

**No. 25**  
**JOURNAL OF THE SENATE**

---

Senate Chamber, Lansing, Thursday, March 20, 1997.

10:00 a.m.

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

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

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

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

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

Pastor Steve Van Slyke of the Grand Haven Gospel Chapel in Grand Haven offered the following invocation:

Father and God, we are just thankful today for Your greatness, for Your grace and for Your love. We are thankful for the opportunity to come into Your presence because of Jesus Christ. We're just thankful for a place to live like the United States and a place like Michigan. We are thankful for the people in this room who make sacrifices and spend their lives to govern us. We are thankful for their sacrifices. Won't we pray right now for their wisdom. We pray, as it says in the book of James, "We ask that You will give us wisdom." We ask You to pray for these leaders—the President of the United States, the Governor, the Senators and the House members. We pray that as they are Your servants, You would do and work in their lives. Whatever they are doing today—if it's schools, roads, or whatever they are talking about, You would give them wisdom to govern the citizens of this state; to be able to live in a quiet and peaceful place. Michigan would be a great place to live and a place that would be an honor to Your name. We pray these things in Jesus' name. Amen.

### Motions and Communications

Senator DeGrow moved that Senators Geake and Gougeon be temporarily excused from today's session. The motion prevailed.

Senator DeGrow moved that Senator Bullard be excused from today's session. The motion prevailed.

Senator DeGrow moved that rule 3.902 be suspended to allow the guest of Senator Stille admittance to the Senate floor.

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

Senator Stallings entered the Senate Chamber.

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

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

The following communication was received:  
Alaska State Senate

March 5, 1997

The enclosed resolution was recently passed by the Alaska State Legislature. Please distribute the resolution and a copy of my letter to the President of your Senate, Speaker of your House, and all members of both bodies.

In 1973, a mere 24 years ago, the Organization of Petroleum Exporting Countries (OPEC) decided to restrict oil production and exportation to outside states. This action was extremely deleterious to the US economy and threatened the viability of our nation as we were dependent on these foreign regimes for a significant portion of our energy supply.

Today, the US is dependent on foreign sources for over 52% of its oil supply, and by the year 2015, that dependence could rise to 80%. Considering that demand for crude oil in the United States rose by 2.5 percent in the past year, and that domestic production of oil continues to decrease while import prices have increased by 35%, a strong case can be made to increase domestic production of petroleum for the economic and physical security of the United States.

Currently the coastal plain of Alaska's Arctic National Wildlife Refuge (ANWR), has the highest potential for oil discovery on the North American continent, and has been estimated to hold as much as 10 billion barrels of recoverable oil. The Alaska State Legislature recently passed the enclosed Senate Joint Resolution #9, urging the United States Congress to pass legislation for responsible oil and gas exploration, development, and production on the coastal plain of the Arctic National Wildlife Refuge.

This resolution passed the Alaska State Senate by a unanimous 17-0 vote, and passed the Alaska State House by a 33-1 margin. Responsible development of the oil and gas resources in ANWR is also supported by the local residents of the coastal plain of the North Slope Borough and by over 75% of Alaskans.

The benefits of development in ANWR would be ubiquitous, having a positive impact in all 50 states. It is estimated that development could create an estimated 735,000 jobs nationwide, and save the federal government 14 billion dollars a year in oil imports. In addition, development of the coastal plain resources would add magnanimously to the 50 billion dollars already spent nationwide as a direct result of North Slope development.

Furthermore, this resolution states Alaska's strong commitment to developing the resources of the coastal plain in a manner sensitive to the land, water and wildlife of the Arctic National Wildlife Refuge. Environmentally sensitive development of these resources is of the utmost importance to all Alaskans, and can be accomplished with minimal impact on the surrounding region.

Your support in encouraging the United States Congress to pass this legislation opening the coastal plain to oil and gas exploration, development and production would be highly appreciated. If you have any questions or comments on this resolution, please do not hesitate to contact me at:

Senator Drue Pearce  
Senate Finance Committee  
State Capitol  
Juneau, AK 90801-1182  
(907) 465-4993

In addition, Arctic Power, a grassroots non-profit organization of Alaskan citizens organized to promote oil-production and exploration within the coastal plain of ANWR, can be contacted for further information at:

4220 B St. Suite 201	or	203 Maryland Ave. NE
Anchorage, AK 99503		Washington, D.C. 20002
(907) 563-2697		(202) 544-6355
Fax (907) 562-6782		Fax (202) 544-5763
<a href="http://www.anwr.org">http://www.anwr.org</a>		

Sincerely,  
Drue Pearce

The communication was referred to the Secretary for record.

The following communications were received:  
Joint Committee on Administrative Rules

#### Certificates of Approval

Date: March 19, 1997  
Trans. No. 97-01

I hereby certify that the Joint Committee on Administrative Rules approved the administrative rules from the Education Department, State Board of Education, pertaining to Special Education Programs and Services, dated September 26, 1996.

Date: March 19, 1997  
Trans. No. 97-22

I hereby certify that the Joint Committee on Administrative Rules approved the administrative rules from the Community Health Department, Health Legislation and Policy Development, pertaining to General Rules, dated March 17, 1997

Sincerely,  
Representative Candace Curtis  
Chairperson

The communications were referred to the Secretary for record.

#### COMMITTEE ATTENDANCE REPORT

The Joint Committee on Administrative Rules submits the following:  
Meeting held on Wednesday, March 19, 1997, at 8:30 a.m., Rooms 402 and 403, Capitol Building  
Present: Senators North, Van Regenmorter, Schwarz, Dingell and Byrum

#### Messages from the Governor

The following message from the Governor was received and read:

EXECUTIVE ORDER  
No. 1997 - 4

**Michigan Department of Community Health  
Michigan Department of Management and Budget**

#### Executive Reorganization

Whereas, Article V, Section 1, of the Constitution of the State of Michigan of 1963 vests the executive power in the Governor; and

Whereas, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

Whereas, Article V, Section 8, of the Constitution of the State of Michigan of 1963 provides that each principal department shall be under the supervision of the Governor unless otherwise provided by the Constitution; and

Whereas, Article IV, Section 51, states that the public health and general welfare of the people of the state are matters of public concern; and

Whereas, Article VIII, Section 8, states that institutions, programs and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped shall always be fostered and supported; and

Whereas, the State of Michigan plays a fundamental role in the protection of the health and safety of its citizens in guiding policy for improving the health status of Michigan citizens, improving access to health care services, and preventing diseases; and

Whereas, the future in state-funded and administered health and behavioral services lies in integrating administrative systems and pooling state purchasing power for more efficient use of resources; and

Whereas, Executive Order 1996-1 provided for a foundation of integrated administration of health related programs; and

Whereas, the protection of the health and safety of the citizens of Michigan can be carried out more effectively and efficiently by continuing the alignment of health-related administrative functions in state government; and

Whereas, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

Now, therefore, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

**I. Medical Services Administration**

1. The Medical Services Administration, is hereby redesignated as a Type II agency, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Medical Services Administration for the activities, powers, duties, functions, and responsibilities resulting from this redesignation are hereby transferred to the Department of Community Health.

**II. Community Public Health Agency**

1. The Community Public Health Agency, is hereby redesignated as a Type II agency, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the statutory authority, duties, powers, functions and responsibilities of the Public Health Advisory Council, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Part 26 of Act No. 368 of the Public Acts of 1978, being Sections 333.2208 - 333.2215 of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Community Health by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. All the statutory authority, duties, powers, functions and responsibilities of the Center for Rural Health, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Part 26 of Act No. 368 of the Public Acts of 1978, being Sections 333.2223 and 333.2612 of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Community Health by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

4. All the statutory authority, duties, powers, functions and responsibilities of the Anatomy Board, including but not limited to the statutory authority, duties, powers, functions and responsibilities set forth in Part 26 of Act 368 of the Public Acts of 1978, being Section 333.2651 - 333.2658 of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Community Health by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

5. All the statutory authority, duties, powers, functions and responsibilities of the Animal Research Advisory Board, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Part 26 of Act No. 368 of the Public Acts of 1978, being Sections 333.2672 - 333.2676 of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Community Health by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

6. All the statutory authority, duties, powers, functions and responsibilities of the Agent Orange Commission, including but not limited to the statutory authority, duties, powers, functions and responsibilities set forth in Act No. 49 of the Public Acts of 1987, being Section 333.5731 - 333.5737 of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Community Health by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

7. All the statutory authority, duties, powers, functions and responsibilities of the State Interdepartmental Substance Abuse Coordinating Commission, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Part 62 of Act No. 368 of the Public Acts of 1978, being Sections 333.6215 - 333.6217 of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Community Health by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

8. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Community Public Health Agency for the activities, powers, duties, functions, and responsibilities transferred in paragraphs II. 1-7 of this Order are hereby transferred to the Department of Community Health.

### **III. Behavioral Health**

1. All the statutory authority, powers, duties, functions and responsibilities of the Citizens Mental Health Advisory Council set forth in Act No. 258 of the Public Acts of 1974, as amended, being Section 330.1110 of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Community Health by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the statutory authority, powers, duties, functions and responsibilities of the Standing Committee on Multicultural Services set forth in Act No. 258 of the Public Acts of 1974, as amended, being Section 330.1162 of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Community Health by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. All the statutory authority, powers, duties, functions and responsibilities of the State Mental Health Advisory Council on Deafness set forth in Act No. 258 of the Public Acts of 1974, as amended, being Section 330.1939 of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Community Health by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

4. All the statutory authority, powers, duties, functions and responsibilities of the State Advisory Council on Mental Health and Aging set forth in Act No. 258 of the Public Acts of 1974, as amended, being Section 330.1941 of the Michigan Compiled Laws, and Act No. 437 of the Public Acts of 1988, being Section 400.585a of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Community Health by a Type III transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

5. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available for the activities, powers, duties, functions, and responsibilities transferred in paragraphs III. 1-4 of this Order are hereby transferred to the Department of Community Health.

### **IV. Community Health Advisory Council**

1. A Community Health Advisory Council is established to advise and assist the Director of the Department of Community Health in developing and executing community health policies and services.

2. The Council shall consist of 15 members who shall be appointed by the Governor. The term of office of each member shall be 2 years. A member shall be paid a reasonable per diem and reimbursed for necessary travel expenses for each meeting attended. A meeting should be held at least once every 3 months, upon the call of the Director. The Council shall annually, by majority vote, choose a chairperson from among its own membership.

3. The composition of the Council shall be representatives of primary consumers, family members, agencies and professionals having a working involvement with community health services, and the general public. At least 5 members of the Council shall be primary consumers or family members, and at least 3 of the 5 shall be primary consumers.

### **V. Office of Drug Control Policy**

1. The Office of Drug Control Policy created in Executive Order 1991-20 is hereby redesignated as a Type II agency as defined in Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Management and Budget for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Community Health.

### **VI. General**

1. The Director of the Department of Community Health shall provide executive direction and supervision for the implementation of the transfers prescribed in this Order. The assigned functions shall be administered under the direction and supervision of the Director, and all prescribed functions of rule making, licensing and regulation, including the prescription or rules, regulations, standards and adjudications, shall be transferred to the Director of the Department of Community Health.

2. The Director of the Department of Community Health shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes, as may be administratively necessary, to complete the realignment of responsibilities prescribed by this Order.

3. The Director of the Department of Community Health and the Director of the Department of Management and Budget shall immediately initiate coordination and develop a memorandum of record identifying all outstanding settlements, issues of compliance with applicable federal and state laws, or other obligations to be resolved by the Office of Drug Control Policy.

4. The Director of the Department of Community Health may, by written instrument, delegate a duty or power conferred by law or this Order, including but not limited to Medicaid provider appeals, Certificate of Need and the Office of Recipient Rights. The person to whom such duty or power is so delegated may perform such duty or exercise such power at the time and to the extent that such duty or power is delegated by the Director of the Department of Community Health.

5. All rules, orders, contracts, and agreements relating to the functions transferred to the Department of Community Health which were lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or repealed.

6. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor or any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective sixty (60) days from the date of filing of this Order.

[SEAL]

Given under my hand and the Great Seal of the State of Michigan this 18th day of March, in the Year of our Lord, One Thousand Nine Hundred Ninety-seven.

John Engler  
Governor

By the Governor:  
Candice S. Miller  
Secretary of State

The Executive Order was referred to the Committee on Government Operations.

### Messages from the House

#### Senate Bill No. 93, entitled

A bill to amend 1967 PA 288, entitled "Land division act," by amending section 102 (MCL 560.102), as amended by 1996 PA 591.

The House of Representatives has passed the bill, ordered that it be given immediate effect and amended the title by striking out "Land division act," and inserting "An act to regulate the division of land; to promote the public health, safety, and general welfare; to further the orderly layout and use of land; to require that the land be suitable for building sites and public improvements and that there be adequate drainage of the land; to provide for proper ingress and egress to lots and parcels; to promote proper surveying and monumenting of land subdivided and conveyed by accurate legal descriptions; to provide for the approvals to be obtained prior to the recording and filing of plats and other land divisions; to provide for the establishment of special assessment districts and for the imposition of special assessments to defray the cost of the operation and maintenance of retention basins for land within a final plat; to establish the procedure for vacating, correcting, and revising plats; to control residential building development within floodplain areas; to provide for reserving easements for utilities in vacated streets and alleys; to provide for the filing of amended plats; to provide for the making of assessors plats; to provide penalties for the violation of the provisions of this act; to repeal certain parts of this act on specific dates; and to repeal acts and parts of acts,".

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.

Senator Conroy entered the Senate Chamber.

#### Senate Bill No. 127, entitled

A bill to amend 1943 PA 240, entitled "State employees' retirement act," by amending section 19f (MCL 38.19f), as added by 1996 PA 487.

The House of Representatives has substituted (H-2) the bill.

The House of Representatives has passed the bill as substituted (H-2), ordered that it be given immediate effect and amended the title to read as follows:

A bill to amend 1943 PA 240, entitled "An act to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection with the retirement system; to require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; and to prescribe penalties and provide remedies," by amending sections 16 and 19f (MCL 38.16 and 38.19f), section 19f as added by 1996 PA 487.

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

Senators Gougeon and Geake entered the Senate Chamber.

### Third Reading of Bills

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

**Senate Bill No. 225**

**Senate Bill No. 302**

**Senate Bill No. 174**

**Senate Bill No. 303**

The motion prevailed.

The following bill was read a third time:

**Senate Bill No. 225, entitled**

A bill to amend 1984 PA 431, entitled "The management and budget act," (MCL 18.1101 to 18.1594) by adding section 353d.

The question being on the passage of the bill,

Senator O'Brien offered the following amendment:

1. Amend page 2, following line 15, by inserting:

"SEC. 353E. FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1998, THERE IS APPROPRIATED FROM THE FUND THE SUM OF \$131,000,000.00 FOR THE HIGHWAY EMERGENCY LARGE POTHOLE FUND IN THE DEPARTMENT OF TRANSPORTATION."

The question being on the adoption of the amendment,

Senator V. Smith requested the yeas and nays.

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

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

### Roll Call No. 54

### Yeas—18

Bennett	DeBeaussaert	Miller	Smith, A.
Byrum	Dingell	North	Smith, V.
Cherry	Gougeon	O'Brien	Stallings
Cisky	Hart	Peters	Vaughn
Conroy	Koivisto		

### Nays—18

Berryman	Emmons	Posthumus	Shugars
Bouchard	Gast	Rogers	Steil
Carl	Geake	Schuetz	Stille
DeGrow	Hoffman	Schwarz	Van Regenmorter
Dunaskiss	McManus		

**Excused—2**

Bullard

Young

**Not Voting—0**

In The Chair: President

**Protest**

Senator Emmons, under her constitutional right of protest (Art. IV, Sec. 18), protested against the adoption of the amendment offered by Senator O'Brien to Senate Bill No. 225.

Senator Emmons' statement is as follows:

I voted "no" on the past amendment because I believe that we need to protect one of our most valuable resources, our school children. If ever a down turn comes, because we are so heavily financed state wide, it will hurt them first. I think that we have to be cognizant of that problem in our state, now that we are providing most of the funding for K-12 education. We have a responsibility to have a fund balance if we have a down turn, and make sure that we can keep up the fine education that's going on in Michigan.

Senator Cherry asked and was granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Cherry's first statement is as follows:

I rise to support the O'Brien amendment, which in its simplest form as it is before us now, would simply add additional money from the budget stabilization fund, which the committee already has agreed to put towards the road maintenance and repair. I think the reason for this is fairly obvious, if any of us spent any kind of time driving a car anywhere in this state. Right now our roads are in absolutely horrible, horrible condition. That really means that we have to do everything that is reasonably prudent and within our power to get additional money into road maintenance and repair.

What I understand Senator O'Brien to say, is that in a subsequent bill there will be another amendment which would create a highway emergency large pothole fund. Whose purpose would be only to repair all of these awful potholes that we are seeing everyday when we drive anywhere in this state. I think it is important to understand that. I think that is what Senator O'Brien was saying when he was talking about things out of order. This money that he is proposing to take out of the budget stabilization fund, would go for that purpose. That purpose would be put forward in a future amendment on another bill. I further understand that it is his intention to have money distributed from this highway emergency large pothole fund. Distributed according to the present formula, so that locals can be assured to have additional dollars to repair roads. The state would have additional dollars to repair highway potholes.

Clearly I can not think that I have heard of an issue that is not discussed more, complained about more than this question that we see today with potholes. Everywhere I go all people ever talk to me about right now, is the potholes that they are facing as they drive in their normal everyday routine throughout this state. These potholes are causing damage to their cars. They are causing repair bills that are exorbitant and it is incumbent upon us to try to find additional money for this purpose. I know that the Senator from the 19th District has been working on these bills. Has found some additional money, and I want to commend him for that. Obviously he understands this issue. That, in fact, it is our obligation and responsibility.

I think the O'Brien amendment takes one additional step further and I would encourage us to approve this amendment so we can go back tonight, back to our districts, and say that we have taken significant steps to deal with these potholes. We have created a fund called the highway emergency large pothole fund and we are going to fund it with substantial money. The additional \$131 million for the budget stabilization fund that Senator O'Brien is putting forward with this amendment. Again, I would urge the adoption of the amendment.

Senator Cherry's second statement is as follows:

I am absolutely amazed that yesterday, on General Orders, we heard the good Chairman of the Subcommittee, the Senator from the 19th District, talk to us about how he had walked every mile, how this problem was so important that it was incumbent upon us to reach into every cranny of this budget to solve this problem. He was committed to doing that, he was working to do that and he was going to produce a budget to accomplish that. Now, this morning, he's urging caution. He's saying perhaps the problem may not be quite that serious, that we need to show that kind of resolve that is necessary to put additional money into these transportation budgets so something as basic as potholes can be fixed in this state.



I had a constituent earlier this week, call my office. She hit a pothole in Davison, Michigan and the repair to her car exceeded \$3000.00. Now, I don't know how I or anyone else in this Chamber can go back to that individual and say, that using money from the rainy day fund is inappropriate that we ought to simply just let these potholes go while we have \$1 billion sitting in the bank. Senator O'Brien is not asking that we take that entire rainy day fund and use it to fill potholes. He's talking about \$200 million, some of which is interest on the current principle, some of which are lapses from the current budget building principle. So, we're not talking about taking \$200 million out of principle. Yes, he's talking about using some of the principle but for a good purpose, for an emergency purpose.

These potholes are everywhere and it's about time that we face up to that issue and take extraordinary measures to deal with it. I commend Senator O'Brien for doing this, and I would urge adoption of the amendment.

Senator V. Smith moved to reconsider the vote by which the amendment offered by Senator O'Brien was not adopted. The question being on the motion to reconsider,

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

The motion did not prevail.

The question being on the motion to reconsider,

The motion did not prevail.

Senator Conroy offered the following amendments:

1. Amend page 1, line 3, after "OF" by striking out "69,000,000.00" and inserting "200,000,000.00".
2. Amend page 1, line 8, by striking out "26,979,000.00" and inserting "78,200,000.00".
3. Amend page 1, line 9, by striking out "26,979,000.00" and inserting "78,200,000.00".
4. Amend page 1, line 10, by striking out "15,042,000.00" and inserting "43,600,000.00" and adjusting all subtotals, totals and section 201 accordingly.

The question being on the adoption of the amendments,

Senator V. Smith requested the yeas and nays.

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

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

**Roll Call No. 55**

**Yeas—18**

Bennett	DeBeaussaert	Miller	Smith, A.
Byrum	Dingell	North	Smith, V.
Cherry	Gougeon	O'Brien	Stallings
Cisky	Hart	Peters	Vaughn
Conroy	Koivisto		

**Nays—18**

Berryman	Emmons	Posthumus	Shugars
Bouchard	Gast	Rogers	Steil
Carl	Geake	Schuette	Stille
DeGrow	Hoffman	Schwarz	Van Regenmorter
Dunaskiss	McManus		

**Excused—2**

Bullard	Young
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**Not Voting—0**

In The Chair: President

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

The motion prevailed.

Senator Conroy's statement is as follows:

This amendment would alter what was done in Committee, which was a \$69 million slice out of the Budget Stabilization Fund. The difference in this amendment and the previous amendment is these dollars would be immediately appropriated. It would not be next year's budget, they would be immediately appropriated to fix the roads now. So the large potholes could be fixed quickly. You know we haven't even come to the time yet when these roads have lost their frost. I don't know that we've gotten to the worst part of it. But this \$200 million which, incidently, I think the House is going to pass, would come from the Budget Stabilization Fund. That is a fund that has \$1.1 billion in it and it would be allocated immediately upon passage and fix those roads now. I urge your "yes" vote.

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. 56**

**Yeas—33**

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

**Nays—3**

Berryman	O'Brien	Vaughn
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**Excused—2**

Bullard	Young
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**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

**Protests**

Senators Cherry, Berryman and O'Brien, under their constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill No. 225.

Senator Cherry moved that the statement he made during the discussion of the bill be printed as his reasons for voting "no."

The motion prevailed.

Senator Cherry’s statement is as follows:

I intend to vote in support of Senate Bill No. 225, because it does put additional money into road maintenance and construction, \$69 million. I do so with a great deal of disappointment. We had the opportunity to invest significant money into dealing with the potholes in this state. As I mentioned previously on the O’Brien amendment, I have constituents who are incurring large repair bills. I feel it is incumbent on me, and I would think other colleagues here, do as well, to invest every dollar we could into dealing with these potholes. I think we fall short in accomplishing that with this bill. Although we put extra dollars in, that is important. It’s still disappointing that we simply did not go the full mile here to deal with the concerns that our constituents have. In spite of that, I’ll vote “yes.”

Senator Berryman’s statement is as follows:

I voted “no” on Senate Bill No. 225, because I don’t believe in taking any amount of money out of the rainy day fund to fix roads and bridges. I certainly understand my colleagues wanting to get as much money to the roads this construction period as possible. It is my contention that these roads didn’t start falling apart in January of 1997, they have been deteriorating for the last 7 or 8 years. We have not maintained our roads, we have not addressed the issue in the solution, not quick fixes. The bottom line is you fix roads with road dollars. You don’t fix the roads by taking money out of child support payments, or from rainy day funds. You fix them through the gas tax, the user fee and people that drive the roads. That’s where the money should come from. This administration ought to stand up to that. We wouldn’t be here discussing all of this today if we had a maintenance program that was properly funded. I think anytime you put a quick fix and take from other budgets to go out and fill potholes, because that’s what is on the news everyday, is not a solution. We need to stand up and deal with the problem, and that is long term funding. What is going to happen when we come back next year, and all of those pots of money aren’t there? At some point, someone is going to have to stand up and address a solution to these problems. Long term funding is what the state and locals can identify with every year, a long term replacement fund should be put in place. I will not support spending rainy day fund money for roads. Roads ought to be fixed with road dollars. A rainy day will come in the state of Michigan, and that fund ought to have sufficient enough funds so we don’t have to cut our local schools, mental health closures and other things because we have spent the money to fill pot holes.

Senator O’Brien’s statement is as follows:

There is no question something is better than nothing. I happen to believe that the rainy day is here. There is no question \$69 million, by the time you get done spreading it out through the formula equally, everybody manages to get a small piece. It is almost a case of cutting my nose to spite my face. If you gave me this total \$69 million, I could pave 23 whole miles of road; 23 miles. There are 680 lane miles of expressway and state roads maintained under contract on the expressways in the city of Detroit. I can go in now if you gave me all of it and pave 23 miles, with the assumption that it’s only going one way. It’s half that, if we’re paving east and westbound 94 or north and southbound Lodge. While it may appear I’m cutting my nose off to spite my face, I am not. It is not enough money. I hate to disagree with the Senator from Monroe, but I think the rainy day is here and it is not raining rain, it’s raining bridges. It is dropping on the pavement, their crashing windows, we have a major league problem when we have plywood holding up our bridges. The rainy day fund is here but the only difference is it is raining concrete.

The following bill was read a third time:

**Senate Bill No. 302, entitled**

A bill to make appropriations for the state transportation department for the fiscal year ending September 30, 1997; to adjust certain appropriations for the fiscal year ending September 30, 1997; and to provide for the expenditure of the appropriations.

The question being on the passage of the bill,

Senator DeBeaussaert offered the following amendments:

- 1. Amend page 2, following line 15, by inserting:

**“DEPARTMENT OF STATE POLICE**

Full-time equated classified positions—5.0

GROSS APPROPRIATION ..... \$ 613,100

State general fund/general purpose..... \$ 613,100

**MOTOR CARRIER ENFORCEMENT**

School bus inspections—5.0 FTE positions ..... \$ 613,100

GROSS APPROPRIATION ..... \$ 613,100

Appropriated from:

State general fund/general purpose..... \$ 613,100”

and adjusting all subtotals, totals and section 201 accordingly.

2. Amend page 2, following line 24, by inserting:

**“STATE POLICE**

The appropriation in section 101 for school bus inspections shall be used by the department of state police to inspect each school bus, bus or other motor vehicle with a manufacturers rated seating capacity of 12 or more, which is owned, leased, or used by a nonpublic school, religious organization, nonprofit youth organization, nonprofit rehabilitation facility, or senior citizen center for the transportation of passengers, annually, as required under 1949 PA 300, MCL 257.715a.”.

The question being on the adoption of the amendments,

Senator Hoffman moved that further consideration of the amendments be postponed temporarily.

The motion prevailed.

Senator Cisky offered the following amendment:

1. Amend page 2, following line 24, by inserting:

“Sec. 203. From the funds appropriated in section 101 the department shall allocate \$2,000,000.00 to the department of natural resources for costs associated with removal of roadkill.”.

The question being on the adoption of the amendment,

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

The motion prevailed.

Senator Bennett offered the following amendments:

1. Amend page 2, following line 15, by inserting:

**“DEPARTMENT OF STATE POLICE**

Full-time equated classified positions—5.0

GROSS APPROPRIATION .....	\$	650,000
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State general fund/general purpose.....	\$	650,000
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**MOTOR CARRIER ENFORCEMENT**

School bus inspections—5.0 FTE positions .....	\$	650,000
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GROSS APPROPRIATION .....	\$	650,000
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Appropriated from:

State general fund/general purpose.....	\$	650,000”
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and adjusting all subtotals, totals and section 201 accordingly.

2. Amend page 2, following line 24, by inserting:

**“STATE POLICE**

The appropriation in section 101 for school bus inspections shall be used by the department of state police to inspect each school bus, bus or other motor vehicle with a manufacturers rated seating capacity of 12 or more, which is owned, leased, or used by a nonpublic school, religious organization, nonprofit youth organization, nonprofit rehabilitation facility, or senior citizen center for the transportation of passengers, annually, as required under 1949 PA 300, MCL 257.715a.”.

The question being on the adoption of the amendments,

Senator DeBeaussaert moved that further consideration of the amendments be postponed temporarily.

The motion prevailed.

Senator DeBeaussaert asked and was granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator DeBeaussaert’s first statement is as follows:

I offer this amendment as a result of learning something this week, which I found terribly disturbing regarding what was happening in school districts across this state.

Apparently, in violation of state law that requires that school buses be inspected annually by the Department of State Police, the department earlier this year reached the conclusion that they would change their policy and only inspect about half of the fleet each year. It came to my attention through a local school district public transportation supervisor, who also noted that the state law requires that the operators of school buses, or pupil transportation vehicles, shall not operate or permit to be operated, a school bus unless they have been appropriately inspected.

The policy, it would appear, of the Department of State Police, would not only be to ignore the state law as it relates to their duties, but also to leave local school districts in violation of state law, because their districts could not be annually inspected as required. I don’t think that is a situation that this Legislature should tolerate. I know that the chair of the State Police Subcommittee is concerned about this as well, and has amendments that I think he may be offering on the budget for the next fiscal year; but we have a problem in this fiscal year.

We have school districts that beginning September 1, will be asked to put onto the roadways school buses that have not been inspected as required by state law. That would put them in violation, and I think it puts all of us in danger of putting onto the roadways of our state, school buses that could endanger the public safety of the school children of Michigan. I'm not willing to allow that to occur. This is a supplemental bill and may be our only chance in this fiscal year to address this problem. So I have offered this amendment which would allocate sufficient funds for all school buses to be inspected this fiscal year. There may be more than adequate dollars in this amendment to accomplish that; any additional monies could lapse to the general fund as is traditionally the process.

I think the Legislature should act while we have this opportunity in this fiscal year to make sure that we ensure the public safety and especially the safety of the school children of Michigan. I would ask for your support.

Senator DeBeaussaert's second statement is as follows:

It's obvious we are engaging in a little bit of gamesmanship on this issue. This is an issue where there shouldn't be political games played when we are talking about the safety of the public school children in Michigan. I am not going to oppose this amendment clearly, and there is a majority of votes there to control the agenda in terms of which amendments get taken up first. I am glad that regardless of the sponsorship, we are going to be addressing this issue and protecting the public safety of the school children in Michigan. I would ask that we move forward on this amendment, regardless of who's sponsoring it, to take care of the problem today.

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

The question being on the adoption of the amendment,

Senator Cisky withdrew the amendment.

By unanimous consent the Senate returned to consideration of the amendments offered by Senator Bennett.

The question being on the adoption of the amendments,

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

Senator Cisky offered the following amendment:

1. Amend page 2, following line 24, by inserting:

"Sec. 203. There is appropriated from the state general fund \$2,000,000.00 to the department of natural resources for costs associated with removal of roadkill."

The question being on the adoption of the amendment,

### Point of Order

Senator Stille raised the Point of Order that the amendment offered by Senator Cisky was not germane to the bill because it provided funding for the Transportation Department.

The President, Lieutenant Governor Binsfeld, sustained the Point of Order because Senate Bill No. 302 provides appropriations for the Transportation Department budget and the amendment pertained to the budget for the Natural Resources Department.

By unanimous consent the Senate returned to consideration of the amendments offered by Senator DeBeaussaert.

The question being on the adoption of the amendments,

Senator DeBeaussaert withdrew the amendments.

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. 57

### Yeas—32

Bennett	DeGrow	Hoffman	Schuette
Bouchard	Dingell	Koivisto	Schwarz
Byrum	Dunaskiss	McManus	Shugars
Carl	Emmons	Miller	Smith, V.
Cherry	Gast	North	Stallings
Cisky	Geake	Peters	Steil
Conroy	Gougeon	Posthumus	Stille
DeBeaussaert	Hart	Rogers	Van Regenmorter

**Nays—4**

Berryman

O'Brien

Smith, A.

Vaughn

**Excused—2**

Bullard

Young

**Not Voting—0**

In The Chair: President

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

A bill to make appropriations for the state transportation department and the department of state police for the fiscal year ending September 30, 1997; to adjust certain appropriations for the fiscal year ending September 30, 1997; and to provide for the expenditure of the appropriations.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

**Protests**

Senator Berryman, O'Brien and A. Smith, under their constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill No. 302.

Senator Berryman moved that the statement he made during the discussion of the amendments offered by Senator Bennett be printed as his reasons for voting "no."

The motion prevailed.

Senator Berryman's first statement is as follows:

I certainly agree with the subject that we want to make sure that our buses are fully inspected and that the funds are there. I think this is an unbelievable process and we are going to see just who is fiscally responsible here. This amendment spends \$33,000 more than Senate Fiscal says needs to be spent to fully fund the program. We are looking for every pocket we can to get money from to fill pot holes and fix roads. We are closing state mental health hospitals. We are going to spend \$33,000 more than we need to spend, just so this amendment can pass and Senator DeBeaussaert's can fail. That is being immature, that is being fiscally irresponsible. You are spending \$33,000 more than Senate Fiscal says is needed to fund this program so you can have an amendment over a Senator who did his homework, who was concerned, and had it fully funded. I think you ought to defeat this amendment and go back to the DeBeaussaert amendment which fully funds it, and pass that on a bipartisan basis. I just think this is immature and fiscally irresponsible.

Senator Berryman's second statement is as follows:

I have a great deal of respect for the Senator from the 19th District, and appreciate what he is trying to do. I also voted "no" on this bill because we are taking from different pots to try to literally fill pot holes with that this year. That is not solving the problem, it is short-term, as he said a band-aid approach. A gas tax will be funding from roads, for roads, that will be there next year and the year after, could pass this body, signed into law and money going into roads as fast as this bill can pass. All you have to do is pass this bill, you don't need all of these stop get measures. Put a gas tax proposal on the table, pass it out of here, get it to the Governor and have his sign it and that money can get to roads as fast as this bill will.

Senator O'Brien's statement, in which Senator A. Smith concurred, is as follows:

I have concerns with this bill based on the fact that we had discussions earlier in the Committee probably based on two areas: there's a strong question as to whether this is even constitutional and there is ambiguous language in there that states that up to 10 percent can be withdrawn. However, I question that and I also question the fact that the \$20 million taken from the MTF, which if it wasn't even in this bill anyway, it's somewhat of a pastor. We don't need this bill to get the \$20 million that they are moving through with this bill. If this \$20 million that we pulled out with this piece of legislation were simply left alone in the MTF it would have gone out and been distributed under the Act 51 formula and I think there's a little bit of precedence being set here. I didn't like that, so for those reasons I voted "no."

Senators Shugars, Schuette, Gougeon and Bennett moved that they be named co-sponsors of the following bill:

**Senate Bill No. 302**

The motion prevailed.

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

The motion prevailed.

Senator Rogers' statement is as follows:

I rise today to announce and recognize the loss of a valued member of this Chamber, Glenn Gorton. He was a top developer for SIS and someone who certainly helped the members of this body, who didn't know a megabyte from an overbite, come into the 21st Century. He has been with the department for 8 1/2 years, and has been a driving force for our chamber automation system. He has actually helped us lead the country in automation with state legislatures. He will certainly be missed by this body and by this Chamber. I want to rise and thank him for his patience and good training, in bringing all of the members to the computer age and taking us into the 21st Century very well prepared to meet the demands of the citizens of Michigan. His last day is tomorrow. He is moving on to a management position in computer programming for the Michigan Education Association. I would ask all of the members to please join me in recognizing the great work and his great contribution to this Chamber.

The following bill was read a third time:

**Senate Bill No. 174, entitled**

A bill to make appropriations for the state transportation department and certain transportation purposes for the fiscal year ending September 30, 1998; to provide for the imposition of fees; to create certain work groups and committees; to provide for reports; to create certain funds; to prescribe requirements for certain railroad facilities; to prescribe certain powers and duties of certain state departments and officials, local units of government, committees, and work groups; and to provide for the expenditure of the appropriations.

The question being on the passage of the bill,

Senator Cherry offered the following amendment:

1. Amend page 18, following line 10, by inserting:

“Sec. 216. (1) At least 14 days prior to entering into any personal service contracts or contracts with independent contractors in an amount in excess of \$5,000.00, the department shall notify the members of the senate and house appropriations committees of the proposed contract. The notification shall include the proposed total dollar amount of the contract, the primary source of funding, the duration of the contract, the type of service, the name of the entity with which the state is entering into the contract (vendor), whether the vendor is an early retiree or the business vendor's owners are early retirees, whether the contract was competitively bid, and the standard under which the contract was approved.

(2) The department shall report before the fifteenth of each month to the members of the senate and house appropriations committees and the fiscal agencies the following information for each contract for services approved by the department appointing authority or preauthorized by the state personnel director:

(a) The name of the individual or entity with whom the state agency is contracting.

(b) The dollar amount, source of financing for the contract, the duration of the contract and the standard under which the contract was approved.

(c) Whether the contract was competitively bid.

(d) The name of any individual providing contractual services to the state, whether as a special personal service employee or as the employee of an independent contractor who has retired under sections 19a and 19f of 1943 PA 240, MCL 38.19a and 38.19f.

(3) Within 60 days after book closing for FY 1996-97, the department shall file a report with the members of the senate and house appropriations committees which includes:

(a) The total expenditures for contractual services approved by the department for FY 1996-97.

(b) The total expenditures from the state's accounting system coded as contractual services for FY 1996-97.

(c) The number of full time classified positions that correspond to the expenditures for contractual personal services. This shall be calculated by using the state accounting system total expenditure for contractual services and dividing the total expenditures by the average salary including fringes for the average state employee.”.

The question being on the adoption of the amendment,

Senator Cherry requested the yeas and nays.

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

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

**Roll Call No. 58****Yeas—15**

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

**Nays—21**

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

**Excused—2**

Bullard	Young
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**Not Voting—0**

In The Chair: President

Senator O'Brien offered the following amendment:

1. Amend page 25, following line 5, by inserting:

“(4) None of the funds statutorily dedicated to the transportation economic development fund shall be diverted to other projects without the approval of the house and senate.”.

The question being on the adoption of the amendment,

Senator V. Smith requested the yeas and nays.

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

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

**Roll Call No. 59****Yeas—16**

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

**Nays—20**

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



**Excused—2**

Bullard Young

**Not Voting—0**

In The Chair: President

Senator O'Brien offered the following amendments:

1. Amend page 8, following line 12, by inserting:

“HIGHWAY EMERGENCY LARGE POTHOLE FUND (HELP)

State trunkline roads .....	\$	51,807,500
County road commissions .....		51,807,500
Cities and villages .....		28,885,000
GROSS APPROPRIATION .....	\$	132,500,000

Appropriated from:

Special revenue funds:

Budget stabilization fund .....		131,000,000
State aeronautics fund .....		1,500,000
State general fund/general purpose.....	\$	0”.

2. Amend page 9, line 10, by striking out “7,570,000” and inserting “6,070,000”.

3. Amend page 9, line 15, by striking out “8,570,000” and inserting “7,070,000” and adjusting all subtotals, totals and section 201 accordingly.

The question being on the adoption of the amendments,

Senator V. Smith requested the yeas and nays.

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

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

**Roll Call No. 60**

**Yeas—18**

Bennett	Conroy	Koivisto	Smith, A.
Berryman	DeBeaussaert	Miller	Smith, V.
Byrum	Dingell	O'Brien	Stallings
Cherry	Gougeon	Peters	Vaughn
Cisky	Hart		

**Nays—18**

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

**Excused—2**

Bullard Young

**Not Voting—0**

In The Chair: President

Senator A. Smith offered the following amendment:

1. Amend page 18, following line 10, by inserting:

“Sec. 217. The department shall receive and retain copies of all reports funded from section 101 appropriations.”.

The question being on the adoption of the amendment,

Senator V. Smith requested the yeas and nays.

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

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

**Roll Call No. 61**

**Yeas—36**

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

**Nays—0**

**Excused—2**

Bullard	Young
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**Not Voting—0**

In The Chair: President

Senator O'Brien offered the following amendment:

1. Amend page 25, following line 5, by inserting:

“(4) None of the funds statutorily dedicated to the transportation economic development fund shall be diverted to other projects without the notification and approval of the house and senate appropriations subcommittees on transportation.”.

The question being on the adoption of the amendment,

Senator V. Smith requested the yeas and nays.

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

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

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

**Roll Call No. 62**

**Yeas—20**

Bennett	Conroy	Koivisto	Smith, A.
Berryman	DeBeaussaert	Miller	Smith, V.
Byrum	Dingell	North	Stallings
Cherry	Gougeon	O'Brien	Stille
Cisky	Hart	Peters	Vaughn

**Nays—16**

Bouchard	Emmons	McManus	Schwarz
Carl	Gast	Posthumus	Shugars
DeGrow	Geake	Rogers	Steil
Dunaskiss	Hoffman	Schuette	Van Regenmorter

**Excused—2**

Bullard	Young
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**Not Voting—0**

In The Chair: Schwarz

Senator O’Brien offered the following amendments:

1. Amend page 8, following line 12, by inserting:

“HIGHWAY EMERGENCY LARGE POTHOLE FUND (HELP)

State trunkline roads .....	\$	586,500
County road commissions .....		586,500
Cities and villages .....		327,000
GROSS APPROPRIATION .....	\$	1,500,000

Appropriated from:

Special revenue funds:

State aeronautics fund .....		1,500,000
State general fund/general purpose.....	\$	0”.

2. Amend page 9, line 10, by striking out “7,570,000” and inserting “6,070,000”.

3. Amend page 9, line 15, by striking out “8,570,000” and inserting “7,070,000” and adjusting the subtotals, totals, and section 201 accordingly.

The question being on the adoption of the amendments,

Senator V. Smith requested the yeas and nays.

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

The question being on the adoption of the amendments,

**Point of Order**

Senator Hoffman raised the Point of Order that the amendments offered by Senator O’Brien was not germane because it proposed that money be deposited into appropriations to a fund that does not exist.

The President pro tempore, Senator Schwarz, ruled that the amendment was germane.

The question being on the adoption of the amendments,

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

**Roll Call No. 63**

**Yeas—18**

Bennett	Conroy	Koivisto	Smith, A.
Berryman	DeBeaussaert	Miller	Smith, V.
Byrum	Dingell	O’Brien	Stallings
Cherry	Gougeon	Peters	Vaughn
Cisky	Hart		

**Nays—17**

Carl	Geake	Posthumus	Shugars
DeGrow	Hoffman	Rogers	Steil
Dunaskiss	McManus	Schuette	Stille
Emmons	North	Schwarz	Van Regenmorter
Gast			

**Excused—2**

Bullard	Young
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**Not Voting—1**

Bouchard

In The Chair: Schwarz

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. 64****Yeas—24**

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

**Nays—12**

Berryman	DeBeaussaert	Miller	Smith, V.
Cherry	Dingell	O'Brien	Stallings
Conroy	Hart	Smith, A.	Vaughn

**Excused—2**

Bullard	Young
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**Not Voting—0**

In The Chair: Schwarz

The Senate agreed to the title of the bill.

### Protests

Senators Cherry, Conroy and O'Brien, under their constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill No. 174.

Senator Cherry's statement, in which Senator Conroy concurred, is as follows:

My "no" vote explanation is pretty straight-forward and simple. I simply refuse to vote for the purchase of a state airplane when the roads are in the shape they are in. My constituents are ruining their cars with the terrible condition of Michigan roads. This budget doesn't deal with that when we are wasting away money buying airplanes, and I simply cannot in good conscience, vote "yes". So that is the reason I very clearly voted "no" on this budget.

Senator Conroy's statement is as follows:

I want to get this straight, because I remember those ads. It said, "I'm gonna drive my Oldsmobile." Of course I was wondering how he was going to, particularly up there in Mackinaw City, get a real head start and go off that dock. I guess he was going to take the boat. He kind of insinuated that he was not going to fly to Mackinaw Island. I think the important thing to get to the bottom of right here, is did Jim Blanchard talk to this Governor in these last few months or year, and convince him that he should have that airplane. He was wrong about those assertions back during that campaign. I know he has had some experience on Air Force One and maybe Blanchard caught him on that trip and said, "You ought to get that plane." Our Governor has agreed with the former Governor on that. I do not know how it all came about. We know that the purchase is intended, and I think that the O'Brien amendment is a good amendment to maybe spend the money elsewhere.

Senator O'Brien's statement is as follows:

I voted "no" quite frankly, and I came in at the very end of the process. In being thrown into the process, far more questions were raised for me than resolved. Far more questions appeared than answers and descended over to the House. Quite frankly, based on some of the questions I have as it relates to this bill in good conscience, I couldn't because I feel that we could have done a far better job in meeting the needs of the driving public than we did with this bill. As I said earlier, we've got a rainy day fund, but it's raining concrete now, and I truly do have more pot holes than I do road.

Senator DeGrow asked and was granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator DeGrow's first statement is as follows:

Just a response to the Senator from the 29th District. First off, Jim Blanchard was into helicopters not airplanes. Second, this airplane is not for the Governor. This is for a lot of state employees and this is not something special, this came up in appropriations and this is the routine time they do this. So to imply that this is for the Governor, I think, is unfair and usually you have a little higher standard of the debate than that Senator. Setting that aside, this airplane is for a lot of state employees, and the people in charge of this said that they needed it at this time. This is not for the Governor. It has nothing to do with him, and at some point down the road, I do not think any of us wants state employees endangered because you guys wanted to play political games with airline safety.

Senator DeGrow's second statement is as follows:

Your mind is not slipping yet. That helicopter was sold. Again, for those of us who sit on Appropriations, this came up in Appropriations. It is the routine time to do this. They do this periodically. It has nothing to do with the Governor. This Governor, the last Governor or any Governor. It is the routine time this is done. If you guys want to play games with it fine, but that is not the truth.

The following bill was read a third time:

#### **Senate Bill No. 303, entitled**

A bill to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties,

cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal certain acts and parts of acts," by amending sections 10, 11, 11c, 12, 13, and 15 (MCL 247.660, 247.661, 247.661c, 247.662, 247.663, and 247.665), sections 10, 11, 11c, 12, and 13 as amended by 1993 PA 294 and section 15 as amended by 1982 PA 438, and by adding section 1g.

The question being on the passage of the bill,

Senator Carl offered the following amendments:

1. Amend page 26, line 7, after "mileage" by inserting "OR TOTAL LANE MILEAGE, WHICHEVER IS GREATER,".
2. Amend page 26, line 8, after "mileage" by inserting "OR TOTAL LANE MILEAGE, WHICHEVER IS GREATER,".
3. Amend page 26, line 21, after "mileage" by inserting "OR TOTAL LANE MILEAGE, WHICHEVER IS GREATER,".
4. Amend page 26, line 22, after "mileage" by inserting "OR TOTAL LANE MILEAGE, WHICHEVER IS GREATER,".
5. Amend page 37, following line 15, by inserting:

"(22) AS USED IN THIS SECTION, "TOTAL LANE MILEAGE" MEANS THE SUM TOTAL OF THE LANES OF ROADS IN THE COUNTY PRIMARY ROAD SYSTEM OR THE COUNTY LOCAL ROAD SYSTEM, AS APPLICABLE."

6. Amend page 40, line 7, after "mileage" by inserting "OR LANE MILEAGE, WHICHEVER IS GREATER,".
7. Amend page 42, line 20, after "mileage" by inserting "OR TOTAL LANE MILEAGE, WHICHEVER IS GREATER,".
8. Amend page 42, line 21, after "mileage" by inserting "OR TOTAL LANE MILEAGE, WHICHEVER IS GREATER,".
9. Amend page 46, following line 13, by inserting:

"(11) AS USED IN THIS SECTION, "LANE MILEAGE" OR "TOTAL LANE MILEAGE" MEANS THE SUM TOTAL OF LANES OF STATE TRUNKLINE HIGHWAYS WITHIN THE BOUNDARIES OF A CITY OR VILLAGE OR THE SUM TOTAL NUMBER OF LANES OF STREETS OF THE LOCAL STREET SYSTEM OF A CITY OR VILLAGE, WHICHEVER IS APPLICABLE."

The question being on the adoption of the amendments,

Senator V. Smith requested the yeas and nays.

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

The amendments were adopted, a majority of the members serving voting therefor, as follows:

#### Roll Call No. 65

#### Yeas—20

Bennett	Conroy	Hart	Smith, A.
Bouchard	DeBeaussaert	Miller	Smith, V.
Byrum	Dingell	Peters	Stallings
Carl	Dunaskiss	Posthumus	Steil
Cherry	Geake	Shugars	Vaughn

#### Nays—16

Berryman	Gast	McManus	Schuette
Cisky	Gougeon	North	Schwarz
DeGrow	Hoffman	O'Brien	Stille
Emmons	Koivisto	Rogers	Van Regenmorter

**Excused—2**

Bullard

Young

**Not Voting—0**

In The Chair: Schwarz

**Protests**

Senators McManus, Hoffman and Emmons, under their constitutional right of protest (Art. IV, Sec. 18), protested against the adoption of the amendments offered by Senator Carl to Senate Bill No. 303.

Senators McManus and Hoffman moved that the statements they made during the discussion of the amendments be printed as their reasons for voting “no.”

The motion prevailed.

Senator McManus’ statement is as follows:

I think Senator Hoffman covered the subject rather well. What I would like to add is the fact that if we are going to start re-doing 51, then the width of the road is only one thing we need to talk about. Let’s talk about snow, and let’s talk about the inches we’ve got to get rid of on the roads and we’ll start with anywhere from 60 to 120 up in Houghton, and put a factor in for that. Then let’s talk about grades, where we have hills that go up and down. And we’ll put a factor in for how many degrees of a rise we’ve got in the highway, and the extra cost of billing that. Then we want to talk about sloping banks that you have to cut when you are going through dunes and that type of thing. We have roads in the state where the care of trees is a very important cost, so we’ll put that factor in. Then Senator Cisky wants us to pick up the deer, so we certainly ought to have that in the formula. On top of that, the whole Agricultural product situation, where we are all on sugar beets and lots of other things that are on the road, that I won’t even mention. I oppose this bill because it is a one shot deal, a one cause and I think it is unfair for the majority of this state. If we are going to get into re-doing 51, let’s consider a whole lot more factors of expense rather than width.

Senator Hoffman’s statement is as follows:

Well I guess this is going to be the public hearing on Public Act No. 51. It is a pretty sad public hearing if this is the only hearing we are going to have on such an important issue. This issue is an “us” against “them” within this body. It needs to be debated in a public hearing forum.

Last year I brought forth a bill to radically change Public Act No. 51. My colleagues in this chamber and a number of the people outside, communicated to me effectively that they wanted it done in a public forum. Have plenty of hearings and have plenty of input. What we have done here and what Senate Bill No. 303 proposes, is a modest change in Public Act No. 51. Every time you open up something like this you run the risk of somebody going in and trying to grab the candy for themselves.

I would submit to the Senator from the 12th District that I bet on Friday afternoons, a good number of his constituents go to the north country. Both in Senator North’s country and in his backyard. When the folks from Macomb County go up to Otsego County snowmobiling, they expect good country roads. What this amendment will do is ensure the “us” against “them” mentality. It will divide this body, Republicans against Republicans - Democrats against Democrats, and that is not what we want to do. We want to develop here good public policy.

I would ask the members again to resist the urge or the temptation to satisfy selfish means, right now, at the expense of the good of the people of this state. You know when the citizens of your district come into my district, they do not say that these are Jackson County roads that I am riding on. They don’t say that these are Horton Village roads that we are riding on. They say these are Michigan roads and these are Michigan roads that need help. That is what we are here to do this afternoon. Take care of the issue of helping our Michigan roads, not dividing one against the other. I would ask the members to turn this amendment down.

Senator Emmons’ statement is as follows:

If you fall into a pothole in the 23rd District, you’ll know that Senate Bill No. 303, with the amendment sponsored by the Senator from the 12th District, is the reason you fell in. We’ll send the Senator from the 12th District the bill.

Senator DeGrow moved to reconsider the vote by which the amendments offered by Senator Carl were adopted.

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

The question being on the adoption of the amendments,

Senator V. Smith requested the yeas and nays.

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

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

**Roll Call No. 66**

**Yeas—19**

Bennett	Conroy	Hart	Smith, V.
Berryman	DeBeaussaert	Miller	Stallings
Byrum	Dingell	Peters	Steil
Carl	Dunaskiss	Shugars	Vaughn
Cherry	Geake	Smith, A.	

**Nays—15**

Cisky	Gougeon	North	Schwarz
DeGrow	Hoffman	O'Brien	Stille
Emmons	Koivisto	Posthumus	Van Regenmorter
Gast	McManus	Rogers	

**Excused—2**

Bullard	Young
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**Not Voting—2**

Bouchard	Schuette
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In The Chair: Schwarz

**Protest**

Senator O'Brien, under his constitutional right of protest (Art. IV, Sec. 18), protested against the adoption of the amendments offered by Senator Carl to Senate Bill No. 303.

Senator O'Brien's statement is as follows:

I have concerns with this bill based on the fact that we had discussions earlier in the Committee probably based on two areas: there's a strong question as to whether this is even constitutional and there is ambiguous language in there that states that up to 10 percent can be withdrawn. However, I question that, and I also question the fact that the \$20 million taken from the MTF, which if it wasn't even in this bill anyway, it's somewhat of a pass through. We don't need this bill to get the \$20 million that they are moving through with this bill. If this \$20 million that we pulled out with this piece of legislation were simply left alone in the MTF it would have gone out and been distributed under the Act 51 formula and I think there's a little bit of precedence being set here. I didn't like that so for those reasons I voted "no."

Senator O'Brien offered the following amendment:

1. Amend page 2, following line 4, by inserting:

"SEC. 1H. THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A PAVEMENT MANAGEMENT SYSTEM FOR EACH MILE OF ROADWAY ON THE NATIONAL HIGHWAY SYSTEM IN MICHIGAN. THIS PAVEMENT MANAGEMENT SYSTEM SHALL ENSURE THAT THE REMAINING SERVICE LIFE OF ALL EXISTING AND FUTURE PAVEMENTS SHALL BE EVENLY DISTRIBUTED OVER A 30-YEAR LIFE-CYCLE. THIS PAVEMENT MANAGEMENT SYSTEM SHALL ALSO ENSURE THAT A DISPROPORTIONATE SHARE OF PAVEMENT SHALL NOT BECOME DUE FOR REPLACEMENT OR MAJOR REPAIR DURING THE SAME TIME PERIOD.

SEC. 1I. (1) THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A LIFE-CYCLE COST ANALYSIS FOR EACH PROJECT FUNDED IN WHOLE, OR IN PART, WITH STATE FUNDS. THE DEPARTMENT SHALL DESIGN AND AWARD PAVING PROJECTS UTILIZING MATERIAL HAVING THE LOWEST LIFE-CYCLE COST. ALL PAVEMENT DESIGN LIFE SHALL BE 30 YEARS OR MORE, TO ENSURE THAT STATE FUNDS ARE UTILIZED AS EFFICIENTLY AS POSSIBLE, TO PREVENT SIGNIFICANT EXPENDITURES FOR MAINTENANCE, REPAIR, OR RESURFACING DURING THE LIFE OF THE PAVED SURFACE.



(2) THE DEPARTMENT SHALL DESIGN AND AWARD PAVING PROJECTS USING MATERIAL HAVING THE LOWEST LIFE-CYCLE COST. ALL PAVEMENT DESIGN SHALL BE 30 YEARS OR MORE TO ENSURE THAT TRANSPORTATION FUNDS DISTRIBUTED BY THIS ACT ARE UTILIZED AS EFFICIENTLY AS POSSIBLE IN ORDER TO PREVENT SIGNIFICANT EXPENDITURES FOR MAINTENANCE, REPAIR, OR RESURFACING DURING THE LIFE OF THE PAVEMENT.

(3) AS USED IN THIS SECTION, "LIFE-CYCLE COST" MEANS THE TOTAL OF THE COST OF THE INITIAL PROJECT PLUS ALL ANTICIPATED COSTS FOR SUBSEQUENT MAINTENANCE, REPAIR, OR RESURFACING OVER THE LIFE OF THE PAVEMENT. LIFE-CYCLE COST SHALL ALSO COMPARE EQUIVALENT DESIGNS AND SHALL BE BASED UPON MICHIGAN'S ACTUAL HISTORIC PROJECT MAINTENANCE, REPAIR, AND RESURFACING SCHEDULES AND COSTS AS RECORDED BY THE PAVEMENT MANAGEMENT SYSTEM, AND MAY INCLUDE ESTIMATES OF USER COSTS THROUGHOUT THE ENTIRE PAVEMENT LIFE."

The question being on the adoption of the amendment,

Senator V. Smith requested the yeas and nays.

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

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

### Protests

Senators McManus and Stille, under their constitutional right of protest (Art. IV, Sec. 18), protested against the adoption of the amendment offered by Senator O'Brien to Senate Bill No. 303.

Senator McManus' statement, in which Senator Stille concurred, is as follows:

I had a hard time voting against this amendment because the Senator is on to something that we have not talked about in this whole road debate. We have spent a lot of time talking about potholes. Potholes have been around for the 58 years of my life and I am sure that they will be here another 58. It is an annual thing that happens in the spring, although they are a little worse than they have been. No one has discussed the cause of the potholes. Why are those potholes there? And what is it really going to take to fix them? Now if you talk to some people who have studied the real cost of fixing Michigan roads, the real cost will be about \$2 billion or a 38 cents gas tax. That is the kind of money it is going to take to do what the Senator from the 5th district is talking about. And we banter back and forth on whether or not we ought to have a 7 cents gas tax increase, a 5 cents, a 9 cents, a 12 cents, or whatever. None of those would come anywhere near the cost of what it is going to take to fix Michigan roads so you won't have potholes. Because what we are doing now, with the kinds of figures that we are talking about, it is only going to be a patch over job. The problem with the amendment is it is going to force that kind of expenditure and it is not going to repair very much road at the present time. I think that it is going to be very detrimental to the program, because it is not a well-analyzed thought out procedure, and part of a long-range plan to fix Michigan roads.

So that is why I voted against this particular amendment. Not because the basic idea may be wrong, but because of what it is really going to cost if we were to get busy and do it. Now, we could not use a 38 cents gas tax increase at the present time if we had that available. There is not that many road contractors to do the work. And it would immediately raise our cost of bidding the projects considerably. So this is something that has to be phased in over a period of time. My objection to this whole program of discussing the roads is that we don't have a \$2 billion repair program on deck, even if it is going to take us ten years, but we are attempting to talk about small patches and fixes as we go along. I have to compliment the Senator from the 5th district for being the first one to get up here and talk about the fact that the roads are not built right in the first place, and that is why we got the potholes. His amendment has a very good idea but it should be part of a long range program to really fix Michigan roads. That is why I did not vote for it at the present time, because I think it is going to cause real problems in the transportation budget, but this is the first time that we have discussed the basic idea of redoing the roads in the proper fashion so we don't have potholes.

Senator Berryman offered the following amendment:

1. Amend page 43, line 6, after "support." by striking out the balance of the subsection.

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

Senator Berryman requested the yeas and nays.

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

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

The motion prevailed.

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

### Roll Call No. 67

### Yeas—24

Bennett  
Berryman

Conroy  
DeBeaussaert

Hoffman  
McManus

Rogers  
Shugars

Byrum  
Carl  
Cherry  
Cisky

Dingell  
Dunaskiss  
Emmons  
Hart

Miller  
North  
O'Brien  
Peters

Smith, A.  
Stallings  
Van Regenmorter  
Vaughn

**Nays—8**

DeGrow  
Gast

Geake  
Gougeon

Posthumus  
Schwarz

Steil  
Stille

**Excused—3**

Bullard

Smith, V.

Young

**Not Voting—3**

Bouchard

Koivisto

Schuette

In The Chair: Schwarz

Senator Bennett offered the following amendments:

1. Amend page 3, line 13, after "fund." by striking out "The" and inserting "EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE".

2. Amend page 4, line 4, by inserting "BEGINNING OCTOBER 1, 1997, FUNDS DEPOSITED IN THE STATE TREASURY TO THE CREDIT OF THE MICHIGAN TRANSPORTATION FUND AND SUBSEQUENTLY APPROPRIATED TO THE COUNTY ROAD COMMISSIONS AND CITIES AND VILLAGES SHALL NOT BE USED FOR REIMBURSEMENT FOR SERVICES RENDERED BY ANY COUNTY, CITY, OR VILLAGE DEPARTMENT OR AGENCY OTHER THAN THE COUNTY ROAD COMMISSION OR CITY OR VILLAGE ROAD AUTHORITY.".

The question being on the adoption of the amendments,

Senator O'Brien offered the following amendments to the amendments:

1. Amend Senator Bennett's Amendment No. 2, page 4, line 4, by striking out "BEGINNING OCTOBER 1, 1997,".

2. Amend Senator Bennett's Amendment No. 2, page 4, line 4, after "AUTHORITY" by inserting a comma and "AFTER SEPTEMBER 30, 2000. FUNDS ALLOCATED FOR SUCH PURPOSES SHALL BE REDUCED PROPORTIONATELY DURING FISCAL YEARS 1997-98, 1998-99, AND 1999-2000".

The amendments to the amendments were adopted.

Senator Berryman moved that Senator Koivisto be excused from the balance of today's session.

The motion prevailed.

The question being on the adoption of the amendments, as amended,

Senator Bennett requested the yeas and nays.

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

The amendments were adopted, a majority of the members serving voting therefor, as follows:

**Roll Call No. 68**

**Yeas—32**

Bennett  
Berryman  
Byrum  
Carl  
Cherry  
Cisky

DeGrow  
Dingell  
Dunaskiss  
Emmons  
Gast  
Geake

Hoffman  
McManus  
Miller  
North  
O'Brien  
Peters

Schwarz  
Shugars  
Smith, A.  
Stallings  
Steil  
Stille

Conroy  
DeBeausseaertGougeon  
HartPosthumus  
RogersVan Regenmorter  
Vaughn**Nays—0****Excused—4**

Bullard

Koivisto

Smith, V.

Young

**Not Voting—2**

Bouchard

Schuette

In The Chair: Schwarz

Senator O'Brien offered the following amendment:

1. Amend page 5, following line 24, by inserting:

“(E) THE HIGHWAY EMERGENCY LARGE POTHOLE FUND IS CREATED. THE FUND SHALL BE SUPPORTED WITH A ONE-TIME APPROPRIATION FROM THE BUDGET STABILIZATION FUND IN FISCAL YEAR 1997-98 AND OTHER SOURCES AS APPROPRIATED BY THE LEGISLATURE. BEGINNING IN FISCAL YEAR 1998-99, AND IN SUBSEQUENT FISCAL YEARS, THERE SHALL BE ALLOCATED TO THE FUND AN AMOUNT EQUAL TO REDUCTIONS IN CHARGES TO TRANSPORTATION FUNDS BY STATE DEPARTMENTS PURSUANT TO THIS SECTION.” and relettering the remaining subdivision.

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

The question being on the passage of the bill,

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

**Roll Call No. 69****Yeas—30**Bennett  
Berryman  
Byrum  
Carl  
Cherry  
Cisky  
Conroy  
DeBeausseaertDeGrow  
Dingell  
Dunaskiss  
Emmons  
Gast  
Geake  
Gougeon  
HartHoffman  
McManus  
North  
Peters  
Posthumus  
Rogers  
SchwarzShugars  
Smith, A.  
Stallings  
Steil  
Stille  
Van Regenmorter  
Vaughn**Nays—2**

Miller

O'Brien

**Excused—4**

Bullard

Koivisto

Smith, V.

Young

**Not Voting—2**

Bouchard

Schuette

In The Chair: Schwarz

Senator O'Brien offered to amend the title to read as follows:

A bill to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal certain acts and parts of acts," by amending sections 10, 11, 11c, 12, 13, and 15 (MCL 247.660, 247.661, 247.661c, 247.662, 247.663, and 247.665), sections 10, 11, 11c, 12, and 13 as amended by 1993 PA 294 and section 15 as amended by 1982 PA 438, and by adding sections 1g, 1h and 1i.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

### **Protest**

Senator Miller, under his constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill No. 303.

Senator Miller's statement is as follows:

I was in the minority, very, very lonely, myself and one other member. I can't speak for my colleague who voted "no," but I felt that today I disagreed with some of the comments on the floor, that when you hear the statements and you read the paper, go to your local store, your church, or wherever you go, we hear the complaint and the problem about Michigan roads. I don't want to publicly disagree with some of my colleagues, but I wholeheartedly don't feel this is the bill that tackles that problem immediately and not largely enough.

I could go on and say some further remarks, but in closing I want to say that my "no" vote is by no way a reason for supporting a gas tax increase. I think there are other viable solutions out there to fund Michigan's roads. I think we neglected tremendously by not tackling the Budget Stabilization Fund to address this problem quickly and now, but I wanted to send the message that I was against this bill and also, that this was not a vote for support of a gas tax.

I wholeheartedly am opposed to a gas tax increase, but I think that today my county got shortchanged tremendously on the amendment offered by the Senator from the 12th District. I feel somewhat slighted that our taxpayers, the third largest county in the state, were neglected here in more assistance in receiving funds, and that's one more reason why I voted "no." I hope the House will have some brighter insight to fix this after spring break, and they will listen to their constituents more than we did here on the Senate side.

Senator DeGrow moved that Senators Bouchard and Schuette be excused from the balance of today's session.

The motion prevailed.

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

The motion prevailed.

Senator Posthumus' statement is as follows:

First of all, I'd just like to take a moment to congratulate all the members of this chamber for the hard work they've put in today. It's clear what we did was a bipartisan approach. There were some things we could even tell on amendments that Republicans and Democrats within each caucus were split on. But what we were able to do, was to reach out and meet our goal, and that was to put new dollars into the roads of this state without reaching into the taxpayers' pockets and taking it from them.

Our methods were a little different than the Governor's, although, with the same goal in mind. For example, we eliminated the General Fund grant to the Transportation Fund, and we began the process of eliminating the

Transportation Fund support of the Secretary of State's office, and put those dollars in the roads where we think they ought to be. At the same time, we were able to increase the state's receipt of revenues so that the transportation formula of the state will be increased by about \$44 million, to insure that they will still be able to do the construction projects they announced recently without any interruption.

With these changes we've met our collective goal to put more money into our roads without raising taxes. Specifically, our package provides for an immediate infusion of an equivalent of a 3 cents gas tax increase in this construction season without raising taxes. In addition, with the President's commitment, we have now put an equivalent of a 4 cents increase into our roads permanently without raising taxes. That is what we said we could do, and that is, in fact, what we are doing despite what many have said.

I congratulate all of the members of this Chamber and especially Senators Hoffman and Steil for what they have done, because we are showing the public that we can build roads and do what has to be done without raising taxes.

By unanimous consent the Senate proceeded to the order of  
**Resolutions**

Senator DeGrow offered the following concurrent resolution:

**Senate Concurrent Resolution No. 26.**

A concurrent resolution prescribing the legislative schedule.

Resolved by the Senate (the House of Representatives concurring), That when the House of Representatives adjourns on Thursday, March 20, 1997, it stand adjourned until Tuesday, April 8, 1997, at 2:00 p.m.; and be it further

Resolved, That when the Senate adjourns on Thursday, March 27, 1997, it stand adjourned until Tuesday, April 15, 1997, at 10:00 a.m.

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 concurrent resolution was adopted.

By unanimous consent the Senate returned to the order of  
**Introduction and Referral of Bills**

Senators Dingell, Conroy, Carl, Geake and Dunaskiss introduced

**Senate Bill No. 315, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16401 and 16423 (MCL 333.16401 and 333.16423).

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

Senators Bennett, North, Shugars and Schuette introduced

**Senate Bill No. 316, entitled**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 904 (MCL 257.904), as amended by 1994 PA 450.

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

Senators Bullard, Steil, Bouchard, Shugars, North, Dunaskiss and Stille introduced

**Senate Bill No. 317, entitled**

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 51 (MCL 206.51), as amended by 1995 PA 194.

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

Senators Bullard, Steil, Shugars, North, Peters and Dunaskiss introduced

**Senate Bill No. 318, entitled**

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 311 (MCL 206.311), as amended by 1987 PA 254, and by adding section 51b.

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

Senators O'Brien, A. Smith, Byrum, Dingell, Miller, Schwarz, V. Smith and Cherry introduced

**Senate Bill No. 319, entitled**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 208, 221, 232, 307, and 903 (MCL 257.208, 257.221, 257.232, 257.307, and 257.903), section 208 as amended by 1994 PA 449, section 307 as amended by 1996 PA 205, and section 903 as amended by 1992 PA 309, and by adding section 208a.

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

Senators O'Brien, A. Smith, Byrum, Dingell, Miller, Schwarz, V. Smith and Cherry introduced

**Senate Bill No. 320, entitled**

A bill to amend 1972 PA 222, entitled "An act to provide for an official personal identification card; to provide for its form, issuance and use; to provide for certain duties of the secretary of state; and to prescribe certain penalties for violations," (MCL 28.291 to 28.295) by amending the title and by adding sections 6, 7, and 8.

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

Senator Berryman introduced

**Senate Bill No. 321, entitled**

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending sections 4a and 25 (MCL 205.54a and 205.75), section 4a as amended by 1996 PA 435 and section 25 as amended by 1993 PA 325, and by adding sections 4p and 4q; 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 Appropriations.

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

**Senate Bill No. 322, entitled**

A bill to designate the first Monday following February 4 as Mrs. Rosa L. Parks day in the state of Michigan.

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

### Committee Reports

The Committee on Judiciary reported

**Senate Bill No. 306, entitled**

A bill to amend 1964 PA 170, entitled "An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers and paying damages sought or awarded against them; to provide for the legal defense of public officers and employees; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal certain acts and parts of acts," by amending the title and sections 1, 2, 4, and 6 (MCL 691.1401, 691.1402, 691.1404, and 691.1406), the title and section 1 as amended by 1986 PA 175 and section 2 as amended by 1996 PA 150, and by adding sections 2a and 2b.

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.

William Van Regenmorter  
Chairperson

To Report Out:

Yeas: Senators Van Regenmorter, Rogers, Cisky and Geake

Nays: Senators Dingell, Peters and V. Smith

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

### COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submits the following:

Meeting held on Tuesday, March 18, 1997, at 1:00 p.m., Room 100, Farnum Building

Present: Senators Van Regenmorter, Rogers, Cisky, Geake, Dingell, Peters and V. Smith

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

**Senate Bill No. 133, entitled**

A bill to amend 1933 (Ex Sess) PA 8, entitled "The Michigan liquor control act," by amending section 40 (MCL 436.40), as amended by 1994 PA 421.

With the recommendation that the bill pass.

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

Bill Schuette  
Chairman

## To Report Out:

Yeas: Senators Schuette, Gougeon and Stallings

Nays: None

The bill was referred to the Committee of the Whole.

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

**Senate Bill No. 227, entitled**

A bill to amend 1980 PA 299, entitled "Occupational code," by amending section 2001 (MCL 339.2001), as amended by 1992 PA 103.

With the recommendation that the bill pass.

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

Bill Schuette  
Chairman

## To Report Out:

Yeas: Senators Schuette, Gougeon and Stallings

Nays: None

The bill was referred to the Committee of the Whole.

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

**Senate Bill No. 228, entitled**

A bill to amend 1993 PA 23, entitled "Michigan limited liability company act," by amending section 904 (MCL 450.4904).

With the recommendation that the bill pass.

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

Bill Schuette  
Chairman

## To Report Out:

Yeas: Senators Schuette, Gougeon and Stallings

Nays: None

The bill was referred to the Committee of the Whole.

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

**House Bill No. 4142, entitled**

A bill to amend 1846 RS 14, entitled "Of county officers," by amending sections 113, 114, and 117 (MCL 55.113, 55.114, and 55.117).

With the recommendation that the bill pass.

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

Bill Schuette  
Chairman

## To Report Out:

Yeas: Senators Schuette, Shugars and Gougeon

Nays: Senator Stallings

The bill was referred to the Committee of the Whole.

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

**House Bill No. 4143, entitled**

A bill to amend 1969 PA 57, entitled "Uniform recognition of acknowledgments act," by amending section 2 (MCL 565.262).

With the recommendation that the bill pass.

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

Bill Schuette  
Chairman

## To Report Out:

Yeas: Senators Schuette, Shugars and Gougeon

Nays: None

The bill was referred to the Committee of the Whole.

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

**House Bill No. 4238, entitled**

A bill to amend 1980 PA 299, entitled "Occupational code," (MCL 339.101 to 339.2721) by adding sections 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, and 735; and to repeal acts and parts of acts.

With the recommendation that the bill pass.

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

Bill Schuette  
Chairman

**To Report Out:**

Yeas: Senators Schuette, Gougeon and Stallings

Nays: None

The bill was referred to the Committee of the Whole.

**COMMITTEE ATTENDANCE REPORT**

The Committee on Economic Development, International Trade and Regulatory Affairs submits the following:

Meeting held on Wednesday, March 19, 1997, at 1:10 p.m., Room 210, Farnum Building

Present: Senators Schuette, Shugars, Gougeon and Stallings

Excused: Senator O'Brien

**COMMITTEE ATTENDANCE REPORT**

The Committee on Technology and Energy submits the following:

Meeting held on Tuesday, March 19, 1997, at 3:00 p.m., Rooms 425-427, Capitol Building

Present: Senators Dunaskiss, Schuette, Rogers, Berryman and Byrum

**Notice of Intent**

Pursuant to Joint Rule 16, Senator Berryman filed a Notice of Intent to reconsider on the next legislative day the vote by which the following bill was passed:

**Senate Bill No. 303**

**Scheduled Meeting**

Government Operations Committee - Friday, April 11, at 11:00 a.m., Oakland County Commissioners Auditorium, 1200 North Telegraph Road, Pontiac (3-1758).

Senator DeGrow moved that the Senate adjourn.

The motion prevailed, the time being 1:37 p.m.

The President pro tempore, Senator Schwarz, declared the Senate adjourned until Tuesday, March 25, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate.