

### **SENATE JOINT RESOLUTION E**

February 2, 1999, Introduced by Senators JAYE and MC COTTER and referred to the Committee on Government Operations.

A joint resolution proposing an amendment to the state constitution of 1963, by amending section 2 of article I, section 29 of article V, section 2 of article VIII, and section 5 of article XI and adding sections 25 and 26 to article I, to prohibit discrimination based on sex or ethnicity and to prohibit the state, a political subdivision of the state, an institution of higher education funded wholly or partially by the state, or an employer receiving a state grant, tax abatement, or tax subsidy from using religion, race, sex, color, ethnicity, or national origin as a criterion for either discriminating against, or granting preferential treatment to, an individual or group in employment, public education, or public contracting.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to prohibit discrimination based on sex or

ethnicity and to prohibit the state, a political subdivision of the state, an institution of higher education funded wholly or partially by the state, or an employer receiving a state grant, tax abatement, or tax subsidy from using religion, race, sex, color, ethnicity, or national origin as a criterion for either discriminating against, or granting preferential treatment to, an individual or group in employment, public education, or public contracting, is proposed, agreed to, and submitted to the people of the state:

# ARTICLE I

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, SEX, color, ETHNICITY, or national origin. The legislature shall implement this section by appropriate legislation.

SEC. 25. TO THE EXTENT PERMITTED BY FEDERAL LAW, THE STATE, A POLITICAL SUBDIVISION OF THE STATE, AN INSTITUTION OF HIGHER EDUCATION FUNDED WHOLLY OR PARTIALLY BY THE STATE, OR AN EMPLOYER RECEIVING A STATE GRANT, TAX ABATEMENT, OR TAX SUBSIDY SHALL NOT USE RELIGION, RACE, SEX, COLOR, ETHNICITY, OR NATIONAL ORIGIN AS A CRITERION FOR EITHER DISCRIMINATING AGAINST, OR GRANTING PREFERENTIAL TREATMENT TO, ONE OR MORE INDIVIDUALS IN EMPLOYMENT, EDUCATION, OR PUBLIC CONTRACTING. REASONABLE ATTORNEY FEES MAY BE AWARDED TO AN INDIVIDUAL OR GROUP OF INDIVIDUALS INJURED BY A VIOLATION OF THIS SECTION. THIS SECTION DOES NOT PROHIBIT CLASSIFICATIONS BASED ON SEX WHICH ARE REASONABLY NECESSARY FOR

1 THE ORDINARY OPERATION OF THE STATE'S SYSTEM OF PUBLIC EMPLOYMENT  
2 OR PUBLIC EDUCATION, AND THIS SECTION DOES NOT PROHIBIT STATE  
3 ACTION REQUIRED TO ESTABLISH OR MAINTAIN ELIGIBILITY FOR FEDERAL  
4 FUNDS. THIS SECTION DOES NOT INVALIDATE A COURT ORDER OR CONSENT  
5 DECREE THAT IS IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION.

6 SEC. 26. IF ANY PART OF SECTION 25 OF THIS ARTICLE IS HELD  
7 TO BE INVALID OR UNCONSTITUTIONAL, THE REMAINING PART OR PARTS OF  
8 THE SECTION SHALL NOT BE AFFECTED AND SHALL REMAIN IN FULL FORCE  
9 AND EFFECT.

10 ARTICLE V

11 Sec. 29. There is hereby established a civil rights commis-  
12 sion which shall consist of eight persons, not more than four of  
13 whom shall be members of the same political party, who shall be  
14 appointed by the governor, by and with the advice and consent of  
15 the senate, for four-year terms not more than two of which shall  
16 expire in the same year. It shall be the duty of the commission  
17 in a manner which may be prescribed by law to investigate alleged  
18 discrimination against any person because of religion, race, SEX,  
19 color, ETHNICITY, or national origin in the enjoyment of the  
20 civil rights guaranteed by law and by this constitution, and to  
21 secure the equal protection of such civil rights without such  
22 discrimination. The legislature shall provide an annual appro-  
23 priation for the effective operation of the commission.

24 The commission shall have power, in accordance with the pro-  
25 visions of this constitution and of general laws governing admin-  
26 istrative agencies, to promulgate rules and regulations for its  
27 own procedures, to hold hearings, administer oaths, through court

1 authorization to require the attendance of witnesses and the  
2 submission of records, to take testimony, and to issue appropri-  
3 ate orders. The commission shall have other powers provided by  
4 law to carry out its purposes. Nothing contained in this section  
5 shall be construed to diminish the right of any party to direct  
6 and immediate legal or equitable remedies in the courts of this  
7 state.

8 Appeals from final orders of the commission, including cease  
9 and desist orders and refusals to issue complaints, shall be  
10 tried de novo before the circuit court having jurisdiction pro-  
11 vided by law.

12 ARTICLE VIII

13 Sec. 2. The legislature shall maintain and support a system  
14 of free public elementary and secondary schools as defined by  
15 law. Every school district shall provide for the education of  
16 its pupils without discrimination as to religion, creed, race,  
17 SEX, color, ETHNICITY, or national origin.

18 No public monies or property shall be appropriated or paid  
19 or any public credit utilized, by the legislature or any other  
20 political subdivision or agency of the state directly or indi-  
21 rectly to aid or maintain any private, denominational or other  
22 nonpublic, pre-elementary, elementary, or secondary school. No  
23 payment, credit, tax benefit, exemption or deductions, tuition  
24 voucher, subsidy, grant or loan of public monies or property  
25 shall be provided, directly or indirectly, to support the  
26 attendance of any student or the employment of any person at any  
27 such nonpublic school or at any location or institution where

1 instruction is offered in whole or in part to such nonpublic  
2 school students. The legislature may provide for the transporta-  
3 tion of students to and from any school.

4 ARTICLE XI

5 Sec. 5. The classified state civil service shall consist of  
6 all positions in the state service except those filled by popular  
7 election, heads of principal departments, members of boards and  
8 commissions, the principal executive officer of boards and com-  
9 missions heading principal departments, employees of courts of  
10 record, employees of the legislature, employees of the state  
11 institutions of higher education, all persons in the armed forces  
12 of the state, eight exempt positions in the office of the gover-  
13 nor, and within each principal department, when requested by the  
14 department head, two other exempt positions, one of which shall  
15 be policy-making. The civil service commission may exempt three  
16 additional positions of a policy-making nature within each prin-  
17 cipal department.

18 The civil service commission shall be non-salaried and shall  
19 consist of four persons, not more than two of whom shall be mem-  
20 bers of the same political party, appointed by the governor for  
21 terms of eight years, no two of which shall expire in the same  
22 year.

23 The administration of the commission's powers shall be  
24 vested in a state personnel director who shall be a member of the  
25 classified service and who shall be responsible to and selected  
26 by the commission after open competitive examination.

1       The commission shall classify all positions in the  
2 classified service according to their respective duties and  
3 responsibilities, fix rates of compensation for all classes of  
4 positions, approve or disapprove disbursements for all personal  
5 services, determine by competitive examination and performance  
6 exclusively on the basis of merit, efficiency and fitness the  
7 qualifications of all candidates for positions in the classified  
8 service, make rules and regulations covering all personnel trans-  
9 actions, and regulate all conditions of employment in the classi-  
10 fied service.

11       State Police Troopers and Sergeants shall, through their  
12 elected representative designated by 50% of such troopers and  
13 sergeants, have the right to bargain collectively with their  
14 employer concerning conditions of their employment, compensation,  
15 hours, working conditions, retirement, pensions, and other  
16 aspects of employment except promotions which will be determined  
17 by competitive examination and performance on the basis of merit,  
18 efficiency and fitness; and they shall have the right 30 days  
19 after commencement of such bargaining to submit any unresolved  
20 disputes to binding arbitration for the resolution thereof the  
21 same as now provided by law for Public Police and Fire  
22 Departments.

23       No person shall be appointed to or promoted in the classi-  
24 fied service who has not been certified by the commission as  
25 qualified for such appointment or promotion. No appointments,  
26 promotions, demotions or removals in the classified service shall  
27 be made ~~for religious, racial or partisan considerations~~ ON THE

1 BASIS OF AN INDIVIDUAL'S RELIGION, RACE, SEX, COLOR, ETHNICITY,  
2 NATIONAL ORIGIN, OR POLITICAL AFFILIATION.

3       Increases in rates of compensation authorized by the commis-  
4 sion may be effective only at the start of a fiscal year and  
5 shall require prior notice to the governor, who shall transmit  
6 such increases to the legislature as part of his budget. The  
7 legislature may, by a majority vote of the members elected to and  
8 serving in each house, waive the notice and permit increases in  
9 rates of compensation to be effective at a time other than the  
10 start of a fiscal year. Within 60 calendar days following such  
11 transmission, the legislature may, by a two-thirds vote of the  
12 members elected to and serving in each house, reject or reduce  
13 increases in rates of compensation authorized by the commission.  
14 Any reduction ordered by the legislature shall apply uniformly to  
15 all classes of employees affected by the increases and shall not  
16 adjust pay differentials already established by the civil service  
17 commission. The legislature may not reduce rates of compensation  
18 below those in effect at the time of the transmission of  
19 increases authorized by the commission.

20       The appointing authorities may create or abolish positions  
21 for reasons of administrative efficiency without the approval of  
22 the commission. Positions shall not be created nor abolished  
23 except for reasons of administrative efficiency. Any employee  
24 considering himself aggrieved by the abolition or creation of a  
25 position shall have a right of appeal to the commission through  
26 established grievance procedures.

1       The civil service commission shall recommend to the governor  
2 and to the legislature rates of compensation for all appointed  
3 positions within the executive department not a part of the clas-  
4 sified service.

5       To enable the commission to exercise its powers, the legis-  
6 lature shall appropriate to the commission for the ensuing fiscal  
7 year a sum not less than one percent of the aggregate payroll of  
8 the classified service for the preceding fiscal year, as certi-  
9 fied by the commission. Within six months after the conclusion  
10 of each fiscal year the commission shall return to the state  
11 treasury all moneys unexpended for that fiscal year.

12       The commission shall furnish reports of expenditures, at  
13 least annually, to the governor and the legislature and shall be  
14 subject to annual audit as provided by law.

15       No payment for personal services shall be made or authorized  
16 until the provisions of this constitution pertaining to civil  
17 service have been complied with in every particular. Violation  
18 of any of the provisions hereof may be restrained or observance  
19 compelled by injunctive or mandamus proceedings brought by any  
20 citizen of the state.

21       Resolved further, That the foregoing amendment shall be sub-  
22 mitted to the people of the state at the next general election in  
23 the manner provided by law.