

No. 76
STATE OF MICHIGAN
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REGULAR SESSION OF 2003

Senate Chamber, Lansing, Wednesday, September 24, 2003.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor John D. Cherry, Jr.

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

Allen—present
Barcia—present
Basham—present
Bernero—present
Birkholz—present
Bishop—present
Brater—present
Brown—present
Cassis—present
Cherry—present
Clark-Coleman—present
Clarke—present
Cropsey—present

Emerson—present
Garcia—present
George—present
Gilbert—present
Goschka—present
Hammerstrom—present
Hardiman—present
Jacobs—present
Jelinek—present
Johnson—present
Kuipers—present
Leland—present
McManus—present

Olshove—present
Patterson—present
Prusi—present
Sanborn—present
Schauer—present
Scott—present
Sikkema—present
Stamas—present
Switalski—present
Thomas—present
Toy—present
Van Woerkom—present

Reverend Ron D. Coleman, Sr., of God Land Unity Church of Detroit offered the following invocation:

As we take this moment to pause before the business of this day, pray that we will turn to the God of our own understanding. In acknowledgement of our own God, invite that presence and that power to come forth to lead, to guide, and to direct.

Father, we thank You for the privilege of each one of us being assembled here in this blessed place. We thank You for the privilege of acknowledging You before we do the business of this day. We ask You to bless each one of us and our understanding. Bless each one of us in our heart. Bless all that we will do, that it will be done to Your glory. In so doing, may the people of this great state of Michigan be served in the highest.

We ask us to remain flexible in our thinking—flexible in our ability to work with one another—that everyone who looks to this Senate, that everyone who depends on the collection of Senators here, will be of the highest representation of even the smallest person in this state.

We thank You for blessing our Senators. We thank You for blessing our Governor. We thank You for blessing each and every district that is represented here. Help us to know through Your Spirit, God, that there is a perfect way for everything that needs to be done. Help us to know through Your Spirit, God, that there is more than enough money, more than enough love, more than enough peace, and more than enough patience to do whatever needs to be done.

I ask the Holy Spirit to be present in this chamber not just today, but each and every day hereafter. I thank You, God, for this privilege of bringing the invocation, and I declare it to be so now. In Christ's name. Amen.

The President, Lieutenant Governor Cherry, led the members of the Senate in recital of the *Pledge of Allegiance*.

Motions and Communications

Senator Bishop entered the Senate Chamber.

Senator Hammerstrom moved that Senator Johnson be temporarily excused from today's session.

The motion prevailed.

Senators Johnson and Bernero entered the Senate Chamber.

Senator Schauer moved that Senators Barcia and Jacobs be temporarily excused from today's session.

The motion prevailed.

Senator Barcia entered the Senate Chamber.

Senator Hammerstrom moved that rule 3.902 be suspended to allow the guests of Senator Leland admittance to the Senate floor, including the center aisle.

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

Senator Hammerstrom moved that rule 3.901 be suspended to allow photographs to be taken from the Senate floor, including the center aisle.

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

Recess

Senator Hammerstrom moved that the Senate recess subject to the call of the Chair.

The motion prevailed, the time being 10:08 a.m.

10:20 a.m.

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

During the recess, Senators Leland, Basham, Switalski, Bernero, Olshove, Bishop, Toy, Cassis and Johnson introduced to the Senate the Michigan Lawmen/Belle Tire Police Softball Club, National Law Enforcement Softball Association Champions, and presented them with Senate Resolution No. 146.

Team Coach Lieutenant Steve Perkola responded briefly.

The following communication was received:
Department of Consumer and Industry Services

September 19, 2003

Pursuant to Section 314 of P.A. 527 of 2002, we are enclosing a copy of the following report:

<u>Type of Report</u>	<u>Facility</u>	<u>Report #</u>	<u>License #</u>
Special Investigation Report	WJ Maxey Boys Training School Woodland Center	2003C0212047	CS470245817

This report was performed in compliance with the requirements of P.A. 116 of 1973 as amended, and the Administrative Rules for Child Caring Institutions. The report may also be viewed on our website under "Inside CIS" at the following address: <http://www.michigan.gov/cis/>. If you have any questions regarding this information, please feel free to contact me at 373-3892.

Sincerely,
Allan R. Pohl
Acting Director
Finance and Administrative Services

The communication was referred to the Secretary for record.

Senator Hammerstrom moved that the rules be suspended and that the following concurrent resolution, now on Committee Reports, be placed on the order of Resolutions:

Senate Concurrent Resolution No. 33

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

Senator Hammerstrom moved that the rules be suspended and that the following appointment, now on Committee Reports, be placed on the order of Messages from the Governor for consideration today:

Michigan Tax Tribunal

Mr. Jack L. Van Coevering of 6280 Montmorency Drive SE, Caledonia, Michigan, 49316, county of Kent, representing attorneys with tax experience, succeeding Thomas J. Hughes, whose term has expired, for a term commencing August 18, 2003 and expiring June 30, 2007.

Pursuant to Executive Order 1991-18, Mr. Van Coevering is designated as Chairperson of the Tax Tribunal.

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

Messages from the Governor

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

Senate Bill No. 195

Senate Bill No. 364

Senate Bill No. 293

Senate Bill No. 265

Senate Bill No. 288

Senate Bill No. 540

Senate Bill No. 283

Senate Bill No. 464

Senate Bill No. 466

The motion prevailed.

Michigan Tax Tribunal

Mr. Jack L. Van Coevering of 6280 Montmorency Drive SE, Caledonia, Michigan, 49316, county of Kent, representing attorneys with tax experience, succeeding Thomas J. Hughes, whose term has expired, for a term commencing August 18, 2003 and expiring June 30, 2007.

Pursuant to Executive Order 1991-18, Mr. Van Coevering is designated as Chairperson of the Tax Tribunal.

The question being on advising and consenting to the said appointment to office,

The Senate advised and consented to the said appointment to office, a majority of the members serving voting therefor, as follows:

Roll Call No. 429**Yeas—37**

Allen	Clark-Coleman	Hardiman	Sanborn
Barcia	Clarke	Jelinek	Schauer
Basham	Cropsey	Johnson	Scott
Bernero	Emerson	Kuipers	Sikkema
Birkholz	Garcia	Leland	Stamas
Bishop	George	McManus	Switalski
Brater	Gilbert	Olshove	Thomas
Brown	Goschka	Patterson	Toy
Cassisi	Hammerstrom	Prusi	Van Woerkom
Cherry			

Nays—0**Excused—1**

Jacobs

Not Voting—0

In The Chair: President

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

The motion prevailed.

Senator Brater's statement is as follows:

I rise today in support of Governor Granholm's appointment of Jack Van Coevering as chairperson of the Michigan Tax Tribunal. Mr. Van Coevering is exceptionally qualified to fill this position. He has spent most of his career working in state government, here in Michigan.

In his most recent position, as administrator of the office of hearings and disclosure in the Michigan Department of Treasury, he was responsible for analyzing national legislation affecting state taxes, assisting senior executives in meeting with industry and taxpayers, advising on litigations, and other legal matters.

Before joining the Department of Treasury, Mr. Van Coevering served as assistant Attorney General in the Revenue Division of the Michigan Attorney General's office. He was the lead attorney in over 300 tax cases. Mr. Van Coevering has a Master of Laws degree in corporate and finance law from Wayne State University, as well as a juris doctorate from the University of Michigan Law School.

I ask you to join me in supporting confirmation of this nomination.

By unanimous consent the Senate proceeded to the order of

General Orders

Senator Hammerstrom 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 Cherry, designated Senator Kuipers as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Cherry, having resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

House Bill No. 4236, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16131, 16186, and 16263 (MCL 333.16131, 333.16186, and 333.16263), sections 16131 and 16263 as amended by 2001 PA 139, section 16186 as amended by 2002 PA 643, and by adding section 16344 and part 187.

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.

Resolutions

Senator Hammerstrom moved that the rules be suspended and that the following concurrent resolution be placed on its immediate adoption:

Senate Concurrent Resolution No. 33

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

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

Senate Resolution No. 153

The resolution consent calendar was adopted.

Senators Cherry, Cropsey, Switalski, Goschka and Jacobs offered the following resolution:

Senate Resolution No. 153.

A resolution commemorating October 10, 2003, as Put the Brakes on Fatalities Day in Michigan.

Whereas, The first annual Put the Brakes on Fatalities Day was held on October 10, 2001, and was conceived by groups including the United States Department of Transportation, American Association of State Highway and Transportation Officials, National Society of Professional Engineers, Road Information Program, Roadway Safety Foundation, AAA, American Association of Motor Vehicle Administrators, American Road and Transportation Builders Association, Commercial Vehicle Safety Alliance, 3M Corporation, National Association of County Engineers, and Governors Highway Safety Association; and

Whereas, The goal of this special day is to heighten consciousness about what people can do and what official steps should be supported to reduce fatalities. Put the Brakes on Fatalities Day promotes safer driving behaviors, safer driving environments, and safer vehicles; and

Whereas, This event is commemorated with state and local events across the country. Put the Brakes on Fatalities Day would like to unite the country in achieving one full day of zero traffic deaths; now, therefore, be it

Resolved by the Senate, That the members of this legislative body hereby commemorate October 10, 2003, as Put the Brakes on Fatalities Day; and be it further

Resolved, That a copy of this resolution be transmitted to the Flint Chapter of the Michigan Society of Professional Engineers as evidence of our esteem.

Senator Jacobs entered the Senate Chamber.

Senate Concurrent Resolution No. 33.

A concurrent resolution to disapprove Executive Reorganization Order 2003-14 pertaining to the creation of the Department of Labor and Economic Growth, the renaming of the Department of Consumer and Industry Services, the abolishment of the Department of Career Development, and the transfer of various powers, duties, functions, and responsibilities between the Department of Consumer and Industry Services and the Department of Community Health, the Department of Environmental Quality, the Department of Management and Budget, the Department of State Police, the Department of Transportation, the Department of Treasury, and the Family Independence Agency.

The question being on the adoption of the following committee amendment,

1. Amend the first Whereas clause, line 2, after "creates" by striking out "of".

The amendment was adopted.

The question being on the adoption of the concurrent resolution, as amended,

Senator Schauer requested the yeas and nays.

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

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

Roll Call No. 430

Yeas—22

Allen	Garcia	Jelinek	Sanborn
Birkholz	George	Johnson	Sikkema
Bishop	Gilbert	Kuipers	Stamas
Brown	Goschka	McManus	Toy
Cassis	Hammerstrom	Patterson	Van Woerkom
Cropsey	Hardiman		

Nays—16

Barcia	Cherry	Jacobs	Schauer
Basham	Clark-Coleman	Leland	Scott
Bernero	Clarke	Olshove	Switalski
Brater	Emerson	Prusi	Thomas

Excused—0**Not Voting—0**

In The Chair: President

Senators Sikkema, Emerson, Garcia, Johnson, Prusi, Cassis, Cherry, Jacobs, Cropsey, Brown and Schauer asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Sikkema's first statement is as follows:

I rise to support this resolution. For those who voted against the amendment, what the amendment did is we struck the word "of" in a sentence.

I want the members to know that I truly am sad that we have come to this point today. I had personally asked the administration, after finding out what was in this executive order, to not sign the executive order, but to work with us in a cooperative way because there were a couple of items—one in particular—that they knew we could not accept. I felt the path of cooperation was a better path than the one of confrontation.

It is not unlike the feeling I had in 1991 when John Engler issued an executive order, and I co-sponsored the resolution to reject it. We had a vote in the House Conservation Committee, on which I sat, and I voted to reject that executive order at that time. After that vote, he withdrew that executive order.

I had the same feelings then that I have today, and I would ask the Governor again, and plead with her, to withdraw this executive order and re-craft it in a way that it can be supported. But she has chosen this path, and this Senate will rise to meet its constitutional obligation.

There's much in this executive order that is not harmful, that reorganizes or purports to reorganize various departments of state government and creates a new Department of Labor and Economic Growth. But from a job-creation perspective—and that is the number one issue facing this state today, which is to create good, high-paying jobs for Michigan citizens—there is a poison pill in this executive order. That is the elimination of the Workers' Compensation Appellate Commission.

The issue facing us is not about the jobs in that commission, and it's not even about the 4,500 state-employee jobs that are reorganized. The issue facing us is the jobs that won't be created in Michigan because of the elimination of a system that has been enormously successful over the years in protecting injured workers, reducing the cost of unemployment compensation in this state, and removing a barrier to business growth and investment.

In the early '80s and mid-'80s, workers' compensation premiums, the workers' comp system, the backlog of claims so injured workers were not getting their claims was a terrible issue in this state. A Democratic Governor, Jim Blanchard, a Republican Senate, and a Democratic House worked together to create a system that has been enormously successful for injured workers, reduced the cost of workers' comp, and made Michigan an attractive place for job growth and business investment.

The executive order in front of us today would eliminate that successful system, and basically, return us to the days of the past of uncertainty, instability, high business costs, and unfairness to injured workers. That is a mistake. That's why we need to reject this executive order.

I believe, and Republicans believe, that jobs are created by the private sector—that government can help by creating a climate that's good for business investment, or create a climate that's bad for business investment. But jobs are created by the private sector, not by Lansing government.

Every organization in this state came to the Government Operations Committee yesterday—every organization that represents the businesses and people who create jobs—and pleaded with us to reject this executive order because of the elimination of the Workers' Compensation Appellate Commission. In a sense, what we had yesterday was a manufacturing summit, a jobs summit, and an economic growth summit because the people responsible for jobs in those sectors have all said we need to maintain the Workers' Compensation Appellate Commission the way it is.

My time is ending here, but I wish to say again that from a job-creation perspective, I hope we reject this executive order.

Senator Emerson's statement is as follows:

I rise to oppose the resolution which would reject the executive order. I agree with my esteemed colleague, the Majority Leader, that this is a sad day because this is the first time in the history of the state of Michigan that we will be rejecting an executive order reorganizing a department in the executive branch of government. To me, it's an especially sad day because we are doing this to protect a couple of political appointees of the previous administration.

Everybody admits this is not about economic development because everybody agrees that what we have here is a situation where the administration is trying to reorganize all of the economic development efforts of the state and to put them under one leader—one good leader whom we approved a while back to head that department because we believed he could take the state in the right direction to continue growth in this state and provide positive leadership in the whole area of economic development. While the leader did say that they support all of those efforts, they're saying all of those efforts are not worthwhile because we want to protect some political appointees of the previous administration. I guess everybody is still frustrated that the election didn't quite turn out the way they wanted it, so we need to reject this whole executive order—a 52-page executive that affects 4,500 people in state government and reorganizing several departments, moving divisions from department to department—because we want to protect those political appointees.

What they don't wish to acknowledge is that if anybody ought to be offended, it ought to be me because I think I was the sponsor of the legislation that created the Workers' Compensation Appellate Commission back in 1985. I worked with Professor St. Antoine intimately to create this system.

The system they are creating in its place is not very far from the changes that were made in 1985. They're creating appellate magistrates who will serve the same function, but will go under a system where their qualifications and their competence to serve will be judged by a qualification advisory committee. They are not now. They are purely political appointees.

I guess what the majority fails to recognize is that they will have under this new system the ability, under advice and consent, to reject anybody they think is a terrible appointee to those appellate magistrate positions. I find it incredibly sad that we will be rejecting the efforts of this administration to put forth a better economic development system to ensure that we take care of what we all acknowledge may be the number one problem in the state of Michigan. That is, ensuring that people in the state of Michigan have jobs now and in the future.

We need an economic development strategy that coordinates all of this. I hope the administration, after the majority rejects this, can figure out a way to continue to do the things they propose in this executive order because the Constitution does say it is the executive's prerogative to reorganize state government necessary to accomplish what they want to accomplish.

I find it sad, as I've said before, that we're going to be doing this, and everybody acknowledges the entire reason we're doing this is because the Chamber of Commerce has riled up every business group and said, "We need to protect our friends who got appointed by John Engler, and that's the only reason we're doing this." I think that's what's sad about this.

Senator Cassis' statement is as follows:

If it ain't broken, don't fix it. This adage directly applies to the Workers' Compensation Appellate Commission. The record will show that this commission has worked fairly and in a balanced manner to protect jobs and Michigan's economic and business competitiveness. We can't afford to go backwards when jobs are going out of Michigan. I will not be part of allowing one job leaving our state. We have the opportunity today to work together—both sides of the aisle.

Therefore, I urge my colleagues to join with me in rejecting the current executive order, and on a positive note, seek restitution of an executive order with the removal of the elimination of the Workers' Compensation Appellate Commission.

Senator Garcia's statement is as follows:

I rise to support the resolution, and I guess I have to take issue with some of the comments made by my colleagues. This is not an effort to protect political appointees; this is an effort to protect a system that has worked well for a number of years. That system has been tried by fire and has been found to work. I would like to go a step further than my colleague from Oakland County, when she said, "If it ain't broken, don't fix it." In this case, my colleagues are trying to say, "If it ain't broken, fix it until it is." We have a system that works. We want to make sure that people are taken care of, and that's what this resolution will do. By rejecting the Governor's executive order, we will protect the system that actually works.

In terms of saving money, this body—right here—made a decision to reduce the number of magistrates so that we could save money because they have become more efficient. And, yes, the Governor does have the right to organize her own government, but we also have a responsibility to make sure that the system we have in place protects people, protects jobs, and protects those who have been hurt on the job, and that's what the system in place currently will do.

I urge the Governor and I urge my colleagues on the other side of the aisle to listen to what the Governor said in the past to work together, to try to find a solution where everyone can win. This is not an example of that, and I urge my colleagues to support the resolution and maintain the current system because it works.

Senator Prusi's statement is as follows:

There seems to be an unfounded fear that the changes contained in this executive order are going to ruin our workers' compensation system and drive businesses out of the state of Michigan and really affect our economic development in this state. I think we are missing the point that the Workers' Compensation Appellate Commission is not a job-creation tool. It is a system for providing fairness and justice for injured workers as well as the companies that employ them, and to resolve issues of people who are injured while on the job.

When we were doing the budget this year, we funded four positions rather than seven positions because the workload of this commission has dropped, and they are issuing maybe one and a half to two opinions a week. The move to only appoint four commissioners would have saved a million dollars. In these budget times, I think that savings is not an insignificant savings, and to reduce it to the two appointed commissioners or magistrates that we can, as a body, determine the qualifications of, is a fair way to go about changing this system, as well as saving money for the state budget. It also corrects the problem of inexperienced people being appointed, where people who will be appointed now will have to have at least five years of worker's compensation experience or pass a difficult comprehensive examination, and then we will get an opportunity to vote on their nominations.

I fear that we are throwing the baby out with the bath water if we vote to reject this executive order. There are many good things contained in this executive order: streamlining of state government, saving of money, and combining all of our job-creation efforts under one roof.

This is a constitutional prerogative granted to every Governor, and like both of our leaders, I am sad that we have come to the point where we are protecting political appointees by objecting to the current Governor's efforts to streamline state government. I would urge a rejection of this resolution. Let's move forward with the process. Let's give this Governor the same prerogatives that every Governor for the past 40 years has enjoyed.

Senator Johnson's statement is as follows:

I rise because of a remark that was made with regard to the savings that the state is going to incur as a result of this change. I think it's important to have a little history lesson, if you will.

During the '80s and the early '90s, one of the largest costs to state government was worker's compensation. There are over 52,000 state employees. In fact, the state of Michigan is the 5th largest employer in the state. We have, since January 1, hired approximately 2,000 more new employees. Again I say, during the '80s and the early '90s, worker's compensation was an albatross. It is why Democrats and Republicans joined together in regard to reforming worker's compensation.

I urge the body to support this resolution. We have no idea what it ultimately is going to cost a budget that is already in this fiscal year, and certainly next fiscal year, in deep doo-doo.

Senator Cherry's statement is as follows:

I urge members to oppose the rejection of the executive order.

You heard today members say that "if it's not broke, don't fix it." Well, I suggest to you that with the state of our current budget that we just heard about and the figures that were given by the Democratic Floor Leader in terms of the unemployment rate and the loss of manufacturing jobs, things are broke and do need to be fixed.

We need to recognize that economic development, job creation—we all say it in our campaign speeches; we talk about it all the time—is one of the most important things we need to be concentrating upon in this state. We need to do it at a time when our budget is in deep doo-doo. So we need to make sure that that priority has been established and that the government works in an efficient and a cost-effective way as this executive order will make sure happens, and continue to make this a priority if we want to help solve the economic crisis in this state.

I hope that members will reject the resolution to oppose the executive order.

Senator Jacobs' statement is as follows:

On a few occasions this morning, there has been made reference to the appellate commission's job, which is to protect jobs. The appellate commission is not there to protect jobs, but their role is to listen to the facts and make decisions based on the facts. We must not lose sight of that role.

Our Governor has recently been criticized by some members on the other side of the aisle for not using her bully pulpit, but when she does invoke her constitutional right to reorganize state government in a more efficient manner to create jobs and grow our economy, immediately we hear foul cries and call for rejection of this executive order.

Friends, this partisan rhetoric designed to undermine this executive order and Dave Hollister's economic development efforts is unbelievable, considering that as mayor of Lansing, Mr. Hollister championed a successful effort that led to Lansing being the only city in the world where General Motors or any other automobile manufacturer is building two new state-of-the-art assembly facilities. In fact, when we heard his confirmation comments on this floor, members from both sides of the aisle trumpeted that.

Now if Dave Hollister can convince the world's largest automaker to invest more than \$1 billion in the Lansing area, I am confident that under his leadership, the new Department of Labor and Economic Growth will be able to balance the concerns of business and labor fairly.

And so I will say only this: It is time to start showing the Governor the same respect you demand from her. Let's get out of her way, and let her get to work to bring more jobs to Michigan.

Senator Cropsey's statement is as follows:

It's very interesting, some of the arguments that are going on here today. I think from a legal perspective, we need to see what the Governor has done. We have a Workers' Compensation Appellate Commission that would be done away with, and in essence, what is left under this proposal is that the same body that hears the cases will now also decide the appeal on the cases. That's a very odd situation that we have. It's like saying the circuit judges of this state hear the cases, then if there's an appeal, let's have other circuit judges take up that appeal. We don't do that. We have different judges of an entirely different body hear the appeals from circuit court.

Another odd thing about what the Governor is proposing is that right now the Workers' Compensation Appellate Commission is there in a nonpartisan fashion. The Governor would go back to a very partisan fashion. I don't mean Democrat or Republican, but I mean going back to designating certain members as employer representatives, certain members as employee representatives, setting up an inherent partisanship in that commission itself. I don't think that is wise. I think we ought to get away from the partisanship, which was done several years ago when this was set up.

The other argument that's being made is that we ought to give the Governor the leeway to allow her to continue to bring manufacturing jobs in. Take a look at who is opposing this executive order. It's the manufacturing community—the people who actually make the jobs in the private sector that generate the wealth for the people of this state. They're the ones who are saying, "We do not want this executive order, specifically because of what's being done to the Workers' Compensation Appellate Commission." You create jobs and grow the economy. They are the ones who create jobs and grow the economy. It's not us; it's not the Governor. They are the ones, and they are saying, "Don't go back to the old system. Don't go back to the old ways where we had workers and employers waiting five to seven years to have their cases resolved." That's just intolerable.

Also let's talk about the Governor's prerogative in making changes to the department. She has that prerogative. We also, as a legislature, have the authority by the Constitution to say we do not agree with the Governor on this. The fact is the Majority Leader has stated to the Governor's staff that he's willing to work with them: "Don't go through with the executive order. Let's see what we can work out." He was later on told, "No, we're going to do the executive order"—end of conversation.

So where does that leave us? Well, we have to bring this Governor, who wants to be all-inclusive in public, we have to bring this Governor and say, "Governor, maybe the State Senate ought to have a say in this because we have some valid concerns." It's just like some information I was reading from 11 or 12 years ago. November 21, 1991, I came across an interesting quote right here in this State Senate where an executive order was trying to be overturned, and one of the State Senators got up and said this, and this dealt with the reorganization of the Department of Natural Resources that this State Senator didn't like. He said, "I am disappointed, Mr. President, that we have abdicated our legislative responsibility by referring this proposal to committee with no intention of holding hearings on this resolution. I think that as citizens of this state, we, as a legislature, and our environment would be better served if we kept this issue before us, worked with the Governor, came out with an organizational plan that made sense and had wide support of our citizens and those who care deeply about Michigan's environment."

I think in order to keep this process going, we need to pass this resolution and send it over to the House so that the Governor realizes that not only is everything all-inclusive without the Legislature, but needs to be all-inclusive with the Legislature. I agree with the Senator at that time from Genesee County who made that statement that we ought to continue on with this process. We ought to do our legislative duty, and do what's right for the people of this state.

Senator Brown's statement is as follows:

I, too, rise in support of the majority findings of yesterday's de facto manufacturing summit. We all agree manufacturing matters. When manufacturing jobs hang in the balance, it is not time to rock the boat. The voice of Michigan's business has been raised, and we need to listen. The resolution before us retains the efficiency, fairness, promptness, and yes, most importantly, the independence necessary to a proper resolution of worker's compensation cases to the benefit of employees and employers alike. I urge members to support the resolution.

Senator Schauer's statement is as follows:

I think we all know how this is going to go down in a couple of minutes, but I think we ought to have the right and accurate facts before us, and I want to correct a misstatement made by the good Senator from the 33rd District.

The commission that he was referring to, the appellate commission, would be replaced with designated appellate magistrates who would serve three-year terms during which they would hear appeals and perform other duties as their schedules permitted. They would not, during that period, hear cases at the trial level. However, they would be able to perform other duties to make the system work efficiently and to make the best use of their time. The allegation that the new appellate magistrates would have some kind of conflict with trial magistrates is wrong.

Finally, our Governor again recently showed her desire to work in a bipartisan way and to reach out to all of us and all the people in our state when she made what I think was an outstanding appointment to the position—or she didn't

make the appointment, but certainly, she concurred with it—of the new CEO of the Michigan Economic Development Corporation, Don Jakeway. He's a Republican, as I'm sure you've noted, from Ohio, and he's noted as one of the leading economic developers in our state. He would be a key part of this team to move our state forward.

The allegation that Governor Granholm and her appointees, whether magistrates or others, are anti-business is unfair. We should let her executive order stand and allow Michigan's economic development engine to run.

Senator Sikkema's second statement is as follows:

I want to respond to some of the comments that were made. But before I do so, to help the printing clerk—the previous comments were made, and there was a request to print the word “doo-doo.” I'd like to help the clerk with the spelling of that. It is a four-letter word: c-r-a-p.

I want to respond to a couple of comments that were made. There was a question about “why the rush?” There is a good reason for that, and I think it serves all parties here. It is my judgment that the Senate today will reject this executive order. I also believe that the House will follow suit next week. If that is true, I think the Governor and all of us are far better off in making that decision early so that we can be about the business of re-crafting an acceptable executive order, rather than waiting the full 60 days, and then proceed to reject. It seems to me that everybody is better off if, in fact, that is our course, that we do it quickly.

Secondly, it is just not credible for anybody to get up on this floor and say that the executive order as crafted is going to help create jobs when every single business organization in Michigan that represents the people who create the jobs is opposed to the executive order. It is not a credible position to take that Lansing knows better than the people who create the jobs to say that this executive order is not going to be harmful.

Another thing I want to mention is that we are fulfilling our constitutional obligation this morning as the framers of the Constitution contemplated, by giving the Legislature the authority to reject an executive order. I would point out that our action today is not unprecedented. In fact, in 1991, the House of Representatives proceeded to reject a number of executive orders that Governor Engler issued, and there are people sitting on this floor who not only voted to reject those executive orders, but actually co-sponsored the resolutions rejecting them.

I would also point out that at the beginning of this session, I made a commitment to this Governor that we would work in a bipartisan, cooperative way. If you look at the work of the Government Operations Committee on appointments, we, in fact, have done that. Any time that we have had a problem with an appointment, we went to the Governor ahead of time and said, “Look, because of the issues with this particular person, if you proceed with the appointment, in all likelihood, the Senate will reject the appointment.” I have always offered the Governor the opportunity to withdraw that appointment, and in fact, she has on more than one occasion. I have extended the same offer on this executive order. It is not true, as was stated earlier, that we made a decision to reject the executive order prior to it being issued, without making a point that we knew there was something in the executive order that we were not going to accept. The offer was made to the Governor to not sign it, and I make the offer again, as I have on appointments that were problematic, to withdraw this order. I think that is the best course of action for her to take.

In closing, we are fulfilling the role and the duty that the Michigan Constitution and the framers of the Constitution envisioned. We have a significant policy difference with the Governor on this executive order. We have not only every right, but we have an obligation to reject it.

By unanimous consent the Senate proceeded to the order of
Statements

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

The motion prevailed.

Senator Brater's statement is as follows:

Colleagues, as I noted earlier, today is the day that has been declared Pay Inequity Day in Michigan, and I wanted to give you a few more details about the status of women and their pay as compared to men in this state and across the country.

When we talk about pay equity, we are talking about requiring employers to set pay rates based on objective factors such as education, skill, experience, effort, and responsibility demanded by the job. And as I said earlier, today is the day that we mark the day that men have already earned on average as much as women on average will make for the entire year. This occurs sometimes even when women are in the same job categories as men, that they are at a lower pay rate. So what we're trying to call the legislators' attention to is the need to create equitable pay for work of comparable value.

Pay inequity affects families and their ability to take care of themselves financially. Even in job categories where women make up the majority of workers, the minority of men in those jobs are still paid more. And if we're very serious about getting women, in particular, off of welfare and into the work force, this is a very important issue because

it's very difficult for a woman to go to work eight hours a day, come home, and then have to choose between paying her rent and paying for child care because a lot of women who are working are not able to do both. Some examples: Female wait staff receive 87 percent of what male wait staff are paid; women in retail sales make just 64 percent as much as their male counterparts; childcare workers, 98 percent of whom are women, earn on average \$80.00 per week less than window washers. So in other words, we care how clean our windows are more than we care about the safety and welfare of our children while they are in child care, according to this pay rate.

Michigan women make only 67 cents for every dollar a man makes, and the gap is even wider for African-American women and other women of color. Michigan ranks 48th among the 50 states when women's and men's wages are compared.

So I ask you today to just take a moment to mark this day on your calendar, and think about the need, that this Legislature come together. There have been bills introduced in both the Senate and the House. I've introduced Senate Bill No. 124, and Representative Gretchen Whitmer introduced House Bill No. 4497 to address this issue. I ask you to join with me in addressing achieving pay equity in Michigan.

By unanimous consent the Senate returned to the order of

Introduction and Referral of Bills

Senators Kuipers, Toy, Patterson, Birkholz, Goschka and McManus introduced

Senate Bill No. 725, entitled

A bill to amend 1947 PA 359, entitled "The charter township act," by amending section 27 (MCL 42.27), as amended by 1988 PA 82.

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

Senators Switalski, Olshove and Sanborn introduced

Senate Bill No. 726, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 27a (MCL 211.27a), as amended by 2000 PA 260.

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

Senators Sanborn, Goschka and Patterson introduced

Senate Bill No. 727, entitled

A bill to amend 1970 PA 91, entitled "Child custody act of 1970," by amending sections 2 and 7b (MCL 722.22 and 722.27b), section 2 as amended by 2002 PA 9 and section 7b as amended by 1996 PA 19.

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

Senator Cherry introduced

Senate Bill No. 728, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 710d (MCL 257.710d), as amended by 1999 PA 29, and by adding section 626d.

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

Senators Clark-Coleman, Basham, Bernero, Schauer, Jacobs, Cherry, Switalski, Brater, Clarke, Prusi, Scott, Olshove, Barcia, Emerson, Jelinek and Goschka introduced

Senate Bill No. 729, entitled

A bill to amend 1970 PA 38, entitled "An act to provide for assessment and remedial assistance programs of students in reading, mathematics and vocational education," by amending sections 1, 2, and 6 (MCL 388.1081, 388.1082, and 388.1086).

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

Senators Clark-Coleman, Basham, Schauer, Jacobs, Cherry, Switalski, Brater, Clarke, Prusi, Scott, Olshove, Barcia, Emerson, Jelinek and Goschka introduced

Senate Bill No. 730, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1279 and 1279c (MCL 380.1279 and 380.1279c), section 1279 as amended by 1997 PA 175 and section 1279c as amended by 1995 PA 289.

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

Senators Clark-Coleman, Basham, Bernero, Schauer, Jacobs, Cherry, Switalski, Brater, Clarke, Prusi, Scott, Olshove, Barcia, Emerson, Jelinek and Goschka introduced

Senate Bill No. 731, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending section 104a (MCL 388.1704a), as amended by 2003 PA 158.

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

Senators Clark-Coleman, Basham, Bernero, Schauer, Jacobs, Cherry, Switalski, Brater, Clarke, Prusi, Scott, Olshove, Barcia, Emerson, Jelinek and Goschka introduced

Senate Bill No. 732, entitled

A bill to amend 1999 PA 94, entitled "Michigan merit award scholarship act," by amending section 9 (MCL 390.1459).

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

Senators McManus, Cropsey and Patterson introduced

Senate Bill No. 733, entitled

A bill to amend 1971 PA 140, entitled "Glenn Steil state revenue sharing act of 1971," by amending sections 11 and 13 (MCL 141.911 and 141.913), as amended by 2003 PA 168.

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

By unanimous consent the Senate returned to the order of

Messages from the House

Senate Bill No. 393, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending the title and sections 5, 501, 502, 503, 504, 504a, 506, and 507 (MCL 380.5, 380.501, 380.502, 380.503, 380.504, 380.504a, 380.506, and 380.507), the title and sections 501, 502, 503, 504a, and 507 as amended by 1995 PA 289, section 5 as amended by 1999 PA 23, section 504 as amended by 1994 PA 416, and section 506 as added by 1993 PA 362, and by adding sections 503b and 1320 and part 6c.

The House of Representatives has appointed Reps. Palmer, Rick Johnson and Gielegem as conferees to join with Sens. Kuipers, Sikkema and Thomas.

The bill was referred to the Conference Committee.

Committee Reports

The Committee on Government Operations reported

Senate Concurrent Resolution No. 33.

A concurrent resolution to disapprove Executive Reorganization Order 2003-14 pertaining to the creation of the Department of Labor and Economic Growth, the renaming of the Department of Consumer and Industry Services, the abolishment of the Department of Career Development, and the transfer of various powers, duties, functions, and responsibilities between the Department of Consumer and Industry Services and the Department of Community Health, the Department of Environmental Quality, the Department of Management and Budget, the Department of State Police, the Department of Transportation, the Department of Treasury, and the Family Independence Agency.

(For text of resolution, see Senate Journal No. 75, p. 1676.)

With the recommendation that the following amendment be adopted and that the concurrent resolution then be adopted:

1. Amend the first Whereas clause, line 2, after "creates" by striking out "of".

Kenneth R. Sikkema
Chairperson

To Report Out:

Yeas: Senators Sikkema, Hammerstrom, Allen and Cassis

Nays: Senators Emerson and Jacobs

The concurrent resolution and the amendment recommended by the committee were placed on the order of Resolutions.

The Committee on Government Operations reported the following appointment to office:

Michigan Tax Tribunal

Mr. Jack L. Van Coevering, 6280 Montgomery Drive SE, Caledonia, Michigan 49316, county of Kent, for a term commencing on August 18, 2003 and expiring June 30, 2007.

Pursuant to Executive Order 1991-18, Mr. Van Coevering is designated as Chairperson of the Tax Tribunal.

With the recommendation that the Senate advise and consent to the said appointment.

Kenneth R. Sikkema
Chairperson

To Report Out:

Yeas: Senators Sikkema, Hammerstrom, Allen, Cassis, Emerson and Jacobs

Nays: None

The appointment was placed on the order of Messages from the Governor.

COMMITTEE ATTENDANCE REPORT

The Committee on Government Operations submitted the following:

Meeting held on Tuesday, September 23, 2003, at 1:03 p.m., Rooms 402 and 403, Capitol Building

Present: Senators Sikkema (C), Hammerstrom, Allen, Cassis, Emerson and Jacobs

Excused: Senator Thomas

COMMITTEE ATTENDANCE REPORT

The Committee on Appropriations submitted the following:

Meeting held on Tuesday, September 23, 2003, at 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Johnson (C), Stamas, Brown, Goschka, Garcia, Cropsey, Jelinek, McManus, Hardiman, George, Prusi, Barcia, Scott, Cherry, Clarke and Switalski

COMMITTEE ATTENDANCE REPORT

The Committee on Natural Resources and Environmental Affairs submitted the following:

Meeting held on Tuesday, September 23, 2003, at 3:00 p.m., Room 110, Farnum Building

Present: Senators Birkholz (C), Patterson, Van Woerkom, Brater and Basham

Scheduled Meetings

Administrative Rules - Thursday, September 25, 1:00 p.m., Room 424, Capitol Building (373-2417) (CANCELED)

Agriculture, Forestry and Tourism and House Agriculture and Resource Management Subcommittee on Forestry and Mineral Rights - Thursday, September 25, 6:00 p.m., Grayling City Hall, 1020 City Boulevard, Grayling (373-1635)

Appropriations -

Subcommittee -

Natural Resources Department - Thursday, September 25, 8:30 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

Education - Thursday, September 25, 2:00 p.m., Room 210, Farnum Building (373-6920)

Families and Human Services - Thursday, October 2, 8:30 a.m., Room 210, Farnum Building (373-1801)

Local, Urban and State Affairs - Thursday, September 25, 1:00 p.m., Room 110, Farnum Building (373-1707)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 11:30 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Thursday, September 25, 2003, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate