

No. 72

# JOURNAL OF THE SENATE

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Senate Chamber, Lansing, Thursday, December 3, 1998.

10:00 a.m.

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

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

Bennett—present  
Berryman—present  
Bouchard—present  
Bullard—present  
Byrum—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  
Jaye—present  
Koivisto—present  
McManus—present  
Miller—present  
Murphy—present  
North—present  
O'Brien—present  
Peters—present

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

Senator Christopher D. Dingell of the 7th District offered the following invocation:

Lord, make me an instrument of Thy peace. Where there is hatred, let me sow love; where there is injury, pardon; where there is doubt, faith; where there is despair, hope; where there is darkness, light; and where there is sadness, joy.

O Divine Master, grant that I may not so much seek to be consoled, as to console; to be understood, as to understand; to be loved, as to love; for it is in giving that we receive. It is in pardoning that we are pardoned, and it is in dying that we are born to eternal life.

### Recess

Senator DeGrow moved that the Senate recess subject to the call of the President.  
The motion prevailed, the time being 10:05 a.m.

10:35 a.m.

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

During the recess, Senators Miller, Schuette, Posthumus, Stille, Schwarz, Gougeon, Van Regenmorter, Gast, Geake, Bennett, Hoffman, Steil, Cisky, Dunaskiss, Emmons, Koivisto, McManus, North and Rogers entered the Senate Chamber.

A quorum of the Senate was present.

### Motions and Communications

Senator Bouchard entered the Senate Chamber.

The Secretary announced that the following House bills were received in the Senate and filed on Wednesday, December 2:

**House Bill Nos. 5103 5606 5726 5885 5983 5984 5985 6064 6260 6271**

By unanimous consent the Senate proceeded to the order of  
**Messages from the House**

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

**Senate Bill No. 386**  
**House Bill No. 4259**  
**House Bill No. 5261**  
**House Bill No. 5317**  
The motion prevailed.

#### **Senate Bill No. 1096, entitled**

A bill to amend 1893 PA 206, entitled "The general property tax act," (MCL 211.1 to 211.157) by adding section 9f. 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 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes thereon, and for the collection of taxes levied; making such taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection therewith; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal certain acts and parts of acts in anywise contravening any of the provisions of this act," (MCL 211.1 to 211.157) by adding section 9g.

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

**Senate Bill No. 1283, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 36505 (MCL 324.36505), as added by 1995 PA 59, and by adding section 40107a.

The House of Representatives has substituted (H-1)\* the bill.

The House of Representatives has passed the bill as substituted (H-1)\*, ordered that it be given immediate effect and amended the title to read as follows:

A bill to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 36505 (MCL 324.36505), as added by 1995 PA 59, and by adding section 40107a; and to repeal acts and parts of acts.

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

**House Bill No. 4895, entitled**

A bill to amend 1986 PA 268, entitled "Legislative council act," (MCL 4.1101 to 4.1901) by adding section 204f.

The House of Representatives has substituted (H-1) the Senate substitute (S-1).

The House of Representatives has concurred in the Senate substitute (S-1) as substituted (H-1) and amended the title to read as follows:

A bill to amend 1986 PA 268, entitled "Legislative council act," (MCL 4.1101 to 4.1901) by adding section 204g.

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

**Third Reading of Bills**

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

**Senate Bill No. 256****Senate Joint Resolution A**

The motion prevailed.

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

**Senate Bill No. 1314****Senate Bill No. 78****Senate Bill No. 1231****Senate Bill No. 1362****Senate Bill No. 1058****Senate Bill No. 130****Senate Bill No. 445**

The motion prevailed.

Senator DeGrow moved that the following bill be referred to the Committee on Economic Development, International Trade and Regulatory Affairs:

**Senate Bill No. 887, entitled**

A bill to amend 1937 PA 94, entitled "Use tax act," by amending section 5 (MCL 205.95).

The motion prevailed.

The following bill was read a third time:

**Senate Bill No. 1314, entitled**

A bill to amend 1951 PA 90, entitled "An act to regulate the conducting of racing meets in the state of Michigan; to provide for the possession, control and disposition of funds held by licensees for the payment of outstanding winning tickets not claimed or demanded by the lawful owners of such funds; and to prescribe penalties for violations of the provisions of this act," by amending sections 2, 3, and 4 (MCL 431.252, 431.253, and 431.254); and to repeal acts and parts of acts.

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. 815****Yeas—37**

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

**Nays—0****Excused—0****Not Voting—1**

Jaye

In The Chair: President

The Senate agreed to the title of the bill.

Senator Jaye entered the Senate Chamber.

The following bill was read a third time:

**Senate Bill No. 78, entitled**

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 15d of chapter IV (MCL 764.15d), as added by 1987 PA 256.

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. 816****Yeas—37**

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

**Nays—0**

**Excused—0**

**Not Voting—1**

Geake

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

**Senate Bill No. 1231, entitled**

A bill to amend 1978 PA 368, entitled “Public health code,” (MCL 333.1101 to 333.25211) by adding section 22209a.

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. 817**

**Yeas—38**

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

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

**Senate Bill No. 1362, entitled**

A bill to amend 1996 PA 462, entitled “Enhanced access to public records act,” by amending sections 2 and 3 (MCL 15.442 and 15.443).

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. 818****Yeas—38**

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

**Nays—0****Excused—0****Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

**Senate Bill No. 1058, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 30103 and 32512 (MCL 324.30103 and 324.32512), as added by 1995 PA 59.

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. 819****Yeas—38**

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

**Nays—0****Excused—0****Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

**Senate Bill No. 130, entitled**

A bill to amend 1967 PA 288, entitled "Land division act," by amending sections 117, 169, and 241 (MCL 560.117, 560.169, and 560.241), section 117 as amended by 1995 PA 172 and sections 169 and 241 as amended by 1993 PA 67.

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. 820**

**Yeas—36**

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

**Nays—1**

Jaye

**Excused—0**

**Not Voting—1**

Bullard

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

**Senate Bill No. 445, entitled**

A bill to amend 1972 PA 106, entitled "Highway advertising act of 1972," by amending the title and sections 1, 2, 3, 4, 6, 7, 9, 13, 14, 15, 16, 17, 21, 22, and 23 (MCL 252.301, 252.302, 252.303, 252.304, 252.306, 252.307, 252.309, 252.313, 252.314, 252.315, 252.316, 252.317, 252.321, 252.322, and 252.323), section 4 as amended by 1990 PA 153, and by adding sections 7a and 21a.

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. 821**

**Yeas—34**

Bennett	DeGrow	Koivisto	Schuette
Berryman	Dingell	McManus	Smith, A.
Bouchard	Dunaskiss	Murphy	Smith, V.

Bullard  
Byrum  
Cherry  
Cisky  
Conroy  
DeBeaussaert

Emmons  
Gast  
Geake  
Gougeon  
Hart  
Hoffman

North  
O'Brien  
Peters  
Posthumus  
Rogers

Steil  
Stille  
Van Regenmorter  
Vaughn  
Young

**Nays—2**

Jaye

Shugars

**Excused—0**

**Not Voting—2**

Miller

Schwarz

In The Chair: President

The Senate agreed to the title of the bill.

By unanimous consent the Senate returned to the order of

**Motions and Communications**

Senator DeGrow moved that the rules be suspended and that the following bills, now on Committee Reports, be placed on their immediate passage at the head of the Third Reading of Bills calendar:

**House Bill No. 4681**

**House Bill No. 4682**

**House Bill No. 4683**

**House Bill No. 4684**

**House Bill No. 4685**

**House Bill No. 4686**

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

By unanimous consent the Senate returned to the order of

**Messages from the House**

**Senate Bill No. 479, entitled**

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

The House of Representative has appointed Reps. Profit, Palamara and Hammerstrom as conferees to join with Senators North, Shugars and Peters.

The bill was referred to the Conference Committee on December 2, 1998.

By unanimous consent the Senate returned to the order of

**Third Reading of Bills**

The following bill was read a third time:

**House Bill No. 4681, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 16204a (MCL 333.16204a), as added by 1994 PA 232.

The question being on the adoption of the following committee substitute:

Substitute (S-2).



The substitute was adopted, a majority of the members serving voting therefor.  
 The question being on the passage of the bill,  
 The bill was passed, a majority of the members serving voting therefor, as follows:

**Roll Call No. 822****Yeas—37**

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

**Nays—0****Excused—0****Not Voting—1**

Dunaskiss

In The Chair: President

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

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

The Senate agreed to the full title.

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

The following bill was read a third time:

**House Bill No. 4682, entitled**

A bill to amend 1978 PA 368, entitled “Public health code,” (MCL 333.1101 to 333.25211) by adding section 16204b.

The question being on the adoption of the following committee substitute:  
Substitute (S-2)\*.

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

The question being on the passage of the bill,

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

**Roll Call No. 823**

**Yeas—37**

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

**Nays—0**

**Excused—1**

Dunaskiss

**Not Voting—0**

In The Chair: President

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

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

The Senate agreed to the full title.

Senator Dunaskiss entered the Senate Chamber.

The following bill was read a third time:

**House Bill No. 4683, entitled**

A bill to amend 1978 PA 368, entitled “Public health code,” (MCL 333.1101 to 333.25211) by adding sections 16204c, 16204d, and 16228.

The question being on the adoption of the following committee substitute:  
Substitute (S-2).

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

The question being on the passage of the bill,

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

**Roll Call No. 824****Yeas—36**

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

**Nays—0****Excused—0****Not Voting—2**

Berryman

Rogers

In The Chair: President

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

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

The Senate agreed to the full title.

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:

Today I have my wife here as a guest. Some of you might be curious as to who's put up with me all these years, and now you can see her. Mary Conroy, a mother of five plus me, educated five and had an executive job throughout all

these years so I could come down here and do this work. I dearly love her and appreciate all of the support that she's allowed me to have in terms of this kind of work.

And so, Mary, I am deeply grateful for all of your effort and love.

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

Senator Berryman stated that had he been present when the vote was taken on the passage of the following bill, he would have voted "yea":

**House Bill No. 4683**

Senator Rogers entered the Senate Chamber.

The following bill was read a third time:

**House Bill No. 4684, entitled**

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 2212a (MCL 500.2212a), as added by 1996 PA 517.

The question being on the adoption of the following committee substitute:

Substitute (S-2).

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

The question being on the passage of the bill,

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

**Roll Call No. 825**

**Yeas—38**

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

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: President

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

"An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and

the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal certain acts and parts of acts; to repeal certain acts and parts of acts on specific dates; to repeal certain parts of this act on specific dates; and to provide penalties for the violation of this act.”.

The Senate agreed to the full title.

The following bill was read a third time:

**House Bill No. 4685, entitled**

A bill to amend 1978 PA 368, entitled “Public health code,” by amending section 21052 (MCL 333.21052), as added by 1996 PA 472.

The question being on the adoption of the following committee substitute:

Substitute (S-1).

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

The question being on the passage of the bill,

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

**Roll Call No. 826**

**Yeas—38**

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

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: President

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

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

The Senate agreed to the full title.

The following bill was read a third time:

**House Bill No. 4686, entitled**

A bill to amend 1980 PA 350, entitled “The nonprofit health care corporation reform act,” by amending section 402a (MCL 550.1402a), as added by 1996 PA 516.

The question being on the adoption of the following committee substitute:

Substitute (S-1).

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

The question being on the passage of the bill,

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

**Roll Call No. 827**

**Yeas—38**

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

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: President

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

“An act to provide for the incorporation of nonprofit health care corporations; to provide their rights, powers, and immunities; to prescribe the powers and duties of certain state officers relative to the exercise of those rights, powers,

and immunities; to prescribe certain conditions for the transaction of business by those corporations in this state; to define the relationship of health care providers to nonprofit health care corporations and to specify their rights, powers, and immunities with respect thereto; to provide for a Michigan caring program; to provide for the regulation and supervision of nonprofit health care corporations by the commissioner of insurance; to prescribe powers and duties of certain other state officers with respect to the regulation and supervision of nonprofit health care corporations; to provide for the imposition of a regulatory fee; to regulate the merger or consolidation of certain corporations; to prescribe an expeditious and effective procedure for the maintenance and conduct of certain administrative appeals relative to provider class plans; to provide for certain administrative hearings relative to rates for health care benefits; to provide for certain causes of action; to prescribe penalties and to provide civil fines for violations of this act; and to repeal certain acts and parts of acts.”.

The Senate agreed to the full title.

Senators Schwarz, Shugars and Byrum asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Schwarz’s statement is as follows:

It’s very active around here this morning and a lot going on. It reminds me of an obscure quotation from Wallenstein, the German commander in the Thirty Years War when he said, “Jeden Dritte, der meckert, wird erschossen. Zwei waren hier schon,” which means, “Every third person who comes here will be shot.” Two have already been here.

The pain control bills, I think, are a great legislative step. We have done this: We’ve expanded the advisory committee on pain and symptom management; we’ve set up explicit legislative findings that Michigan needs to provide more and better pain care and information. For physicians, I emphasize—I believe this is the most important part of this package of bills—there is a clear legislative policy that the use of Schedule II substances, mostly opiates, are approved of as a medical treatment for certain forms of intractable pain, and physicians should no longer be afraid to prescribe morphine and morphine congeners for people who do, in fact, have intractable pain.

It’s always interesting to me that morphine has been around for centuries, and we’re now getting around to recognizing the fact that there still isn’t anything better than opiate medications. We should be able to use them if you use them wisely because they are the most effective form of pain control.

We’re putting out increased and better public information on pain management, and we have disclosed to individuals with health insurance precisely what their health insurance policies will cover and what won’t. I think we’ve debunked a couple of thoughts that people had on pain management. One is that there aren’t enough pain managers. In fact, the number of anesthesiologists in the United States increased 207 percent in the last 18 years. The number of physical medicine and rehabilitation physicians increased 290 percent, and the American Board of Anesthesiology has awarded 1,500 certificates for sub-specialty pain management physicians.

So we recognize that people are interested in pain management. The Legislature has, I think, sent the message that we are interested in making certain that quality pain management is available, and I would agree with the chair of the Health Policy Committee, Senator Shugars. We’ll continue to monitor this. We will look at ways to improve the situation, but we will not look over every physician’s shoulder and micro-manage the way they handle pain. I think the message has been sent. I think it’s a good message, and we’ll wait to see how the medical community reacts. I think they’ll react well.

Senator Shugars’ statement is as follows:

Let me take my colleagues back about four years ago when we started with what we call the ACT: Assuring Choices in Treatment. As you remember, there were four parts of ACT. One was do not resuscitate, which was Senator Schwarz’s bill. We passed that and enacted that as a law. The Michigan Dignified Death Act. We passed that and that is currently law. The hospice, the Representative Law bills on the residential treatment facilities for hospice. We passed that, and that was the third of the four prongs of assuring choices in treatment.

The fourth prong is the pain management package of bills. These bills, as you remember about eight months ago, they passed the House of Representatives almost unanimously and came over to the Senate. We started working with them, and there were a number of concerns that maybe these bills did not go far enough. As all of you know, these bills deal with a number of important issues on pain management. It changes the advisory commission on pain and symptom management. It has 15 members who will be studying the dynamics of pain with chronically ill and terminally ill individuals. This package of bills defines intractable pain. It also requires the health plans to disclose to the subscribers or the employees of these health care plans, what the benefits are under that health care plan when it is dealing with pain. Also, it tries to encourage more education, continuing education, more emphasis for health care providers on pain management.

Senator Schwarz, the only practicing physician in the Legislature, articulated in committee, I believe very well, that the health care providers are evolving and doing a very good job dealing with pain with patients. Sometimes in the

media and some of the things that have been going on with Proposal B, they focused on saying that health care providers were not doing as good a job as what they need to do.

This package of bills also deals with the legislative intent: dealing with prescribing narcotics or medications dealing with pain, some of the chilling effects some of the physicians and health care providers have that the state of Michigan is tracing and tracking them. We have that in this package of bills also.

Though this is not a perfect package of bills, there was a substitute on the House floor that some legislators in the House of Representatives wanted to get through. It actually defined a standard of care in the medical arena dealing with pain management in multi-interdisciplinary. The substitute was voted on on the House floor and rumored to be dealt with on the Senate floor. We have been working with parties the last few months, dealing with this issue, and studying the studies that dealt with this. What it boiled down to is that there was a couple of things that created difficulties for a number of us. One was the setting a standard in statute that dealt with the treatment and care of patients, the first time that would be occurring. We felt that, listening to the people that interface in these situations, that would not be the best thing to do.

However, we did increase for everyone, every group you can think of, a higher awareness of interdisciplinary practices dealing with pain management. Though we did not put the standard in these bills, we are talking about it, and I assure Madam Governor and all my colleagues, we will continue this dialogue into next term, try to wrestle and improve the situation with maybe guidelines and maybe have the Board of Medicine help us more than the Legislature. I think they are more the experts and have the training and experience than maybe us.

The other thing that the substitute could have done was defacto type of mandates that would require, even though it did not spell it out specifically but if it went through to a court of law and you are hearing two conflicting testimonies that very well may have mandated, coverage dealing with pain medication after a certain amount of time. We felt that, at a time when health care insurance premiums are going up – next year the projections are, from insurance companies and employers, that we do not want to put another mandate, even if it is a defacto mandate, on the backs at this time. However, we need to continuously look and work on this.

I urge my colleagues to support the next package of bills. The amendments that you will be voting on, that the committee recommended, deal from the effective date from October of this year to April first of next year. Senator Schwarz put on an amendment to correct a definition that really is not a definition in the practice of medicine. I urge my colleagues support of this. However, I will make a commitment to come back next year and work on pain management and try to make it as best possible to the patients that are in intractable pain or terminally ill that we provide the best care possible in the state of Michigan, in light of the overwhelming defeat of physician assisted suicide. I think we need to step-up and do whatever we can to help people who are in those situations.

Senator Byrum's statement is as follows:

I rise in support of the committee substitutes to the bill. I have attempted on numerous occasions, both in committee and before this body, to discharge this issue and encourage today's action. And why have I been so insistent for so many months, it's very simple. One in five adults in Michigan currently live in pain. Of these people, 16 percent report that pain dominates their lives while another 45 percent report that it has a major impact on their lives. I'm glad that today, after 11 months of resting in committee, these bills have finally been reported. This package is before you today for final action, and I encourage you to support the committee substitute so that they may be signed into law and that citizens suffering in pain in our great state may at least have some measure of assurance that the Legislature hasn't gone home and simply said, "take two aspirin, we'll deal with it next year."

### **Recess**

Senator DeGrow moved that the Senate recess until 1:30 p.m.

The motion prevailed, the time being 11:41 a.m.

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

### **Recess**

Senator DeGrow moved that the Senate recess subject to the call of the President.

The motion prevailed, the time being 1:31 p.m.



1:36 p.m.

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

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

**House Bill No. 5792**

**House Bill No. 5793**

**House Bill No. 4742**

**House Bill No. 5053**

**House Bill No. 5967**

**House Bill No. 5968**

The motion prevailed.

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

The following bill was read a third time:

**House Bill No. 5717, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 82126a, 82126b, and 82126c.

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. 828**

**Yeas—37**

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

**Nays—1**

Van Regenmorter

**Excused—0**

**Not Voting—0**

In The Chair: Schwarz

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was not concurred in, 2/3 of the members serving not voting therefor.

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

“An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,”.

The Senate agreed to the full title.

The President, Lieutenant Governor Binsfeld, resumed the Chair.

The following bill was read a third time:

**House Bill No. 5924, entitled**

A bill to amend 1978 PA 368, entitled “Public health code,” by amending section 16621 (MCL 333.16621).

The question being on the passage of the bill,

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

The motion prevailed.

Senator DeGrow moved that Senator Posthumus be temporarily excused from the balance of today’s session.

The motion prevailed.

The following bill was read a third time:

**House Bill No. 5875, entitled**

A bill to amend 1893 PA 206, entitled “The general property tax act,” by amending section 56a (MCL 211.56a).

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. 829**

**Yeas—37**

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

**Nays—0**

**Excused—1**

Posthumus

**Not Voting—0**

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,  
The recommendation was concurred in, 2/3 of the members serving voting therefor.

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

“An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes thereon, and for the collection of taxes levied; making such taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection therewith; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal certain acts and parts of acts in anywise contravening any of the provisions of this act.”.

The Senate agreed to the full title.

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

**House Bill No. 5924, entitled**

A bill to amend 1978 PA 368, entitled “Public health code,” by amending section 16621 (MCL 333.16621).  
(This bill was read a third time earlier today and consideration postponed. See p. 2060.)

The question being on the passage of the bill,

Senators A. Smith and Emmons offered the following amendment:

1. Amend page 2, following line 23, by inserting:

“(5) IT IS THE INTENT OF THE LEGISLATURE TO HAVE THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES REVIEW THE COMPOSITION OF THE BOARD OF DENTISTRY BY APRIL 30, 1999. THIS REVIEW SHALL INCLUDE THE ADEQUACY OF THE CURRENT BOARD COMPOSITION IN RESPONDING TO PROFESSIONAL PRACTICE CONCERN.”.

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

The question being on the passage of the bill,

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

**Roll Call No. 830**

**Yeas—37**

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

**Nays—0**

**Excused—1**

Posthumus

**Not Voting—0**

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor.

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

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

The Senate agreed to the full title.

The following bill was read a third time:

**House Bill No. 5127, entitled**

A bill to amend 1972 PA 239, entitled “McCauley-Traxler-Law-Bowman-McNeely lottery act,” by amending section 25 (MCL 432.25), as amended by 1996 PA 167.

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. 831**

**Yeas—35**

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

**Nays—1**

Van Regenmorter

**Excused—1**

Posthumus

**Not Voting—1**

Gast

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,  
The recommendation was concurred in, 2/3 of the members serving voting therefor.

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

“An act to establish and operate a state lottery and to allow state participation in certain lottery-related joint enterprises with other sovereignties; to create a bureau of state lottery and to prescribe its powers and duties; to prescribe certain powers and duties of other state departments and agencies; to license and regulate certain sales agents; to create the state lottery fund; to provide for the distribution of lottery revenues and earnings for certain purposes; to provide for an appropriation; and to provide for remedies and penalties.”.

The Senate agreed to the full title.

The following bill was read a third time:

**House Bill No. 6007, entitled**

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending section 21543 (MCL 324.21543).

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. 832**

**Yeas—37**

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

**Nays—0**

**Excused—1**

Posthumus

**Not Voting—0**

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,  
The recommendation was concurred in, 2/3 of the members serving voting therefor.

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

“An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts.”.

The Senate agreed to the full title.

Senator Posthumus entered the Senate Chamber.

The following bill was read a third time:

**House Bill No. 5511, entitled**

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9948) by adding section 2968.

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. 833**

**Yeas—38**

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

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,

The recommendation was concurred in, 2/3 of the members serving voting therefor.

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

"An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act,".

The Senate agreed to the full title.

The following bill was read a third time:

**House Bill No. 5938, entitled**

A bill to amend 1980 PA 299, entitled "Occupational code," by amending section 2518 (MCL 339.2518), as amended by 1998 PA 90.

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. 834**

**Yeas—35**

Bennett	Dingell	McManus	Shugars
Berryman	Dunaskiss	Miller	Smith, A.

Bullard	Emmons	Murphy	Smith, V.
Byrum	Gast	North	Steil
Cherry	Geake	O'Brien	Stille
Cisky	Gougeon	Peters	Van Regenmorter
Conroy	Hart	Rogers	Vaughn
DeBeaussaert	Hoffman	Schuette	Young
DeGrow	Koivisto	Schwarz	

**Nays—0**

**Excused—0**

**Not Voting—3**

Bouchard	Jaye	Posthumus
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In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor.

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

“An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts.”.

The Senate agreed to the full title.

By unanimous consent the Senate proceeded to the order of

### **General Orders**

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

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

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

#### **Senate Bill No. 1071, entitled**

A bill to amend 1931 PA 328, entitled “The Michigan penal code,” by amending section 520a (MCL 750.520a), as amended by 1983 PA 158.

#### **House Bill No. 5736, entitled**

A bill to amend 1980 PA 350, entitled “The nonprofit health care corporation reform act,” by amending sections 502 and 502a (MCL 550.1502 and 550.1502a), section 502 as amended by 1998 PA 24 and section 502a as amended by 1994 PA 440.

#### **House Bill No. 5737, entitled**

A bill to amend 1969 PA 317, entitled “Worker’s disability compensation act of 1969,” by amending section 315 (MCL 418.315), as amended by 1995 PA 21.

#### **House Bill No. 5407, entitled**

A bill to amend 1909 PA 279, entitled “The home rule city act,” (MCL 117.1 to 117.38) by adding section 4n.

**House Bill No. 4923, entitled**

A bill to designate an official wildflower of this state.

**House Bill No. 5366, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 43555 (MCL 324.43555), as amended by 1996 PA 585.

**House Bill No. 5312, entitled**

A bill to protect certain trade secrets; to prohibit disclosure of trade secrets; to provide for remedies; and to repeal acts and parts of acts.

**House Bill No. 5643, entitled**

A bill to regulate certain transfers of property to minors; to make uniform the law regulating certain transfers of property to minors; and to repeal acts and parts of acts.

**House Bill No. 5708, entitled**

A bill to define and regulate fraudulent transfers and conveyances; to set aside and modify certain transfers and conveyances; to make uniform the law of fraudulent transfers; and to repeal acts and parts of acts.

**House Bill No. 5906, entitled**

A bill to amend 1982 PA 162, entitled "Nonprofit corporation act," (MCL 450.2101 to 450.3192) by adding section 501a.

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

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

**Senate Bill No. 1258, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 40102 (MCL 324.40102), as amended by 1998 PA 86, and by adding section 40115a.

Substitute (S-2).

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

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

**House Bill No. 5613, entitled**

A bill to amend 1846 RS 83, entitled "Of marriage and the solemnization thereof," by amending sections 7 and 16 (MCL 551.7 and 551.16), section 7 as amended by 1983 PA 64.

Substitute (S-3).

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

1. Amend page 3, line 5, after "MARRIAGE" by inserting "AND THE PERSONS TO BE MARRIED".
2. Amend page 3, line 6, after "MAY" by striking out "REQUEST" and inserting "AGREE".
3. Amend page 3, line 6, after "MARRIED" by striking out "SATISFACTORILY".

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

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

**House Bill No. 5327, entitled**

A bill to amend 1962 PA 174, entitled "Uniform commercial code," by amending sections 1105, 2512, 5101, 5102, 5103, 5104, 5105, 5106, 5107, 5108, 5109, 5110, 5111, 5112, 5113, 5114, 5115, 5116, 5117, 9103, 9104, 9105, 9106, 9304, and 9305 (MCL 440.1105, 440.2512, 440.5101, 440.5102, 440.5103, 440.5104, 440.5105, 440.5106, 440.5107, 440.5108, 440.5109, 440.5110, 440.5111, 440.5112, 440.5113, 440.5114, 440.5115, 440.5116, 440.5117, 440.9103, 440.9104, 440.9105, 440.9106, 440.9304, and 440.9305), section 1105 as amended by 1992 PA 101, sections 5114, 9103, 9304, and 9305 as amended by 1987 PA 16, and section 9105 as amended by 1988 PA 130.

Substitute (S-1).

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



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

**House Bill No. 5644, entitled**

A bill to amend 1962 PA 174, entitled "Uniform commercial code," by amending sections 1105, 9203, and 9402 (MCL 440.1105, 440.9203, and 440.9402), section 1105 as amended by 1992 PA 101, section 9203 as amended by 1987 PA 16, and section 9402 as amended by 1989 PA 216; and to repeal acts and parts of acts.

Substitute (S-2).

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

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

**House Bill No. 4789, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16131 and 16263 (MCL 333.16131 and 333.16263), as amended by 1995 PA 126, and by adding section 16336 and part 179.

Substitute (S-1).

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

1. Amend page 5, line 5, by striking out all of section 17903.
2. Amend page 5, line 8, after "DEPARTMENT" by striking out the balance of the line through "17021," on line 9.
3. Amend page 6, line 5, after "THE" by striking out the balance of the line through "17021" on line 6 and inserting "DEPARTMENT".
4. Amend page 6, line 10, after "THE" by striking out the balance of the line through "17021" on line 11 and inserting "DEPARTMENT".

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

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

**House Bill No. 5986, entitled**

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

Substitute (S-3).

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

1. Amend page 1, line 1, by striking out all of section 16131.
2. Amend page 6, line 17, after "THE" by striking out the balance of the line through "17021" on line 18 and inserting "DEPARTMENT".
3. Amend page 6, line 24, by striking out all of section 17905.
4. Amend page 7, line 2, after "THE" by striking out the balance of the line through "17021" on line 3 and inserting "DEPARTMENT".
5. Amend page 7, line 6, after "THE" by striking out the balance of the line through "17021" on line 7 and inserting "DEPARTMENT".
6. Amend page 7, line 9, after "THE" by striking out the balance of the line through "17021" on line 10 and inserting "DEPARTMENT".
7. Amend page 7, line 14, after "THE" by striking out the balance of the line through "17021" on line 15 and inserting "DEPARTMENT".
8. Amend page 7, line 16, after "THE" by striking out the balance of the line through "17021" on line 17 and inserting "DEPARTMENT".
9. Amend page 9, line 3, by striking out all of section 18905.
10. Amend page 9, line 13, after the first "THE" by striking out "BOARD. THE BOARD" and inserting "DEPARTMENT WHILE SERVING THE FUNCTION OF A BOARD FOR PURPOSES OF THIS PART. THE DEPARTMENT".
11. Amend page 9, line 21, after "THE" by striking out "BOARD" and inserting "DEPARTMENT".
12. Amend page 9, line 27, after "THE" by striking out "BOARD" and inserting "DEPARTMENT".
13. Amend page 10, line 3, after "EDUCATION" by striking out the balance of the line through "BOARD" on line 4 and inserting "APPROVED BY THE DEPARTMENT".
14. Amend page 11, line 10, by striking out "BOARD" and inserting "DEPARTMENT".

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

By unanimous consent the Senate returned to the order of  
**Motions and Communications**

**Recess**

Senator DeGrow moved that the Senate recess until 4:15 p.m.  
 The motion prevailed, the time being 3:14 p.m.

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

**Recess**

Senator DeGrow moved that the Senate recess until 5:30 p.m.  
 The motion prevailed, the time being 4:16 p.m.

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

**Recess**

Senator DeGrow moved that the Senate recess until 7:00 p.m.  
 The motion prevailed, the time being 5:35 p.m.

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

By unanimous consent the Senate returned to the order of  
**Third Reading of Bills**

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

**House Bill No. 4742, entitled**

A bill to amend 1937 PA 94, entitled "Use tax act," by amending section 4 (MCL 205.94), as amended by 1998 PA 366.

The above bill was read a third time.

The question being on the passage of the bill,

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

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

**Roll Call No. 835**

**Yeas—28**

Bennett	DeGrow	Jaye	Schwarz
Bouchard	Dingell	Koivisto	Shugars
Bullard	Dunaskiss	Murphy	Steil
Byrum	Emmons	North	Stille
Cherry	Gast	O'Brien	Van Regenmorter
Cisky	Gougeon	Peters	Vaughn
DeBeaussaert	Hoffman	Schuette	Young

**Nays—1**

Berryman

**Excused—1**

Miller

**Not Voting—8**Conroy  
GeakeHart  
McManusPosthumus  
RogersSmith, A.  
Smith, V.

In The Chair: Schwarz

Senator DeGrow moved that Senators Posthumus, Rogers, McManus and Geake be temporarily excused from the balance of today's session.

The motion prevailed.

The question being on concurring in the committee recommendation to give the bill immediate effect,

The recommendation was concurred in, 2/3 of the members serving voting therefor.

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

“An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act.”.

The Senate agreed to the full title.

Senator V. Smith moved that Senators Conroy, Hart and A. Smith be temporarily excused from the balance of today's session.

The motion prevailed.

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

**House Bill No. 5053, entitled**

A bill to amend 1933 PA 167, entitled “General sales tax act,” by amending section 1 (MCL 205.51), as amended by 1997 PA 193.

The above bill was read a third time.

The question being on the passage of the bill,

Senator McManus entered the Senate Chamber.

Senator Dingell offered the following amendment:

1. Amend page 3, line 26, after “resale.” by inserting “AFTER DECEMBER 31, 1998 “SALE AT RETAIL” DOES NOT INCLUDE THE SALE FOR RESIDENTIAL USE OF ELECTRICITY, NATURAL OR ARTIFICIAL GAS, OR HOME HEATING FUELS.”.

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

Senator V. Smith requested the yeas and nays.

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

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

**Roll Call No. 836****Yeas—13**

Berryman  
Byrum  
Cherry  
DeBeaussaert

Dingell  
Jaye  
Koivisto

Murphy  
O'Brien  
Peters

Smith, V.  
Vaughn  
Young

**Nays—18**

Bennett  
Bouchard  
Bullard  
Cisky  
DeGrow

Dunaskiss  
Emmons  
Gast  
Gougeon  
Hoffman

McManus  
North  
Schuette  
Schwarz

Shugars  
Steil  
Stille  
Van Regenmorter

**Excused—7**

Conroy  
Geake

Hart  
Miller

Posthumus  
Rogers

Smith, A.

**Not Voting—0**

In The Chair: Schwarz

Senators Conroy, Hart and A. Smith entered the Senate Chamber.

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. 837****Yeas—34**

Bennett  
Berryman  
Bouchard  
Bullard  
Byrum  
Cherry  
Cisky  
Conroy  
DeBeaussaert

DeGrow  
Dingell  
Dunaskiss  
Emmons  
Gast  
Gougeon  
Hart  
Hoffman  
Jaye

Koivisto  
McManus  
Murphy  
North  
O'Brien  
Peters  
Schuette  
Schwarz

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

**Nays—0****Excused—4**

Geake

Miller

Posthumus

Rogers

**Not Voting—0**

In The Chair: Schwarz

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor.

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

“An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act.”.

The Senate agreed to the full title.

**Recess**

Senator DeGrow moved that the Senate recess subject to the call of the President. The motion prevailed, the time being 7:17 p.m.

8:32 p.m.

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

During the recess, Senators Miller, Posthumus and Rogers entered the Senate Chamber.

By unanimous consent the Senate returned to the order of

**Motions and Communications**

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

**Senate Bill No. 1340**

**Senate Bill No. 1342**

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

By unanimous consent the Senate returned to the order of

**Third Reading of Bills**

The following bill was read a third time:

**Senate Bill No. 1340, entitled**

A bill to amend 1909 PA 106, entitled “An act to regulate the transmission of electricity through the public highways, streets and places of this state, where the source of supply and place of use are in the same or different counties; to regulate the charges to be made for electricity so transmitted; to regulate the rules and conditions of service under which said electricity shall be furnished and to confer upon the Michigan public utilities commission certain powers and duties in regard thereto,” by amending sections 1 and 2 (MCL 460.551 and 460.552).

The question being on the adoption of the following committee substitute:

Substitute (S-2).

Senator DeGrow moved that all pending amendments be considered en bloc.

The motion prevailed.

Senator Berryman offered the following amendment to the substitute:

1. Amend page 21, following line 20, by inserting:

“SEC. 23. IN THE EVENT OF A SALE, PURCHASE, OR ANY OTHER TRANSFER OF OWNERSHIP OF ONE OR MORE MICHIGAN DIVISIONS OR BUSINESS UNITS, OR GENERATING STATIONS OR

GENERATING UNITS OF AN ELECTRIC UTILITY TO EITHER A THIRD PARTY OR A UTILITY SUBSIDIARY, THE ELECTRIC UTILITY'S CONTRACT AND AGREEMENTS WITH THE ACQUIRING ENTITY OR PERSONS SHALL REQUIRE THAT THE ENTITY OR PERSONS HIRE A SUFFICIENT NUMBER OF NON-SUPERVISORY EMPLOYEES TO OPERATE AND MAINTAIN THE STATION, DIVISION OR UNIT BY INITIALLY MAKING OFFERS OF EMPLOYMENT TO THE NON-SUPERVISORY WORKFORCE OF THE ELECTRIC UTILITY'S DIVISION, BUSINESS UNIT, GENERATING STATION OR GENERATING UNIT AT NO LESS THAN THE WAGE RATES, AND SUBSTANTIALLY EQUIVALENT FRINGE BENEFITS AND TERMS AND CONDITIONS OF EMPLOYMENT THAT ARE IN EFFECT AT THE TIME OF TRANSFER OF OWNERSHIP OF SAID DIVISION, BUSINESS UNIT, GENERATING STATION OR GENERATING UNIT. SAID WAGE RATES AND SUBSTANTIALLY EQUIVALENT FRINGE BENEFITS AND TERMS AND CONDITIONS OF EMPLOYMENT SHALL CONTINUE FOR AT LEAST 30 MONTHS FROM THE TIME OF SAID TRANSFER OF OWNERSHIP UNLESS THE EMPLOYEES, OR, WHERE APPLICABLE, COLLECTIVE BARGAINING UNIT, AND THE NEW EMPLOYER MUTUALLY AGREE TO DIFFERENT TERMS AND CONDITIONS OF EMPLOYMENT WITHIN THAT 30 MONTH PERIOD. THE UTILITY SHALL OFFER A TRANSITION PLAN TO THOSE EMPLOYEES WHO ARE NOT OFFERED JOBS BY THE ACQUIRING ENTITY BECAUSE THAT ENTITY HAS A NEED FOR FEWER WORKERS. IF THERE IS LITIGATION CONCERNING THE SALE OR OTHER TRANSFER OF OWNERSHIP OF THE ELECTRIC UTILITY'S DIVISIONS, BUSINESS UNITS, GENERATING STATIONS OR GENERATING UNITS, THE 30-MONTH PERIOD WILL BEGIN ON THE DATE THE ACQUIRING ENTITY OR PERSONS TAKE CONTROL OR MANAGEMENT OF THE DIVISIONS, BUSINESS UNITS, GENERATING STATION OR GENERATING UNITS OF THE ELECTRIC UTILITY." and renumbering the remaining sections.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 7, line 2, after "(D)" by striking out "and (E)".
2. Amend page 8, line 19, by striking out all of subsection (D) and relettering the remaining subdivision.
3. Amend page 9, following line 15, by inserting:

"(6) THE COMMISSION SHALL DETERMINE THE AUDITED AND VERIFIED COST OF EMPLOYEE-RELATED RESTRUCTURING COSTS INCURRED BY A UTILITY AS A RESULT OF THE AMENDATORY ACT THAT ADDED THIS SECTION, INCLUDING EMPLOYEE SEVERANCE COSTS, EMPLOYEE RETRAINING PROGRAMS, EARLY RETIREMENT PROGRAMS, OUTPLACEMENT PROGRAMS, AND SIMILAR COSTS AND PROGRAMS, WHICH HAVE BEEN APPROVED AND FOUND TO BE PRUDENTLY INCURRED BY THE COMMISSION.

(7) THE AUDITED AND VERIFIED COST OF EMPLOYEE-RELATED RESTRUCTURING COSTS REQUIRED BY SUBSECTION (6) SHALL NOT INCLUDE THE COST OF INCENTIVES, INDUCEMENTS, EARLY RETIREMENT PROGRAMS, EMPLOYEE SEVERANCE COSTS, OR ANY OTHER RELATED COSTS INCURRED BY A UTILITY ON BEHALF OF AN OFFICER OF THE UTILITY.

(8) THE AUDITED AND VERIFIED COST OF EMPLOYEE-RELATED RESTRUCTURING AS DETERMINED BY THE COMMISSION UNDER SUBSECTION (6) SHALL BE TRANSMITTED TO THE MICHIGAN JOBS COMMISSION, WHICH SHALL, WITHIN 60 DAYS OF RECEIPT OF THE AUDITED AND VERIFIED COST OF EMPLOYEE-RELATED RESTRUCTURING, REIMBURSE THE INVOLVED UTILITY USING MONIES CONTAINED IN THE JOBS TRAINING GRANT PROGRAM." and renumbering the remaining subdivisions.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 6, following line 21, by striking out all of subsection (3) and inserting:

"(3) THE COMMISSION SHALL DETERMINE THE AMOUNT OF COSTS INCURRED BY THE ELECTRIC UTILITY IN ACCORDANCE WITH SUBSECTION (5)(A), (B), (C), AND (D). THE UTILITY INCURRING THE COSTS, AS DETERMINED BY THE COMMISSION, SHALL BE ALLOWED TO TAKE A NON-REFUNDABLE CREDIT UNDER THE SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL 208.1 TO 208.145, EQUAL TO 100% OF THE AMOUNT DETERMINED BY THE COMMISSION. IN DETERMINING THE AMOUNT OF THE CREDIT PROVIDED BY SUBSECTION (A), THE AMOUNT OF THE CREDIT SHALL BE REDUCED BY AN AMOUNT EQUAL TO THE UTILITY'S TOTAL ANNUAL TAX CREDITS OBTAINED UNDER OTHER MICHIGAN TAX INCENTIVE PROGRAMS, INCLUDING, BUT NOT LIMITED TO, THE DOWNTOWN DEVELOPMENT ACT, 1975 PA 197, MCL 125.1651 TO 125.1681, THE RENAISSANCE ZONE ACT, 1996 PA 336, MCL 125.2681 TO 125.2696, AND THE BROWNFIELD ACT, 1996 PA 381, MCL 125.2651 TO 125.2672. IF THE UTILITY'S NON-REFUNDABLE CREDIT, AS ADJUSTED BY SUBSECTION (B), EXCEEDS THE UTILITY'S ANNUAL SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL 208.1 TO 208.145, LIABILITY FOR A GIVEN YEAR, THE AMOUNT OF THE CREDIT WHICH EXCEEDS THE LIABILITY FOR A GIVEN YEAR, THE AMOUNT OF THE CREDIT WHICH EXCEEDS THE LIABILITY SHALL BE CARRIED FORWARD AND APPLIED TO SUBSEQUENT TAX YEARS UNTIL THE CREDIT IS FULLY DIMINISHED."

Senator Jaye offered the following amendment to the substitute:

1. Amend page 9, following line 15, by inserting:

“(6) IN SETTING THE RATES FOR AN ELECTRICAL ENERGY SUPPLIER, TRANSPORTER, OR DISTRIBUTOR, OR IN DETERMINING THE STRANDED COSTS OF A UTILITY AS REQUIRED BY SUBSECTION (5), THE COMMISSION SHALL NOT INCLUDE IN THOSE RATES OR STRANDED COST DETERMINATIONS ANY BAD DEBT INCURRED BY A SUPPLIER, TRANSPORTER, OR DISTRIBUTOR OF ELECTRICAL ENERGY IN PROVIDING SERVICE TO A CLIENT CURRENTLY RECEIVING BENEFITS FROM THE FAMILY INDEPENDENCE AGENCY OR WHO, IN THE PAST 12 MONTHS, HAS RECEIVED BENEFITS FROM THE FAMILY INDEPENDENCE AGENCY.

(7) A SUPPLIER, TRANSPORTER, OR DISTRIBUTOR OF ELECTRICAL ENERGY SHALL PROVIDE TO THE COMMISSION AND THE FAMILY INDEPENDENCE AGENCY A LIST CONTAINING THE NAMES, ADDRESSES, AND AMOUNTS OWED BY ALL CLIENTS OF THE FAMILY INDEPENDENCE AGENCY WHO HAVE A DELINQUENT ACCOUNT WITH THE SUPPLIER, TRANSPORTER, OR DISTRIBUTOR.

(8) THE LIST REQUIRED BY SUBSECTION (7) SHALL INCLUDE THE DELINQUENT ACCOUNTS BETWEEN APRIL 1 AND MARCH 31 OF THE PRECEDING YEAR. THIS INFORMATION SHALL BE PROVIDED TO THE COMMISSION AND THE FAMILY INDEPENDENCE AGENCY NO LATER THAN APRIL 15 OF EACH YEAR.

(9) ONCE THE ANNUAL LIST HAS BEEN SUBMITTED AND ITS ACCURACY HAS BEEN VERIFIED BY THE COMMISSION AND THE FAMILY INDEPENDENCE AGENCY, THE FAMILY INDEPENDENCE AGENCY SHALL INCLUDE, AS A SEPARATE LINE ITEM IN ITS ANNUAL BUDGET REQUEST, AN AMOUNT EQUAL TO THE CUMULATIVE TOTAL OF ALL LISTS SUBMITTED BY ALL ELECTRIC ENERGY SUPPLIERS, TRANSPORTERS, OR DISTRIBUTORS AS REQUIRED BY SUBSECTION (7). THE FAMILY INDEPENDENCE AGENCY SHALL ALSO PROVIDE THE LANGUAGE NECESSARY TO ALLOW THE DISTRIBUTION OF THE ANNUAL APPROPRIATION TO THE SUBMITTING ELECTRICAL ENERGY SUPPLIERS, TRANSPORTERS, OR DISTRIBUTORS.” and renumbering the remaining subdivisions.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 2, following line 11, by inserting:

“(2) IN SETTING THE RATES FOR THE GENERATION, TRANSMISSION, OR DISTRIBUTION OF ELECTRIC ENERGY, THE COMMISSION SHALL NOT APPROVE OR OTHERWISE AUTHORIZE RATES FOR 1 CLASS OF CUSTOMER WHICH ARE NOT MADE AVAILABLE, UNDER THE SAME TERMS AND CONDITIONS, TO ALL CLASSES OF CUSTOMERS.” and renumbering the remaining subdivisions.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 21, following line 20, by inserting:

“SEC. 23. (1) A SUPPLIER, TRANSPORTER, OR DISTRIBUTOR OF ELECTRICAL ENERGY PROVIDING SERVICE IN THIS STATE SHALL NOT HAVE ITS INTERNAL POLICIES RELATED TO THE HIRING, PROMOTION, OR TERMINATION OF THE SUPPLIER’S, TRANSPORTER’S, OR DISTRIBUTOR’S DIRECT EMPLOYEES OVERSEEN, REGULATED, OR CONTROLLED BY A COURT ORDER OR CONSENT DECREE.

(2) NOTHING IN THIS SECTION SHALL RESTRICT, AMEND, OR NEGATE THE TERMS, CONDITIONS, OR STIPULATIONS RELATED TO THE HIRING, PROMOTION, OR TERMINATION OF DIRECT EMPLOYEES WHICH IS CONTAINED IN A LABOR CONTRACT NEGOTIATED BETWEEN THE SUPPLIER, TRANSPORTER, OR DISTRIBUTOR OF ELECTRICAL ENERGY AND THE AGENTS OF A RECOGNIZED LABOR ORGANIZATION.” and renumbering the remaining sections.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 9, following line 25, by inserting:

“SEC. 13. (1) THE COMMISSION, BY ORDER, MAY AUTHORIZE THE ISSUANCE OF RATE REDUCTION BONDS BY AN ELECTRIC UTILITY.

(2) ALL PROCEEDS OF A RATE REDUCTION BONDS ISSUANCE SHALL BE INCLUDED IN THE UTILITY’S MITIGATION ADJUSTMENT UNDER SEC. 14.” and renumbering the remaining sections.

Senator Jaye offered the following amendments to the substitute:

1. Amend page 7, line 2, after “(D)” by striking out “and (E)”.

2. Amend page 8, line 19, by striking out all of subsection (D) and relettering the remaining subdivision.

3. Amend page 9, following line 15, by inserting:

“(6) THE COMMISSION SHALL DETERMINE THE AUDITED AND VERIFIED COST OF EMPLOYEE-RELATED RESTRUCTURING COSTS INCURRED BY A UTILITY AS A RESULT OF THE AMENDATORY ACT THAT ADDED THIS SECTION, INCLUDING EMPLOYEE SEVERANCE COSTS, EMPLOYEE RETRAINING PROGRAMS, EARLY RETIREMENT PROGRAMS, OUTPLACEMENT PROGRAMS, AND SIMILAR COSTS AND PROGRAMS, WHICH HAVE BEEN APPROVED AND FOUND TO BE PRUDENTLY INCURRED BY THE COMMISSION.

(7) THE AUDITED AND VERIFIED COST OF EMPLOYEE-RELATED RESTRUCTURING COSTS REQUIRED BY SUBSECTION (6) SHALL NOT INCLUDE THE COST OF INCENTIVES, INDUCEMENTS, EARLY RETIREMENT PROGRAMS, EMPLOYEE SEVERANCE COSTS, OR ANY OTHER RELATED COSTS INCURRED BY A UTILITY ON BEHALF OF AN OFFICER OF THE UTILITY OR AN EMPLOYEE HAVING AN ANNUAL SALARY OF MORE THAN \$60,000.” and renumbering the remaining subdivisions.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 9, following line 25, by inserting:

“(8) IN ADDITION TO OTHER INFORMATION REQUIRED BY THE COMMISSION, AN ENERGY GENERATOR, TRANSPORTER, DISTRIBUTOR, BROKER, OR AGGREGATOR WHO ISSUES A REGULAR AND PERIODIC BILLING FOR THEIR SERVICES TO A RETAIL CUSTOMER OF ENERGY SHALL PROVIDE TO THAT CUSTOMER A FULLY ITEMIZED AND DETAILED BILL EXPLAINING EACH COMPONENT OF THE CHARGES, WHICH, IN SUM, SHALL EQUAL THE TOTAL AMOUNT OF THE BILL SUBMITTED TO THE RETAIL CUSTOMER.”.

Senator Jaye offered the following amendments to the substitute:

1. Amend page 23, line 14, after “CASE” by striking out “BY MORE THAN 2 PERCENTAGE POINTS, THAN” and inserting a comma and “THEN”.
2. Amend page 23, line 20, after “CASE” by striking out “BY MORE THAN 2 PERCENTAGE POINTS”.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 6, line 5, by striking out all of subsection (6).

Senator Byrum offered the following amendment to the substitute:

1. Amend page 18, following line 12, by inserting:

“SEC. 20. EFFECTIVE JANUARY 1, 1999, EACH ELECTRICITY PRODUCT SOLD BY EACH RETAIL SELLER SHALL BEAR A STANDARDIZED, UNIFORM LABEL CONTAINING THE FOLLOWING INFORMATION IN A SUCCINCT AND EASILY UNDERSTOOD FORMAT INCLUDING:

(A) THE KNOWN SOURCES OF ELECTRICITY SUPPLIED, BROKEN-OUT BY PERCENTAGES OF BIOMASS POWER, COAL-FIRED POWER, HYDROPOWER, NATURAL GAS-FIRED POWER, NUCLEAR POWER, OIL-FIRED POWER, SOLAR POWER, WIND POWER AND OTHER RESOURCES, RESPECTIVELY; AND

(B) A PIE-CHART WHICH GRAPHICALLY DEPICTS THE PERCENTAGES OF THE SOURCES OF THE ELECTRICITY SUPPLIED AS SET FORTH IN THE PRECEDING PARAGRAPH; AND

(C) A STANDARDIZED CHART IN A FORMAT TO BE DETERMINED BY THE P.C. IN A RULE FOLLOWING NOTICE AND HEARINGS WHICH PROVIDES THE AMOUNTS OF CARBON DIOXIDE, NITROUS OXIDES, AND SULFUR DIOXIDE EMISSIONS AND NUCLEAR WASTE ATTRIBUTABLE TO THE KNOWN SOURCES OF ELECTRICITY SUPPLIED AS SET FORTH IN SUBSECTION (a) OF THIS SECTION COMPARED AGAINST A REGIONAL AVERAGE.

(D) THE ELECTRIC UTILITIES AND ALTERNATIVE RETAIL ELECTRIC SUPPLIERS MAY PROVIDE THEIR CUSTOMERS WITH SUCH OTHER INFORMATION AS THEY BELIEVE RELEVANT TO THE INFORMATION REQUIRED IN PARAGRAPHS (A) AND (B) OF THIS SECTION.

(E) THE ELECTRIC UTILITY AND ALTERNATIVE RETAIL ELECTRIC SUPPLIERS SHALL PROVIDE INFORMATION REQUIRED IN PARAGRAPHS B, C, D OF THIS SECTION WITH ITS BILLS TO ITS CUSTOMERS ON A QUARTERLY BASIS AND IN ALL MARKETING MATERIALS SENT TO RETAIL CUSTOMERS OR PROSPECTIVE RETAIL CUSTOMERS, IN ALL WRITTEN MARKETING AND ADVERTISING MATERIALS, INCLUDING NEWSPAPERS, MAGAZINES AND OTHER WRITTEN MEDIA AND ON THE INTERNET. ANY TELEPHONIC OR OTHER ELECTRONIC SOLICITATION SHALL INFORM CUSTOMERS THEY MAY OBTAIN A COPY OF THE DISCLOSURE LABEL UPON REQUEST.

(F) FOR PURPOSES OF THIS SECTION, “BIOMASS” MEANS DEDICATED CROPS GROWN FOR ENERGY PRODUCTION AND ORGANIC WASTE.

(G) ALL OF THE INFORMATION PROVIDED IN THIS SECTION SHALL BE PRESENTED TO THE P.C. FOR INCLUSION IN ITS ANNUAL REPORTS TO THE LEGISLATURE AND PUBLICATION OF ITS INTERNET SITE.” and renumbering the remaining sections.

Senator Berryman offered the following amendment to the substitute:

1. Amend page 21, following line 20, by inserting:

“SEC. 23. IN THE EVENT OF A SALE, PURCHASE, OR ANY OTHER TRANSFER OF OWNERSHIP OF ONE OR MORE MICHIGAN DIVISIONS OR BUSINESS UNITS, OR GENERATING STATIONS OR GENERATING UNITS OF AN ELECTRIC UTILITY TO EITHER A THIRD PARTY OR A UTILITY SUBSIDIARY, THE



ELECTRIC UTILITY'S CONTRACT AND AGREEMENTS WITH THE ACQUIRING ENTITY OR PERSONS SHALL REQUIRE THAT THE ENTITY OR PERSONS HIRE A SUFFICIENT NUMBER OF NON-SUPERVISORY EMPLOYEES TO OPERATE AND MAINTAIN THE STATION, DIVISION OR UNIT BY INITIALLY MAKING OFFERS OF EMPLOYMENT TO THE NON-SUPERVISORY WORKFORCE OF THE ELECTRIC UTILITY'S DIVISION, BUSINESS UNIT, GENERATING STATION OR GENERATING UNIT AT NO LESS THAN THE WAGE RATES, AND SUBSTANTIALLY EQUIVALENT FRINGE BENEFITS AND TERMS AND CONDITIONS OF EMPLOYMENT THAT ARE IN EFFECT AT THE TIME OF TRANSFER OF OWNERSHIP OF SAID DIVISION, BUSINESS UNIT, GENERATING STATION OR GENERATING UNIT. SAID WAGE RATES AND SUBSTANTIALLY EQUIVALENT FRINGE BENEFITS AND TERMS AND CONDITIONS OF EMPLOYMENT SHALL CONTINUE FOR AT LEAST 30 MONTHS FROM THE TIME OF SAID TRANSFER OF OWNERSHIP UNLESS THE EMPLOYEES, OR, WHERE APPLICABLE, COLLECTIVE BARGAINING UNIT, AND THE NEW EMPLOYER MUTUALLY AGREE TO DIFFERENT TERMS AND CONDITIONS OF EMPLOYMENT WITHIN THAT 30-MONTH PERIOD. THE UTILITY SHALL OFFER A TRANSITION PLAN TO THOSE EMPLOYEES WHO ARE NOT OFFERED JOBS BY THE ACQUIRING ENTITY BECAUSE THAT ENTITY HAS A NEED FOR FEWER WORKERS. IF THERE IS LITIGATION CONCERNING THE SALE OR TRANSFER OF OWNERSHIP OF THE ELECTRIC UTILITY'S DIVISIONS, BUSINESS UNITS, GENERATING STATIONS OR GENERATING UNITS, THE 30-MONTH PERIOD WILL BEGIN ON THE DATE THE ACQUIRING ENTITY OR PERSONS TAKE CONTROL OR MANAGEMENT OF THE DIVISIONS, BUSINESS UNITS, GENERATING STATION OR GENERATING UNITS OF THE ELECTRIC UTILITY." and renumbering the remaining sections.

Senator Byrum offered the following amendment to the substitute:

1. Amend page 23, line 23, by striking out all of section 24 and inserting:  
"SEC. 24. THIS ACT DOES NOT APPLY TO A MUNICIPALLY OWNED ELECTRIC UTILITY."

Senator Byrum offered the following amendment to the substitute:

1. Amend page 6, line 8, after "ACT" by striking out the balance of the subsection and inserting "FOR ALL RETAIL CUSTOMERS OF THE ELECTRIC UTILITY WITH AN ANNUAL DEMAND OF LESS THAN 20 KILOWATTS."

Senator Byrum offered the following amendment to the substitute:

1. Amend page 10, line 19, after "COMMENTS." by striking out the balance of the line through the first "OF" on line 21 and inserting "THE INVESTIGATIONS AND HEARINGS UNDER THIS SECTION SHALL BE CONDUCTED UNDER".

Senator Byrum offered the following amendment to the substitute:

1. Amend page 5, following line 20, by inserting:  
"(5) AFTER THE DATE RETAIL RATES ARE DEREGULATED UNDER SUBSECTION (1), AN ELECTRIC UTILITY SHALL BE OBLIGATED TO PROVIDE ELECTRIC GENERATION SERVICE TO CUSTOMERS WITHIN ITS DISTRIBUTION SERVICE AREA UNTIL MORE THAN 50% OF ITS CUSTOMERS AS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION ARE RECEIVING GENERATION SERVICE FROM AN ALTERNATIVE ELECTRIC SUPPLIER." and renumbering the remaining subsections.

Senator Byrum offered the following amendment to the substitute:

1. Amend page 4, line 9, after "THAT" by striking out the balance of the line through "AREA" on line 16 and inserting "15% OF THE TOTAL ACTUAL ELECTRIC LOAD OF AN ELECTRIC UTILITY, OR AN AFFILIATE OF THE UTILITY, SERVING A GEOGRAPHICAL AREA IS PROVIDED BY AN ALTERNATIVE ELECTRIC SUPPLIER".

Senator Byrum offered the following amendment to the substitute:

1. Amend page 14, following line 11, by inserting:  
"(2) THE COMMISSION SHALL ESTABLISH REQUIREMENTS AND LICENSING PROCEDURES FOR ALTERNATIVE ELECTRIC SUPPLIERS WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS ACT." and renumbering the remaining subsections.

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

1. Amend page 5, line 21, by striking out all of subsection (5).

Senator Berryman offered the following amendment to the substitute:

1. Amend page 4, following line 6, by inserting:  
"(7) A PERSON SHALL NOT GENERATE, DISTRIBUTE, OR SUPPLY ELECTRICITY IN THIS STATE UNLESS THAT PERSON HAS A SUFFICIENT PRESENCE IN THIS STATE TO ALLOW PROPER STATE JURISDICTION OVER ALL ACTIVITIES IN THIS STATE BY THAT PERSON."

Senator Berryman offered the following amendment to the substitute:

1. Amend page 9, following line 25, by inserting:

“(8) AN ALTERNATIVE ELECTRIC SUPPLIER SHALL NOT PROVIDE ELECTRICITY TO A CUSTOMER IN THIS STATE UNLESS THE SUPPLIER HAS PROVIDED THE CUSTOMER WITH FULL DISCLOSURE OF ALL RATES, FEES, AND CHARGES. THE DISCLOSURE REQUIRED UNDER THIS SUBSECTION SHALL BE DONE IN A MANNER TO ALLOW THE CUSTOMER TO MAKE AN INFORMED DECISION REGARDING THE SELECTION OF HIS OR HER ELECTRICITY PROVIDER.”.

Senator Berryman offered the following amendment to the substitute:

1. Amend page 6, following line 11, by inserting:

“(7) AN ELECTRIC UTILITY OR ALTERNATIVE ELECTRIC SUPPLIER SHALL NOT PROVIDE ELECTRICITY IN THIS STATE THAT WAS GENERATED FROM A SOURCE THAT DOES NOT MEET THE ENVIRONMENTAL QUALITY STANDARDS REQUIRED BY THIS STATE.”.

Senator Berryman offered the following amendment to the substitute:

1. Amend page 9, following line 25, by inserting:

“(8) AN ALTERNATIVE ELECTRIC SUPPLIER SHALL NOT PROVIDE ELECTRICITY TO A CUSTOMER IN THIS STATE UNLESS THE SUPPLIER HAS PROVIDED THE CUSTOMER WITH FULL DISCLOSURE OF ALL RATES, FEES, AND CHARGES. THE DISCLOSURE REQUIRED UNDER THIS SUBSECTION SHALL BE DONE IN A MANNER TO ALLOW THE CUSTOMER TO MAKE AN INFORMED DECISION REGARDING THE SELECTION OF HIS OR HER ELECTRICITY PROVIDER.”.

The question being on the adoption of the amendments to the substitute,

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 not voting therefor, as follows:

**Roll Call No. 838**

**Yeas—12**

Berryman  
Cherry  
Conroy

DeBeaussaert  
Dingell  
Hart

Miller  
Murphy  
Peters

Smith, A.  
Smith, V.  
Vaughn

**Nays—22**

Bennett  
Bullard  
Cisky  
DeGrow  
Dunaskiss  
Emmons

Gast  
Gougeon  
Hoffman  
Jaye  
Koivisto  
McManus

North  
O'Brien  
Posthumus  
Rogers  
Schuette

Schwarz  
Shugars  
Steil  
Stille  
Van Regenmorter

**Excused—1**

Geake

**Not Voting—3**

Bouchard

Byrum

Young

In The Chair: President

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

Senator Geake entered the Senate Chamber.

Senator Dunaskiss offered the following substitute:  
Substitute (S-4).

The question being on the adoption of the substitute,

By unanimous consent the Senate proceeded to consideration of the following amendment offered by Senators Dunaskiss and Rogers:

1. Amend page 2, line 8, by striking out the balance of the bill and inserting:

“SEC. 10. (1) THE COMMISSION SHALL BY ORDER ESTABLISH RATES, TERMS, AND CONDITIONS OF SERVICE THAT ALLOW ALL CUSTOMERS OF ELECTRIC UTILITIES TO CHOOSE AN ALTERNATIVE ELECTRIC SUPPLIER NO LATER THAN JANUARY 1, 2002.

(2) AN ORDER ISSUED BY THE COMMISSION BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION THAT ALLOW CUSTOMERS OF AN ELECTRIC UTILITY TO CHOOSE AN ALTERNATIVE ELECTRIC SUPPLIER ARE IN COMPLIANCE WITH THIS ACT.

(3) THE COMMISSION SHALL ESTABLISH BY ORDER LICENSING PROVISIONS TO ASSURE THAT ALTERNATIVE ELECTRIC SUPPLIERS HAVE THE NECESSARY FINANCIAL, MANAGERIAL, AND TECHNICAL CAPABILITIES TO PROVIDE ADEQUATE SERVICE TO CUSTOMERS AND THAT CUSTOMERS ARE NOT SWITCHED TO AN ALTERNATIVE ELECTRIC SUPPLIER WITHOUT THE CUSTOMER’S CONSENT. AN ALTERNATIVE ELECTRIC SUPPLIER SHALL NOT BE REQUIRED TO OBTAIN ANY CERTIFICATE, LICENSE, OR AUTHORIZATION OTHER THAN AS REQUIRED BY THIS SUBSECTION.

(4) IT IS THE INTENT OF THE LEGISLATURE THAT THE COMMISSION ORDERS PURSUANT TO THIS SECTION INCLUDE BUT NOT BE LIMITED TO EFFORTS TO PROVIDE RELIABLE AND LOWER COST COMPETITIVE RATES FOR ALL MICHIGAN CUSTOMERS WITH STRICT ANTI-SLAMMING PROVISIONS AND REQUIRED DISCLOSURE OF ANY FEE, CHARGE, OR ASSESSMENT OF ANY KIND TO THE CUSTOMER. THE LEGISLATURE RETAINS OVERSIGHT OVER THE ACTIONS TAKEN BY THE COMMISSION.

(5) THIS SECTION DOES NOT APPLY TO A MUNICIPALLY OWNED ELECTRIC UTILITY.

SEC. 11. AS USED IN THIS ACT, “ALTERNATIVE ELECTRIC SUPPLIER” MEANS A PERSON SELLING ELECTRIC GENERATION SERVICE TO RETAIL CUSTOMERS IN THIS STATE BUT NOT PHYSICALLY DELIVERING ELECTRICITY DIRECTLY TO THOSE RETAIL CUSTOMERS.”.

The question being on the adoption of the amendment to the substitute,

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 voting therefor, as follows:

**Roll Call No. 839**

**Yeas—21**

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

**Nays—17**

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

**Excused—0**

**Not Voting—0**

In The Chair: President

### Protests

Senators Peters, Byrum and Conroy, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendments offered by Senators Dunaskiss and Rogers to Senate Bill No. 1340.

Senators Peters and Byrum moved that the statements they made during the discussion of the amendments be printed as their reasons for voting "no."

The motion prevailed.

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

I rise in opposition to this Amendment No. 2ff because I think it is certainly open to argument that it is an unconstitutional delegation of legislative authority to the Public Service Commission. In fact, there is substantial legal precedent now that states that the Public Service Commission has no implied powers by itself. It only has powers that are specifically delineated by the Legislature. Certainly the wording in this amendment could be challenged as to whether or not it does, indeed, give that specific delineation of powers, and I believe if this amendment is adopted and if this is part of the bill, that we're going to see a number of significant court challenges that will ultimately lead to this being struck down as an unconstitutional amendment and will do nothing except cost the state an awful lot of money defending those law suits going to court. And you're going to have every company outside of the state who wants to do business in this state line up and sue the state of Michigan for an unconstitutional piece of legislation. I think this is bad policy. This is clearly unwarranted delegation of legislative power that we should have in this body and would urge a "no" vote.

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

I too rise in opposition to this Amendment No. 2ff. Just to follow up with what Senator Peters has said, if the goal here is to codify the public service commission orders and to avoid the uncertainty of legal challenge, then what we have before us does not accomplish either. It is going to set us up for a legal challenge and a legal argument. You are not going to avoid that uncertainty. That is a problem on its face.

Earlier I had asked the question about securitization, and does this, in fact, include allowing the Public Service Commission to institute by their own order securitization. I would submit to you, since the question was not answered, that the answer is "yes." You could, in fact, have securitization absent legislative action. You need to turn down this substitute.

### Point of Order

Senator DeGrow raised the Point of Order that the remaining pending amendments were no longer in order due to the adoption of the previous amendment.

The President, Lieutenant Governor Binsfeld, ruled that the amendments were not in order because the text they were amending no longer exists.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 8, following line 6, by inserting:

"SEC. 12. (1) THE COMMISSION, BY ORDER, MAY AUTHORIZE THE ISSUANCE OF RATE REDUCTION BONDS AND OR STOCKS BY AN ELECTRIC UTILITY.

(2) ALL PROCEEDS OF A RATE REDUCTION BONDS ISSUANCE OR A STOCK SALE SHALL BE USED BY THE ISSUING UTILITY TO REDUCE AUTHORIZED STRANDED COSTS AND SHALL BE INCLUDED IN THE UTILITY'S MITIGATION ADJUSTMENT UNDER SECTION 14." and renumbering the remaining sections.

The amendment to the substitute was not adopted.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 8, following line 6, by inserting:

"SEC. 12. (1) THE COMMISSION, BY ORDER, MAY AUTHORIZE THE ISSUANCE OF RATE REDUCTION BONDS AND OR STOCKS BY AN ELECTRIC UTILITY.

(2) ALL PROCEEDS OF A RATE REDUCTION BONDS ISSUANCE OR A STOCK SALE SHALL BE USED BY THE ISSUING UTILITY TO REDUCE AUTHORIZED STRANDED COSTS AND SHALL BE INCLUDED IN THE UTILITY'S MITIGATION ADJUSTMENT UNDER SECTION 14." and renumbering the remaining sections.

The question being on the adoption of the amendment,

Senator Jaye requested the yeas and nays.

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

The amendment to the substitute was not adopted.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 8, following line 6, by inserting:

“SEC. 12. THE AUDITED AND VERIFIED COST OF EMPLOYEE-RELATED RESTRUCTURING COSTS REQUIRED BY SUBDIVISION (5)(D) SHALL NOT INCLUDE THE COST OF INCENTIVES, INDUCEMENTS, EARLY RETIREMENT PROGRAMS, EMPLOYEE SEVERANCE PACKAGES, PENSIONS, OR ANY OTHER RELATED COSTS INCURRED BY A UTILITY ON BEHALF OF AN OFFICER OF THE UTILITY, A MEMBER OF THE BOARD OF DIRECTORS, OR AN EMPLOYEE HAVING AN ANNUAL BASE SALARY, EXCLUSIVE OF ANY REMUNERATION FOR OVERTIME WORKED BY THE EMPLOYEE, OF MORE THAN \$85,000.00.” and renumbering the remaining sections.

The question being on the adoption of the amendment,

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

The motion prevailed.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 8, following line 6, by inserting:

“SEC. 13. IN SETTING THE RATES FOR AN ELECTRICAL ENERGY SUPPLIER, TRANSPORTER, OR DISTRIBUTOR, OR IN DETERMINING THE STRANDED COSTS OF A UTILITY AS REQUIRED BY SUBSECTION (5), THE COMMISSION SHALL NOT INCLUDE IN THOSE RATES OR STRANDED COST DETERMINATIONS ANY BAD DEBT INCURRED BY A SUPPLIER, TRANSPORTER, OR DISTRIBUTOR OF ELECTRICAL ENERGY IN PROVIDING SERVICE TO A CLIENT CURRENTLY RECEIVING BENEFITS FROM THE FAMILY INDEPENDENCE AGENCY OR WHO, IN THE PAST 12 MONTHS, HAS RECEIVED BENEFITS FROM THE FAMILY INDEPENDENCE AGENCY.

SEC. 14. A SUPPLIER, TRANSPORTER, OR DISTRIBUTOR OF ELECTRICAL ENERGY SHALL PROVIDE TO THE COMMISSION AND THE FAMILY INDEPENDENCE AGENCY A LIST CONTAINING THE NAMES, ADDRESSES, AND AMOUNTS OWED BY ALL CLIENTS OF THE FAMILY INDEPENDENCE AGENCY WHO HAVE A DELINQUENT ACCOUNT WITH THE SUPPLIER, TRANSPORTER, OR DISTRIBUTOR.

SEC. 15. THE LIST REQUIRED BY SUBSECTION (7) SHALL INCLUDE THE DELINQUENT ACCOUNTS BETWEEN APRIL 1 AND MARCH 31 OF THE PRECEDING YEAR. THIS INFORMATION SHALL BE PROVIDED TO THE COMMISSION AND THE FAMILY INDEPENDENCE AGENCY NO LATER THAN APRIL 15 OF EACH YEAR.

SEC. 16. ONCE THE ANNUAL LIST HAS BEEN SUBMITTED AND ITS ACCURACY HAS BEEN VERIFIED BY THE COMMISSION AND THE FAMILY INDEPENDENCE AGENCY, THE FAMILY INDEPENDENCE AGENCY SHALL INCLUDE, AS A SEPARATE LINE ITEM IN ITS ANNUAL BUDGET REQUEST, AN AMOUNT EQUAL TO THE CUMULATIVE TOTAL OF ALL LISTS SUBMITTED BY ALL ELECTRIC ENERGY SUPPLIERS, TRANSPORTERS, OR DISTRIBUTORS AS REQUIRED BY SUBSECTION (7). THE FAMILY INDEPENDENCE AGENCY SHALL ALSO PROVIDE THE LANGUAGE NECESSARY TO ALLOW THE DISTRIBUTION OF THE ANNUAL APPROPRIATION TO THE SUBMITTING ELECTRICAL ENERGY SUPPLIERS, TRANSPORTERS, OR DISTRIBUTORS.

SEC. 17. FOR THOSE CLIENTS OF THE FAMILY INDEPENDENCE AGENCY IDENTIFIED ON THE LIST REQUIRED UNDER SUBDIVISION (7) THE AGENCY SHALL IMMEDIATELY ENROLL THOSE CLIENTS IN A DIRECT VENDORING PROGRAM ADMINISTERED BY THE AGENCY WHICH WILL PROVIDE THE REQUIRED PAYMENT TO AN ELECTRIC ENERGY SUPPLIER, TRANSPORTER, OR DISTRIBUTOR IN THE AMOUNT REQUIRED FOR THE CLIENT TO PARTICIPATE IN ONE OF THE EXISTING ENERGY ASSISTANCE PROGRAMS. THE PAYMENTS MADE BY THE AGENCY ON BEHALF OF THE CLIENT SHALL BE DEDUCTED FROM THE CLIENT’S TOTAL MONTHLY GRANT.”.

The amendment to the substitute was not adopted.

Senator DeGrow moved that all remaining pending amendments be considered en bloc.

The motion prevailed.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 8, following line 6, by inserting:

“SEC. 12. THE AUDITED AND VERIFIED COST OF EMPLOYEE-RELATED RESTRUCTURING COSTS REQUIRED BY SUBDIVISION (5)(D) SHALL NOT INCLUDE THE COST OF INCENTIVES, INDUCEMENTS, EARLY RETIREMENT PROGRAMS, EMPLOYEE SEVERANCE PACKAGES, PENSIONS, OR ANY OTHER RELATED COSTS INCURRED BY A UTILITY ON BEHALF OF AN OFFICER OF THE UTILITY, A MEMBER OF THE BOARD OF DIRECTORS, OR AN EMPLOYEE HAVING AN ANNUAL BASE SALARY, EXCLUSIVE OF ANY REMUNERATION FOR OVERTIME WORKED BY THE EMPLOYEE, OF MORE THAN \$85,000.00.” and renumbering the remaining sections.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 8, following line 6, by inserting:

“SEC. 18. (1) A SUPPLIER, TRANSPORTER, OR DISTRIBUTOR OF ELECTRICAL ENERGY PROVIDING SERVICE IN THIS STATE SHALL NOT HAVE ITS INTERNAL POLICIES RELATED TO THE HIRING, PROMOTION, OR TERMINATION OF THE SUPPLIER’S, TRANSPORTER’S, OR DISTRIBUTOR’S DIRECT EMPLOYEES OVERSEEN, REGULATED, OR CONTROLLED BY A COURT ORDER OR CONSENT DECREE.

(2) NOTHING IN THIS SECTION SHALL RESTRICT, AMEND, OR NEGATE THE TERMS, CONDITIONS, OR STIPULATIONS RELATED TO THE HIRING, PROMOTION, OR TERMINATION OF DIRECT EMPLOYEES WHICH IS CONTAINED IN A LABOR CONTRACT NEGOTIATED BETWEEN THE SUPPLIER, TRANSPORTER, OR DISTRIBUTOR OF ELECTRICAL ENERGY AND THE AGENTS OF A RECOGNIZED LABOR ORGANIZATION.”.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 8, following line 6, by inserting:

“SEC. 19. THE COMMISSION SHALL NOT IMPLEMENT A RATE FREEZE AS PART OF ANY DEREGULATION PLAN.”.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 8, following line 6, by inserting:

“SEC. 20. IN ADDITION TO OTHER INFORMATION REQUIRED BY THE COMMISSION, AN ENERGY GENERATOR, TRANSPORTER, DISTRIBUTOR, BROKER, OR AGGREGATOR WHO ISSUES A REGULAR AND PERIODIC BILLING FOR THEIR SERVICES TO A RETAIL CUSTOMER OF ENERGY SHALL PROVIDE TO THAT CUSTOMER A FULLY ITEMIZED AND DETAILED BILL EXPLAINING EACH COMPONENT OF THE CHARGES, WHICH, IN SUM, SHALL EQUAL THE TOTAL AMOUNT OF THE BILL SUBMITTED TO THE RETAIL CUSTOMER.”.

Senator Jaye offered the following amendment to the substitute:

1. Amend page 8, following line 6, by inserting:

“SEC. 21. IN SETTING THE RATES FOR THE GENERATION, TRANSMISSION, OR DISTRIBUTION OF ELECTRIC ENERGY, THE COMMISSION SHALL NOT APPROVE OR OTHERWISE AUTHORIZE RATES FOR 1 CLASS OF CUSTOMER WHICH ARE NOT MADE AVAILABLE, UNDER THE SAME TERMS AND CONDITIONS, TO ALL CLASSES OF CUSTOMERS.”.

The amendments to the substitute were not adopted.

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

The question being on the passage of the bill,

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

**Roll Call No. 840**

**Yeas—21**

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

**Nays—17**

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

**Excused—0**

**Not Voting—0**

In The Chair: President

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

A bill to amend 1909 PA 106, entitled "An act to regulate the transmission of electricity through the public highways, streets and places of this state, where the source of supply and place of use are in the same or different counties; to regulate the charges to be made for electricity so transmitted; to regulate the rules and conditions of service under which said electricity shall be furnished and to confer upon the Michigan public utilities commission certain powers and duties in regard thereto," (MCL 460.551 to 460.559) by amending the title and by adding sections 10 and 11.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

### **Protests**

Senators Cherry, Berryman, Peters, Byrum, Conroy and Jaye, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 1340 and moved that the statements they made during the discussion of the amendments offered by Senators Dunaskiss and Rogers be printed as their reasons for voting "no."

The motion prevailed.

Senator Cherry's statement is as follows:

Let me, at the outset, say that the good chairman of the committee, the Senator from the 16th District, has worked very hard with the members of the Energy and Technology Committee to fashion this bill. I know he is sought from them amendments to the bill, has worked with them to adopt a number of those amendments, has continued to talk to them as this bill has been brought to the floor, and, in fact, had been prepared to work with them to adopt additional amendments.

I do find, with some humor, his surprise at the concern I expressed to him a little while ago today about the problem we as Democrats had with the bill. A number of months ago, he approached me and asked me, "What do you think it would take to work this bill out?" I was fairly clear. I said, you know, our problem here is with deregulation. We are a caucus that generally does not support deregulation. We do understand that the order has some problems whether you support deregulation or not and that we could probably support amendments, legislation that would deal with that order.

We are not in the position to support deregulation. I do not know if he thought I was not serious, or he did not catch that, or just what nuance he missed. As I expressed several months ago to him and to others who have inquired, let me say, as I did this afternoon, that our problem with the bill that was before the body, or I guess technically still is, the one he seeks to amend, is it legislatively authorizes deregulation. He should not be surprised that when we said that continued to be a problem this afternoon, that we had somehow changed our mind, and somehow thought that this was acceptable. It has always been a problem.

What I find even more surprising is that we sit here, as Democrats, day in and day out in a minority and never find ourselves running the chamber until things have gone awry. Our little 16 votes have somehow pulled the plug on this bill. Well, it seems to me what they are really saying is they could not put together 20 of their votes for a bill. So now, somehow, we have pulled the plug because 20 votes on their side of the aisle cannot support what the chairman seeks to do. The numbers just do not add up to me in that fashion.

What his amendment does, quite frankly, is it really does go to the crux of our problem with his approach from the get go because what he is really saying is we are going to explicitly authorize the Public Service Commission to deregulate the generation of electrical energy in this state. In doing so, in this amendment, not only does he seek to legislatively authorize it, which we cannot support, he goes 20, 30, 40, 100 steps backwards from his own approach in seeking to guarantee that consumers in this state will have the kind of protections that they enjoy under the current regulatory scheme—protections that really are important to them if they are not to be taken for a ride by generators who, perhaps, may be trying to sell packages of energy in the least responsible way.

I have seen that occurring already. I had an incident in my own district a month ago where a prospective generator visited with a number of residents in a mobile home facility, a number of park residents. That generator, in meeting with those residents, told them that the Legislature had passed an act, the Governor had signed it into law, and those

residents had until five o'clock that afternoon to sign up with them if they wanted to cut their Consumers Power electrical rates. That is exactly the kind of practice that will occur under deregulation. It is exactly the kind of practice we ought to make sure does not occur under deregulation. This amendment is not going to come any closer in addressing that situation than the original PSC order did.

In other words, what we said over the course of this day and the course of the last couple of weeks is that the job the PSC has done in constructing its order is so bad that we cannot even straighten it out, and we have to ask them to do it again. That is the essence of this amendment.

The fact of the matter is 20 votes were not put together for the approach the chairman preferred to go, and as a result, he seeks to throw up his hands. We cannot support that anymore than we could the approach that was on the table earlier. The bottom line is, for many of us, after we have watched airline deregulation, after we have watched trucking deregulation, after we have watched telecommunications deregulation, the bottom line is that we see that bills go up, service goes down as the consumer, the residential customer, who is always on the short end of the stick. We cannot figure out why it is going to be any different here in electrical deregulation.

That is why we have a very basic problem in supporting legislative authorization of deregulation. That is why I would not support the previous approach, why I will vote against any bill in which we deregulate the electrical industry. If, in fact, it comes down to a matter of simply correcting the mistakes that the PSC makes, I will take that into consideration and probably will support many of those efforts. I will not foist deregulation on the residential customers of this state so that they will be treated by their utility company or their electrical generator the same way that they are treated by airlines, the same way they are treated by phone slammers every time they sit down to dinner across this state.

Senator Berryman's statement is as follows:

There's one thing nice about this body whether you're a Democrat or a Republican, you have the right to disagree and a right to have your own opinion.

I want to start out by thanking Senator Dunaskiss. On this issue, I think the Senator has always been willing to work with me and others in trying to craft a bill that was going to be good for Michigan industries, Michigan jobs, and the consumers. The good Senator tried to draft a package that would deal with all of those interests, even to the point where the S-4 substitute that was put forth that some organizations were hammering down was a bill that was not even complete yet. It was a bill that was an agreement to some but an unfinished piece of work. I wish that we would have had the opportunity to finish crafting that piece of legislation and then pass judgment on whether it was going to be good for Michigan consumers, jobs, and industry. But we passed judgment on an unfinished product.

To try to lay blame on one party or the other is absolutely wrong. In my opinion, this was a colossal bipartisan failure. We had an opportunity to put a legislative thumbprint on the PSC's rules they have already put forth. Deregulation did not start with this bill. Deregulation had already started. This was giving us an opportunity to put a legislative thumbprint on those rules. We had an opportunity to protect jobs. We had an opportunity to put in consumer protections, and we had an opportunity for a four-year rate freeze to make sure the people were not left behind.

But we failed to come together as a body, and as a body we failed to try to understand a very complicated issue. Sometimes I think we failed in that because it's just easier to go home, having said nothing or having done nothing, and giving some a false sense of security that if something goes wrong, we can blame the PSC. The blame does not belong to the Public Service Commission. The blame will be put on this legislative body. When rates go up in the next four years—I'm sure there will be rate increases—when jobs are lost, and when things go wrong, it will not be the PSC that is blamed inasmuch as some will try to point the finger and say, "It was not us. Those rules came from the PSC."

People in this state, the men and women who were in the lobby, some who are still in the Gallery who lobbied so hard trying to put job protections in place, and the men and women who work at Consumers and Edison and all the co-ops, they'll remember this legislative body had an opportunity in December of 1998 to make a difference. Instead of doing our job collectively, we found it easier to do nothing and go home.

For those reasons, I oppose the passage of this substitute because I think it takes away our responsibility to do the job we were elected to do. It is complicated. They are tough issues, but everyone in here is bright. If they would take the time to listen to both sides and understand, we could have come together in a bipartisan fashion and crafted something that had a legislative stamp of approval on it. But we took the easy way out. Too many people took the easy way out and thought it was just easier to go home and not have to try to explain something we don't completely understand here. I think we failed. I just hope that the Legislature next year, when it comes to what the PSC is doing, they will keep a close eye on protecting Michigan's industries that have invested in Michigan, invested in our communities, invested in capital, and most importantly, invested in people. We need to keep in place protections for those Michigan industries and for those Michigan jobs.

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

I rise in opposition to this Amendment No. 2ff because I think it is certainly open to argument that it is an unconstitutional delegation of legislative authority to the Public Service Commission. In fact, there is substantial legal



precedent now that states that the Public Service Commission has no implied powers by itself. It only has powers that are specifically delineated by the Legislature. Certainly the wording in this amendment could be challenged as to whether or not it does, indeed, give that specific delineation of powers, and I believe if this amendment is adopted and if this is part of the bill that we're going to see a number of significant court challenges that will ultimately lead to this being struck down as an unconstitutional amendment and will do nothing except cost the state an awful lot of money defending those law suits going to court. And you're going to have every company outside of the state who wants to do business in this state line up and sue the state of Michigan for an unconstitutional piece of legislation. I think this is bad policy. This is clearly unwarranted delegation of legislative power that we should have in this body and would urge a "no" vote.

Senator Byrum's first statement is as follows:

I rise regrettably to stand in opposition to the Dunaskiss amendment. I have participated in all of these discussions and have been a member of the Senate Technology and Energy Committee. I must say I do not fault in any way the job that Senator Dunaskiss has done. I have always considered him to be fair in how he has dealt with both myself and the interests that we on this side on the aisle brought to bear on the discussion.

And, yes, conceptually, we have worked on deregulation for a number of months. But that was in a conceptual framework. I would say to you there is a huge difference between dealing with concepts and dealing with a bill before you with concrete language that you can react to and that you can start to put together amendments and changes you would like to see embodied in the legislation.

We have made progress. We've made significant progress the day that bill was introduced, and we had something concrete to react to. Are we there yet? No, we are not there yet. That is evidenced by the hours we have spent caucusing and waiting and trying to line up votes today. I said at the committee process, and I still stand by this, the bill the committee reported was the Governor's bill. That has been part of the problem, quite frankly. The Governor wrote that bill with the two incumbent utilities, Consumers and Edison. That is why the struggle has occurred for a number of hours and literally days to try to put together the sufficient number of votes—20 or more—to move this process along. That we were unable to do. I might add, in a bipartisan fashion we were unable to move those votes necessary along.

What we have before us now not only allows deregulation to be governed by executive order, even though it is through the PSC through the appointment powers of the Governor, but we know there is one vacancy on that three-member board right now; there may be two. What the Legislature has before it in this substitute gives the authority clearly over to the commission saying, "the commission shall by order establish," and there's a whole litany of what it might establish. It also says that the order issued by the commission, the pending order that is being litigated, the order that the commission has currently issued is in compliance with the act. It makes that very clear. It says the commission must order licensing provisions, and it has some vague anti-slamming orders that the commission shall establish anti-slamming orders.

I would say this gives huge authority to the executive, and it takes away the authority of this body, the public policy-setting body of the state of Michigan, and that's wrong. These are difficult issues. They can be bipartisan issues if you let the committee process work.

As I look at this amendment or substitute S-4 in front of us, it begs the question: Does the open-endedness of this substitute allow the Public Service Commission the latitude and the discretion to go as far as to implement securitization? That's a question I would like answered. I think that is a significant question, and the body deserves an answer. Aside from that, I would have to say, in my best judgment, we should turn down the substitute, and what we should do is work through the committee process to get all of the issues on the table in a committee and work forward on the issue. That will most likely necessitate next year and not doing it in lame duck.

Senator Byrum's second statement is as follows:

I, too, rise in opposition to this Amendment No. 2ff. Just to follow up with what Senator Peters has said, if the goal here is to codify the Public Service Commission orders and to avoid the uncertainty of legal challenge, then what we have before us does not accomplish either. It is going to set us up for a legal challenge and a legal argument. You are not going to avoid that uncertainty. That is a problem on its face.

Earlier I had asked the question about securitization, and does this, in fact, include allowing the Public Service Commission to institute by their own order securitization? I would submit to you, since the question was not answered, that the answer is "yes." You could, in fact, have securitization absent legislative action. You need to turn down this substitute.

Senator Jaye's statement is as follows:

I'm opposed to this amendment because this amendment codifies the Public Service Commission's administrative rules. What this amendment does is it gives a blank check to the Public Service Commission, unelected, unaccountable bureaucrats. What it does is it codifies their earlier action that gives an 18 percent increase to the utility companies—an 18 percent rate of return increase. This amendment would codify the 30 percent surcharge that anybody who wants to lead the monopoly would have to pay. That means any competing companies' costs would have to be 30 percent less just to be equal with Detroit Edison or Consumers Power.

This amendment codifies the Public Service Commission ruling that is going to take away a \$230 million rate cut that's already been scheduled. If we do nothing, January of next year the Senate Fiscal Agency report, December 1, 1998, says that a \$230 million decrease in rates will occur. This takes it away.

This amendment codifies the Public Service Commission's actions to take \$4 billion of rate payers'—of the working men and women and the small businesses—and to pay \$4 billion of the companies' costs on the backs of the rate payers—\$4 billion.

This amendment codifies a decision that gives an open checkbook to the utilities in all their transition costs, including 2 1/2 years of severance pay—2 1/2 years—30 months—2 1/2 years! Unlimited severance pay; unlimited health benefits; unlimited retirement benefits.

This amendment also codifies the Public Service Commission ruling that allows the Public Service Commission to keep any money, even if energy costs go down. I just filled up my tank of gas earlier this week, and it was 89 cents a gallon. Energy costs are going down. By having this freeze, there will not be the adjustment down in a reduction of the rate increases as we've had in the past.

This amendment codifies the decision by the Public Service Commission of not allowing the utilities to help themselves by refinancing their bonded indebtedness. This week my wife, Sharon, and I just refinanced our home mortgage. We saved a bundle of money. Interest rates are at historic low levels. We can have the monopolies help themselves by refinancing the debt. This amendment codifies the rejection of allowing the utility companies to help themselves.

This amendment mandates that customers pay any transition costs for any kind of new supplier. This amendment does not allow equal access to all classes under the same terms and conditions, so the big boys—the big manufacturers—can cut a deal, but the little restaurant, the little homeowner, the condo association—they're cut out of the equation.

I support deregulation, but I don't support corporate welfare. I don't support enhancing and enriching huge corporate profits at the expense of the little guy.

I also believe that this amendment is unconstitutional. Article 1, Section 1 of Michigan's Constitution states that all political powers are inherent in the people; government is instituted for the equal benefit, security, and protection. How in the world does legislation that benefits less than 1 percent of the population—the employees and shareholders of Edison and Consumers Power—at the cost of the rest of the 99 percent of the population? That doesn't give our residents, our constituents equal benefit, security, and protection.

I also believe this is unconstitutional because of Article 3, Section 2—separation of powers of government. It says the powers of government are divided into three branches: legislative, executive, and judicial; no person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this Constitution. We as a Legislature are turning our power over to the Governor, over to the Executive Branch and say, "Do what you want." This is a Senate in Michigan. It's not a Senate in the imperial ancient Rome that gave Caesar Augustus unlimited power. This bill is a blank check, a blank check to the Public Service Commission, and I know they say, "Well, we can come back next year and fix it"—very unlikely because the Legislature is a collection of veto points. Just one committee—one committee—could be bought and sold by the utility companies and block any reforms—certainly not a committee of the Senate, but maybe the committee of the House might be subject to influence, might be subject to pressure. And one committee in one house can stop any reforms.

We have not had an opportunity to vote on any of these policy amendments. We've had a lot of meetings. We've had a lot of discussions. We should have an opportunity as a deliberative body, as the Michigan Senate, to be able to protect the consumers, to protect the little guys and not say have an open check on the backs of the rate payers.

I would hope that we would reject this amendment and try to settle our differences on the implementation so that we can have a transition to deregulation, not a transition to socialized business and socialized government. This is not a deregulation bill. This is a corporate payoff bill on the backs of the little guys. So I hope we would reject this amendment and consider the other policy changes and see if we can fashion a bill that would benefit the utility companies and the consumers and not provide such horrific \$4 billion of subsidies to the major monopolies in the state of Michigan.

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

The motion prevailed.

Senator Dunaskiss' statement is as follows:

It's very obvious, as we've jumped over many of the amendments that are pending to S-4 right now, that we're going to a new approach on the entire substance of the legislation in front of you. I appreciate the fact that we've jumped over some of the other amendments and moved to this amendment, which substantially changes the concept of S-4 that is currently in front of us and the S-4 that so many people in this chamber has put so much work into. Over the past two and one-half years, many hours have been put into electric restructuring, and I sincerely thank each and every one of my committee members, in particular, who worked so hard. We worked hard to make sure this was a bipartisan

approach. Many extra consumer protections were put into the substitute. Labor protections and environmental concerns were added at the urging of my Democratic colleagues. They worked tirelessly and hard, and I appreciate that. I do appreciate the support that we had.

But something happened during the day when all the lobbyists on many different sides were talking, and then we find the Democratic Caucus pull together and saying, “No, we’re pulling the plug. We don’t believe in deregulation.” I find that sad because Michigan needs to move forward on this electric restructuring. As many of you heard many a time, lights go on for Democrats and Republicans alike, and I’ve always tried to make sure these types of issues I bring in front of you are bipartisan issues.

We need to make Michigan competitive. We all know that we need new generation here in the state. We know we need this legislation. Unfortunately, we have found that the caucuses say “no.” So we’re moving with a different approach now. We are simply taking a look at the Public Service Commission orders on an amendment offered by myself, Senator Rogers, and Senator Schuette, which simply clarifies the PSC orders by allowing them to have the authority to do what they’ve done.

Many of you may say, “But we’ve lost our union protection, our labor protection, etc.” I’d like to remind you that their orders as they now stand won’t go into effect for almost four years. During that time, it will be our job, hopefully in a bipartisan way, to oversee anything that the PSC might be lacking on, and I’m sure with our strong oversight this plan does work.

With that, I ask for the adoption of the amendment, and then ultimately, the rejection of all the others.

The following bill was read a third time:

**Senate Bill No. 1342, entitled**

A bill to regulate the distribution of electricity in this state; to restructure the electric industry; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

The question being on the adoption of the following committee substitute:

Substitute (S-1).

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

The question being on the passage of the bill,

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

**Roll Call No. 841**

**Yeas—24**

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

**Nays—14**

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

**Excused—0**

**Not Voting—0**

In The Chair: President

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

A bill to provide for reciprocal access of electric service between electric utilities and alternative electric suppliers under certain conditions.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

### Protest

Senator Peters, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 1342.

Senator Peters' statement is as follows:

Madam Chair, I voted "no" on this bill even though I believe the reciprocity is a good idea. I believe this bill is faulty and would be unenforceable under the interstate commerce clause of the U.S. Constitution.

By unanimous consent the Senate returned to the order of

### Motions and Communications

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

#### **Senate Bill No. 1370, entitled**

A bill to amend 1990 PA 100, entitled "City utility users tax act," by amending the title and section 2 (MCL 141.1152).

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

Senator DeGrow moved that the rules be suspended and that the following bill, now on the order of General Orders, be placed on its immediate passage at the head of the Third Reading of Bills calendar.

#### **Senate Bill No. 1370**

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

By unanimous consent the Senate returned to the order of

### Third Reading of Bills

The following bill was read a third time:

#### **Senate Bill No. 1370, entitled**

A bill to amend 1990 PA 100, entitled "City utility users tax act," by amending the title and section 2 (MCL 141.1152).

The question being on the passage of the bill,

Senator V. Smith offered the following amendments:

1. Amend page 1, line 3, after the second "of" by striking out "800,000" and inserting "750,000".
2. Amend page 1, line 11, after "of" by striking out "800,000" and inserting "750,000".
3. Amend page 2, line 23, after "under" by striking out "800,000" and inserting "750,000".
4. Amend page 3, line 2, after "of" by striking out "800,000" and inserting "750,000".

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

Senator Bouchard offered the following amendment:

1. Amend page 4, following line 17, by inserting:

"Enacting section 1. This amendatory act does not take effect unless House Bill No. 5391 of the 89th Legislature is enacted into law."

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

Senator Shugars offered the following amendment:

1. Amend page 4, following line 17, by inserting:

"(7) AFTER DECEMBER 31, 1998, RESIDENTIAL USE OF ELECTRICITY, NATURAL OR ARTIFICIAL GAS, OR HOME HEATING FUELS IS EXEMPT FROM THE TAX IMPOSED BY THIS ACT."

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. 842****Yeas—26**

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

**Nays—12**

Bennett	Emmons	North	Shugars
Bullard	Gougeon	Rogers	Steil
Dunaskiss	Jaye	Schuette	Van Regenmorter

**Excused—0****Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

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

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

**Senate Resolution No. 251**

The resolution consent calendar was adopted.

Senators Cherry and Conroy offered the following resolution:

**Senate Resolution No. 251.**

A resolution honoring the members and coaches of Montrose Hill-McCloy High School upon winning the 1998 Class CC Football State Championship held at the Pontiac Silverdome, by defeating Whittemore-Prescott High School by the score of 21-14.

Whereas, It has been 21 years since a team from Genesee County has won a high school football championship and only the second time in playoff history that a team from Genesee County has won this championship; and

Whereas, Montrose Hill-McCloy High School has a long playoff history. This is their 10th playoff appearance and their 7th consecutive trip to the playoffs. While they made the semi-finals in 1992, 1994, and 1997, this was their first appearance in the State Finals; now, therefore, be it

Resolved by the Senate, That we proudly honor the members and coaches of Montrose Hill-McCloy High School, the 1998 Class CC High School Football State Champions; and be it further

Resolved, That a copy of this resolution be transmitted to the following players and coaches:

**Players**

Nick Persails  
 Jason Emmendorfer  
 Tim Hemker  
 Ed Magrys  
 Clint Galvas  
 Anthony Vigil  
 Junior Kumaraswamy  
 Wesley Fisk  
 Jared Smith  
 Jacob Allard  
 Andrew Powell  
 Mike Larkin  
 Lance Lloyd  
 Andy Bernard  
 Chris Yuhos  
 Aaron Miller

Dale Bloss  
 Josh Schlorf  
 Ted Klopff  
 Steve Upchurch  
 Cary House  
 Aaron Rush  
 Vonzell Bush  
 Craig Salter  
 Matt Duncan  
 Jasun Whitmire  
 Justin Missentzis  
 Tom Visser  
 Andy Barrett  
 Josh Delecki  
 Craig Parks

Scott Visser  
 Juston Whitney  
 Kris Brown  
 Max Auger  
 Tom Leonard  
 Jeremy Cochrane  
 Mike Kime  
 Matt Leitelt  
 Tommy Thompson  
 Nick Koulchar  
 Rich Siegel  
 Bo Paxton  
 Mike Gibson  
 John McClelland  
 Greg Yeaster

**Coaches**

Dennis Reinhart  
 Craig Destrampe  
 Monty Stiles  
 Dave Beazley

Jason Harris  
 Bob Hayes  
 Cory Gildersleeve  
 Bill Persails

Chris Clolinger  
 Joe Gilbert  
 Pat Maloney

**Scheduled Meetings**

Conference Committee on House Bill No. 4738 - Tuesday, December 8, at 1:30 p.m., Room 427, Capitol Building (3-7946).

Conference Committee on House Bill No. 4740 - Tuesday, December 8, at 1:30 p.m., Room 427, Capitol Building (3-7946).

Senator DeGrow moved that the Senate adjourn.  
 The motion prevailed, the time being 10:24 p.m.

The President, Lieutenant Governor Binsfeld, declared the Senate adjourned until Tuesday, December 8, at 10:00 a.m.

CAROL MOREY VIVENTI  
 Secretary of the Senate.