved by the Capital Outlay Committee.

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

Senate Bill No. 196, entitled

A bill to amend 1927 PA 150, entitled "An act to prescribe a privilege tax for the use of the public highways by owners and drivers of motor vehicles by imposing a specific tax upon the sale or use, within the state of Michigan, of motor fuel; to prescribe the manner and the time of paying this tax and the duties of officials and others respecting the payment and collection of this tax; to provide for the licensing of wholesale distributors, certain retail dealers, exporters, and suppliers as defined in this act; to fix a time when this tax and interest and penalties thereon become a lien upon the property of persons, firms, partnerships, associations, or corporations, subject to the payment of this tax; to provide for the enforcement of this lien; to permit the inspection and testing of petroleum products; to provide for certain exemptions and refunds and for the disposition of the proceeds of this tax; and to prescribe penalties for the violation of this act," by amending section 12 (MCL 207.112), as amended by 1996 PA 56.

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 bill be referred to the Committee on Appropriations.

The motion prevailed.

Committee Reports

The Committee on Economic Development, International Trade and Regulatory Affairs reported

Senate Bill No. 636, entitled

A bill to amend 1933 (Ex Sess) PA 8, entitled "The Michigan liquor control act," by amending section 18 (MCL 436.18), as amended by 1994 PA 185.

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

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

Bill Schuette
Chairperson

To Report Out:

Yeas: Senators Schuette, Shugars, Gougeon and O'Brien

Nays: None

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

The Committee on Economic Development, International Trade and Regulatory Affairs reported

Senate Bill No. 682, entitled

A bill to amend 1933 (Ex Sess) PA 8, entitled "The Michigan liquor control act," by amending section 18 (MCL 436.18), as amended by 1994 PA 185.

With the recommendation that the substitute (S-3) be adopted and that the bill then pass.

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

Bill Schuette
Chairperson

To Report Out:

Yeas: Senators Schuette, Shugars, Gougeon and O'Brien

Nays: None

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

The Committee on Economic Development, International Trade and Regulatory Affairs reported

House Bill No. 4850, entitled

A bill to amend 1933 (Ex Sess) PA 8, entitled "The Michigan liquor control act," by amending section 4 (MCL 436.4).

With the recommendation that the substitute (S-4) be adopted and that the bill then pass.

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

Bill Schuette
Chairperson

To Report Out:

Yeas: Senators Schuette, Shugars, Gougeon and O'Brien

Nays: None

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

The Committee on Government Operations reported

Senate Resolution No. 77.

A resolution to recognize suicide as a serious state and national problem and to encourage suicide prevention initiatives.

(For text of resolution, see Senate Journal No. 56, p. 983.)

With the recommendation that the resolution be adopted.

Bill Bullard
Chairperson

To Report Out:

Yeas: Senators Bullard, Emmons, Hoffman and Miller

Nays: None

The resolution was placed on the order of Resolutions.

The Committee on Government Operations reported

House Concurrent Resolution No. 21.

A concurrent resolution to memorialize the Congress of the United States to make changes in the Ready Reserve Mobilization Income Insurance Program.

(For text of resolution, see Senate Journal No. 37, p. 547.)

With the recommendation that the concurrent resolution be adopted.

Bill Bullard
Chairperson

To Report Out:

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

Nays: None

The concurrent resolution was placed on the order of Resolutions.

The Committee on Government Operations reported

House Concurrent Resolution No. 48.

A concurrent resolution to establish a sister-state relationship with Egypt and to encourage Detroit city officials to establish a sister-city partnership with Luxor, Egypt.

(For text of resolution, see Senate Journal No. 61, p. 1204.)

With the recommendation that the concurrent resolution be adopted.

Bill Bullard
Chairperson

To Report Out:

Yeas: Senators Bullard, Emmons and Hoffman

Nays: None

The concurrent resolution was placed on the order of Resolutions.

The Committee on Government Operations reported

Senate Bill No. 749, entitled

A bill to designate a portion of the Davison freeway in the city of Detroit as the Father William Thomas Cunningham freeway; and to prescribe the duties of the state transportation department.

With the recommendation that the bill pass.

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

Bill Bullard
Chairperson

To Report Out:

Yeas: Senators Bullard, Emmons and Hoffman

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Government Operations reported

House Bill No. 4324, entitled

A bill to amend 1978 PA 325, entitled "An act to provide for a suggestion awards program; and to prescribe the duties of the department of civil service," by amending the title and sections 1, 2, 3, and 4 (MCL 38.1161, 38.1162, 38.1163, and 38.1164).

With the recommendation that the following amendment be adopted and that the bill then pass:

1. Amend page 2, line 17, after "employees" by striking out the comma and "RETIRED STATE EMPLOYEES, OR RESIDENTS OF THIS STATE" and inserting "OR RETIRED STATE EMPLOYEES".

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

Bill Bullard
Chairperson

To Report Out:

Yeas: Senators Bullard, Emmons, Hoffman and Miller

Nays: None

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

The Committee on Government Operations reported

House Bill No. 4386, entitled

A bill to amend 1968 PA 317, entitled "An act relating to the conduct of public servants in respect to governmental decisions and contracts with public entities; to provide penalties for the violation of this act; to repeal certain acts and parts of acts; and to validate certain contracts," by amending sections 3 and 8 (MCL 15.323 and 15.328), section 3 as amended by 1984 PA 184.

With the recommendation that the bill pass.

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

Bill Bullard
Chairperson

To Report Out:

Yeas: Senators Bullard, Emmons, Hoffman and Miller

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Government Operations reported

House Bill No. 4951, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 677 (MCL 168.677), as amended by 1996 PA 583.

With the recommendation that the bill pass.

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

Bill Bullard
Chairperson

To Report Out:

Yeas: Senators Bullard, Emmons, Hoffman and Miller

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Government Operations submits the following:

Meeting held on Wednesday, October 29, 1997, at 1:05 p.m., Rooms 402 and 403, Capitol Building

Present: Senators Bullard (C), Emmons, Hoffman, Miller and Hart

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Corrections submits the following:

Meeting held on Wednesday, October 29, 1997, at 2:00 p.m., Senate Appropriations Room, Capitol Building

Present: Senators Cisky (C) and Hoffman

Excused: Senator Vaughn

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submits the following:

Public hearing held on Wednesday, October 29, 1997, at 6:00 p.m., Saginaw Valley State University, 7400 Bay Road, Curtiss Hall, Rooms D and E, University Center, Michigan

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

Excused: Senators Rogers, Geake, Dingell and V. Smith

COMMITTEE ATTENDANCE REPORT

The Legislative Council submits the following:

Meeting held on Thursday, October 30, 1997, at 12:30 p.m., Rooms 402 and 403, Capitol Building

Present: Senators Posthumus (C), DeGrow, Schwarz, Steil, Cherry and Schuette

Excused: Senators V. Smith, Cisky and O'Brien

Scheduled Meetings

Appropriations Committee - Wednesday, November 5, at 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (3-6960).

Economic Development, International Trade and Regulatory Affairs Committee - Wednesday, November 5, at 1:00 p.m., Room 210, Farnum Building (3-7946).

Financial Services Committee - Wednesday, November 5, at 1:00 p.m., 8th Floor Conference Room, Farnum Building (3-2523).

Human Resources, Labor and Veterans Affairs Committee - Thursday, November 6, at 3:00 p.m., Room 210, Farnum Building (3-2420).

Judiciary Committee - Thursday, November 6, at 1:00 p.m., Rooms 402 and 403, Capitol Building (3-6920).

Michigan Sentencing Commission, Legislative Report Oversight Committee - Wednesday, November 5, at 5:00 p.m., 3rd Floor Conference Room, Michigan National Tower (3-0543).

Senator DeGrow moved that the Senate adjourn.

The motion prevailed, the time being 3:47 p.m.

The Secretary of the Senate declared the Senate adjourned until Wednesday, November 5, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.