

No. 81
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, October 29, 1997.

10:00 a.m.

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

The roll was called by the Assistant 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
DeBeussaert—present
DeGrow—present
Dingell—present
Dunaskiss—present
Emmons—present

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

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

Senator Walter H. North of the 37th District offered the following invocation:

Dear God, as we assemble to debate, deliberate and try to find solutions to problems facing our constituents and the residents of this great state, please give us the wisdom to look beyond simple solutions and develop policy which is in the best interest. Let us remember that we are here to serve and we are the servants—both of You, dear God, and also of our constituents. All of this we ask in Thy name. Amen.

Motions and Communications

Senator Schuette entered the Senate Chamber.

A quorum of the Senate was present.

Recess

Senator DeGrow moved that the Senate recess until 10:20 a.m.
The motion prevailed, the time being 10:04 a.m.

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

During the recess, Senators Emmons, Rogers, Dunaskiss, Bouchard, Stille, Van Regenmorter, Cisky, McManus, Schwarz, Steil, Gougeon, Posthumus, Gast, Bennett, V. Smith and Geake entered the Senate Chamber.

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, October 28:
House Bill Nos. 4280 4875 4879 4884 4885 4886 4895 5006

The Secretary announced the printing and placement in the members' files on Tuesday, October 28 of:

Senate Bill Nos. 772 773
House Bill Nos. 5301 5302 5303 5304 5305 5306 5307 5308 5310 5311 5312 5313 5314 5315
5316 5318 5319

Senator DeGrow moved that the order of Messages from the House be postponed for today.
The motion prevailed.

Third Reading of Bills

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

House Bill No. 4509

Senate Bill No. 613

House Bill No. 4939

The motion prevailed.

Senator Miller entered the Senate Chamber.

The following bill was read a third time:

Senate Bill No. 554, entitled

A bill to regulate the transportation of certain hazardous materials; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

The question being on the passage of the bill,

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

The motion did not prevail.

Senator V. Smith moved that consideration of the following bills be postponed temporarily:

Senate Bill No. 729

Senate Bill No. 730

The motion did not prevail.

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

Senate Bill No. 554

Senate Bill No. 729

Senate Bill No. 730

Senate Bill No. 731

The motion prevailed.

The following bill was read a third time:

House Bill No. 4080, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending section 21004 (MCL 333.21004), as amended by 1982 PA 354.

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. 537

Yeas—36

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

Nays—0

Excused—0

Not Voting—1

Stallings

In The Chair: President

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 bill shall 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 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 of the bill.

Senator V. Smith moved that Senator Stallings be excused from today’s session.
The motion prevailed.

The following bill was read a third time:

Senate Bill No. 683, entitled

A bill to amend 1969 PA 319, entitled “Banking code of 1969,” by amending section 171 (MCL 487.471), as amended by 1997 PA 49.

The question being on the passage of the bill,

The bill was passed, 2/3 of the members serving voting therefor, as follows:

Roll Call No. 538

Yeas—36

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

Nays—0

Excused—1

Stallings

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

House Bill No. 4728, entitled

A bill to amend 1931 PA 328, entitled “The Michigan penal code,” by amending sections 263 and 264 (MCL 750.263 and 750.264); 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. 539**Yeas—36**

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

Nays—0**Excused—1**

Stallings

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 bill shall read as follows:

“An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act.”.

The Senate agreed to the full title of the bill.

The following bill was read a third time:

House Bill No. 4729, entitled

A bill to amend 1961 PA 236, entitled “Revised judicature act of 1961,” by amending section 4701 (MCL 600.4701), as amended by 1996 PA 327.

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. 540**Yeas—36**

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

Nays—0

Excused—1

Stallings

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 bill shall 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 of the bill.

The following bill was read a third time:

House Bill No. 4768, entitled

A bill to amend 1961 PA 236, entitled “Revised judicature act of 1961,” (MCL 600.101 to 600.9948), by adding section 2964.

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. 541

Yeas—36

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

Nays—0

Excused—1

Stallings

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 bill shall 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 of the bill.

The following bill was read a third time:

Senate Bill No. 535, entitled

A bill to amend 1961 PA 236, entitled “Revised judicature act of 1961,” by amending section 2167 (MCL 600.2167), as amended by 1993 PA 288.

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. 542

Yeas—36

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

Nays—0

Excused—1

Stallings

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. 299, entitled

A bill to amend 1962 PA 174, entitled “Uniform commercial code,” by amending sections 1105, 1206, 4104, 5114, 8101, 8102, 8103, 8104, 8105, 8106, 8107, 8108, 8201, 8202, 8203, 8204, 8205, 8206, 8207, 8208, 8301, 8302, 8303, 8304, 8305, 8306, 8307, 8401, 8402, 8403, 8404, 8405, 8406, 8407, 9103, 9105, 9106, 9203, 9301, 9302, 9303, 9304, 9305, 9306, 9309, 9312, and 9994 (MCL 440.1105, 440.1206, 440.4104, 440.5114, 440.8101, 440.8102, 440.8103, 440.8104, 440.8105, 440.8106, 440.8107, 440.8108, 440.8201, 440.8202, 440.8203, 440.8204, 440.8205, 440.8206,

440.8207, 440.8208, 440.8301, 440.8302, 440.8303, 440.8304, 440.8305, 440.8306, 440.8307, 440.8401, 440.8402, 440.8403, 440.8404, 440.8405, 440.8406, 440.8407, 440.9103, 440.9105, 440.9106, 440.9203, 440.9301, 440.9302, 440.9303, 440.9304, 440.9305, 440.9306, 440.9309, 440.9312, and 440.9994), section 1105 as 99 2 amended by 1992 PA 101, section 4104 as amended by 1993 PA 130, sections 5114, 8102, 8103, 8104, 8105, 8106, 8107, 8201, 8202, 8203, 8204, 8205, 8206, 8207, 8208, 8301, 8302, 8304, 8305, 8306, 8307, 8401, 8402, 8403, 8404, 8405, 8406, 9103, 9203, 9304, 9305, 9309, and 9312 as amended and sections 8108 and 8407 as added by 1987 PA 16, section 9105 as amended by 1988 PA 130, section 9301 as amended by 1984 PA 170, and section 9302 as amended by 1996 PA 72, and by adding sections 8109, 8110, 8111, 8112, 8113, 8114, 8115, 8116, 8210, 8501, 8502, 8503, 8504, 8505, 8506, 8507, 8508, 8509, 8510, 8511, 8601, 9115, and 9116; 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. 543

Yeas—36

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

Nays—0

Excused—1

Stallings

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

House Bill No. 4654, entitled

A bill to amend 1966 PA 331, entitled "Community college act of 1966," by amending sections 103, 111, 121, and 124 (MCL 389.103, 389.111, 389.121, and 389.124).

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. 544

Yeas—36

Bennett	DeGrow	Koivisto	Schwarz
Berryman	Dingell	McManus	Shugars
Bouchard	Dunaskiss	Miller	Smith, A.

Bullard
Byrum
Cherry
Cisky
Conroy
DeBeaussaert

Emmons
Gast
Geake
Gougeon
Hart
Hoffman

North
O'Brien
Peters
Posthumus
Rogers
Schuette

Smith, V.
Steil
Stille
Van Regenmorter
Vaughn
Young

Nays—0

Excused—1

Stallings

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 bill shall read as follows:

“An act to revise and consolidate the laws relating to community colleges; to provide for the creation of community college districts; to provide a charter for such districts; to provide for the government, control and administration of such districts; to provide for the election of a board of trustees; to define the powers and duties of the board of trustees; to provide for the assessment, levy, collection and return of taxes therefor; and to repeal certain acts and parts of acts.”

The Senate agreed to the full title of the bill.

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

Senate Bill No. 554, entitled

A bill to regulate the transportation of certain hazardous materials; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

(This bill was read a third time earlier today and consideration postponed. See pp. 1630, 1631.)

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. 545

Yeas—22

Bennett
Bouchard
Bullard
Cisky
DeGrow
Dingell

Dunaskiss
Emmons
Gast
Geake
Gougeon
Hoffman

McManus
North
Posthumus
Rogers
Schuette

Schwarz
Shugars
Steil
Stille
Van Regenmorter

Nays—14

Berryman
Byrum
Cherry
Conroy

DeBeaussaert
Hart
Koivisto
Miller

O'Brien
Peters
Smith, A.

Smith, V.
Vaughn
Young

Excused—1

Stallings

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Protests

Senators Berryman, DeBeaussaert, Conroy, Peters and A. Smith, under their constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill No. 554 and moved that the statements they made during the discussion of the bill be printed as their reasons for voting “no.”

The motion prevailed.

Senator Berryman’s statement, in which Senators DeBeaussaert and Conroy concurred, is as follows:

I rise with a serious concern of mine that we did raise last week and I did receive the questions answered, but it still leaves a large question for me on the inspection. The question was “Are we going to have the amount of money needed to do the inspections that are needed?” The response that came back, quoting from the good Senator’s response letter, was, “The environmental inspections are an integral part of the waste management divisions compliance inspection program which includes generators, treatment, storage and disposal facilities and transporters. The cost for conducting these inspections are not broken out by type of facility. Costs for conducting safety inspections by the Michigan State Police are unknown.” That’s the part that concerns me. It’s my information that in inspections currently being done, we’re only inspecting about one out of five. But yet in this bill, we are reducing the fees from \$250 to \$50. Anytime we can reduce fees or lower taxes, we all like to do that—but if we are currently only inspecting one out of five and now we are going to make a drastic cut; five times the amount of money. How deeply is that going to cut into inspections? That is what my constituents want to know—that these transporters are safe. If the Michigan State Police do not have the funds to inspect only one out of five now, cutting this funding five times, what is that going to do for the safety of your constituents and mine? A very very large concern.

Senator Peters’ statement, in which Senator Conroy concurred, is as follows:

I rise in opposition to this bill, and I rise in opposition as a result of good public policy reasons. We heard the sponsor of the bill and the chairman of the committee claim that the opposition to this bill deals strictly with tax issues. Well, that is absolutely false. Our opposition to this bill is the fact that it really seriously undermines the ability in this state to protect the environment and in particular, regulate hazardous waste materials as they’re transported on our public highways. Certainly, we can deal with the apportionment problems in our current law, which is dictated by the federal government, and make some changes, but unfortunately, as has been the case all too often in this Legislature, when we are trying to achieve some sort of correction on a federal problem, we go well beyond that and actually undermine very good environmental protection. In fact, I think this package of bills continues the slippery slope that we’ve gone on since I’ve been in this Legislature of dismantling environmental protection in the state of Michigan.

Our main concern, and my main concern is that it will seriously impact the ability to enforce our environmental hazardous transportation act, will make even more dangerous vehicles out on the road and will likely lead to more accidents and more hazardous spills. If you look at the numbers as to the number of accidents involving trucks with hazardous materials, I think their quite telling. If we look at data received from the University of Michigan Transportation Research Institute, we’ll find that in 1986 there were 404 accidents involving trucks with hazardous materials placards. Of those 404, 98 of those accidents resulted in the spill of hazardous materials. Those numbers have been consistently high. In 1995, over 90 accidents occurred on our highways that spilled hazardous materials throughout the environment. In 1994, there were 116 accidents that spilled hazardous materials. It looks as if one in four vehicles that are involved in an accident—one in four vehicles—are carrying hazardous materials results in a spill.

What we need in this state is more enforcement not less enforcement, and that’s what this bill really does. It creates a situation where we are going to have considerably less enforcement. By reducing the fees that hazardous transporters pay from \$1.5 million to \$200,000, it’s going to make it next to impossible to have any sort of level of inspection out

on highways and it is certainly necessary by looking at the number of accidents. It's also interesting to note that in 1995, of the inspections that were conducted, close to 30% of the vehicles which were inspected, were given letters or warnings by the state police for violations of state and federal law. In fact, according to a number of State Police, they tend to be the quality control for the hazardous waste material haulers, and if it wasn't for them enforcing these regulations, we would have even more toxic spills on our highways. Unfortunately, this bill is going to lead to those toxic spills by drastically reducing those amount of funds that are available for inspections. Passing this package of bills will also mean that we will likely lose up to \$3 million per year in federal matching funds. At a time when we are trying to bring more federal dollars back into the state of Michigan, this package of bills will make sure that we get even less federal money. Less federal money that is essential to maintaining our ability to keep a good strong safe environmental protection in the state of Michigan. I would urge a "no" vote on this bill for good strong public policy reasons; that is, we can't continue to dismantle the strong environmental laws that have made this state so wonderful over the last few years. Unfortunately, over the last two or three years, we have passed bill after bill that dismantles environmental regulations and allows for even more toxic spills in our environment. We must vote "no" on this bill.

Senator A. Smith's statement is as follows:

I rise again with some serious concerns about the funding for the inspection program. We are cutting from a \$250 inspection fee per truck—we are cutting the fee \$50 per inspection, and we are telling everybody that with the reduced revenue we continue to have a inspection program that will provide quality and protection to the environment and the citizens of the state of Michigan. We just heard from Senator Peters about how many accidents have occurred over the last few years here in the state of Michigan with what we would hope and what we would be led to believe has been an effective inspection program. We are creating with these bills, a \$4 million hole in the operation of this program. That is a real concern for me as I sit on the Appropriations Committee and the Department of Natural Resources and Environmental Quality budgets. It is going to be left to us to figure out how to fill that hole. It is going to be left to us to come up and pass fee bills that will do that. When the real solution to the problem is a comprehensive package that examines the cost of the program and how we're going to actually realize the funds that support the cost of the program. We are going to be borrowing from an existing fund for the next couple of years so that we can continue to draw down on the federal match. But we have nothing in place that will take care of the state's program after that, except the promise of a trailer bill which will be left up to a different Legislature, no doubt.

Senate Bill No. 554 was introduced in June of last year, and over the course of the intervening months the Department of Environmental Quality has been asked how much this inspection program costs. The letter we received on the floor today, after weeks of questions from the members of the committee and other members on this side of the aisle is, that the cost for conducting safety inspections by the Michigan State Police are unknown. We're not doing a quality job of inspections and protection of the public health and the environment right now with the funds that we have. And we seem to be satisfied on this floor to reduce those by to 1/5 of what we are currently collecting. To say that we can, in fact, continue the status quo or oh well, we really don't know what we are going to do. We don't have any idea what the cost of the inspection is per truck, but rest assured, things will continue in the vein that they currently are. I think anybody who feels any responsibility to the citizens in their district ought to be giving this bill a "no" vote.

The following bill was read a third time:

Senate Bill No. 729, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11104, 11126, 11130, 11133, 11138, 11144, 11146, 11147, and 11148 (MCL 324.11104, 324.11126, 324.11130, 324.11133, 324.11138, 324.11144, 324.11146, 324.11147, and 324.11148) and by adding section 11132a; 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. 546

Yeas—22

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

Nays—14

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

Excused—1

Stallings

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. 730, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 12101, 12102, 12103, 12105, 12106, 12107, 12109, 12114, and 12116 (MCL 324.12101, 324.12102, 324.12103, 324.12105, 324.12106, 324.12107, 324.12109, 324.12114, and 324.12116), sections 12101 and 12102 as amended by 1995 PA 61; 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. 547**Yeas—22**

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

Nays—14

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

Excused—1

Stallings

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Protest

Senator A. Smith, under her constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill Nos. 729 and 730 and moved that the statement she made during the discussion of Senate Bill No. 729 be printed as her reasons for voting “no.”

The motion prevailed.

Senator A. Smith’s statement is as follows:

I’ve heard a considerable amount today about how much time this side of the aisle has had to work on these bills, but the bills that actually gut the inspection program are Senate Bill Nos. 729 and 730. Those bills were introduced on October 1st and they were not made available to the public until the day of the committee meeting. At that time, the first time that the committee members from our side of the aisle were allowed to see the bills, was the time they were asked to vote on and pass them out of the committee. So there hasn’t been a tremendous amount of time to look at these bills but questions have gone to the Department of Environmental Quality, from staff and from Senator DeBeausaert. We received spotty answers from the Department and today we received the answer that is most telling and that essentially answered all of the questions that were forwarded; and that’s how much does the inspection program cost and are we going to be able to continue the inspection program under the funding proposed under this package of bills? There answer is we have no idea what the cost is and we have no idea whether or not we will be able to continue an inspection program. This bill suggests that they have no intention of doing it anyway because it is no longer mandated; it is optional. I think the body should be extraordinarily concerned for the well-being of their communities and their citizens. I think this side of the aisle has tried very hard to call your attention to the shortfalls of the package. It concerns me that you seem not to be troubled.

The following bill was read a third time:

Senate Bill No. 731, entitled

A bill to amend 1961 PA 236, entitled “Revised judicature act of 1961,” by amending section 4701 (MCL 600.4701), as amended by 1996 PA 327.

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. 548

Yeas—36

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

Nays—0

Excused—1

Stallings

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. 502, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2912a (MCL 600.2912a), as amended by 1993 PA 78.

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. 549

Yeas—29

Bennett	DeBeaussaert	Hoffman	Schuette
Berryman	DeGrow	Koivisto	Schwarz
Bouchard	Dunaskiss	McManus	Shugars
Bullard	Emmons	Miller	Steil
Byrum	Gast	North	Stille
Cherry	Geake	Posthumus	Van Regenmorter
Cisky	Gougeon	Rogers	Young
Conroy			

Nays—7

Dingell	O'Brien	Smith, A.	Vaughn
Hart	Peters	Smith, V.	

Excused—1

Stallings

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Protests

Senators V. Smith, A. Smith and Dingell and Hart, under their constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill No. 502.

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

I voted "no" on Senate Bill No. 502 because I think it's wrong for us to take away all ability for people within our correctional institutions to be able to sue for malpractice that may happen when they are in need of health care. We have recently changed the standards for doctors who are employed by the Department of Corrections and made that a gross negligence standard, which I did not agree with at the time that we did it. Now for doctors who are contracted by the Department of Corrections we have eliminated even the gross negligence standard. Now there are no standards whatsoever. I don't think that's proper state policy, therefore, I voted "no."

Senator Dingell's statement, in which Senator Hart concurred, is as follows:

I object to this bill, what it does and the theory behind it. I spoke on General Orders about how the chief Republican government improvement consultant, Candice Miller, speaks of improving government, the theory of it being you start with the biggest room in the house. It's no secret that I'm very upset with the Department of Corrections on a bunch of scores. Here, they have a problem with judgments against them. They get judgments against them to the tune of \$1.5 million a year and which room of the house do they start with first? The smallest!

They only got one judgment against them for \$67,000 and they are completely ignoring the problem they have where they're hemorrhaging huge quantities of money—something on the order of a \$1.5 million a year—something between 60 and 70 percent of that is racially and sexual harassment suits.

I don't have a lot of sympathy for prisoners. I'm known as being particularly hard on them. If I had it in my power to ban the provision of health care to them I'd probably vote to do it. But something I won't do is give them substandard health care.

Here in Michigan it's hard for anybody to file a medical malpractice suit. In order for even somebody who's outside of prison, but also people inside prison, to file a medical malpractice suit, they have to essentially have an attorney. They have to have a doctor also certify that there's merit to the lawsuit. They have to give 180 days' notice prior to filing suit and their damages are limited to \$280,000 of noneconomic damages.

Now, let's run through this. The success rate for suits of any sort by prisoners are enormously low. If they're required to have an attorney, the attorney's going to require his money up front. Doctors don't like dealing with prisoners any more than anybody else, so they're going to require their money up front. How many prisoners do you think have the resources to do this kind of thing in other than a really clear cut case of medical malpractice? The answer is "none." So you're only going to have suits with merit. This bill is wrong.

Senators Shugars and Steil moved that they be named co-sponsors of the following bill:

Senate Bill No. 502

The motion prevailed.

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

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 694, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 92 (MCL 750.92).

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. 550

Yeas—35

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

Nays—0

Excused—2

Bouchard	Stallings
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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. 742, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 63101 (MCL 324.63101), as added by 1995 PA 57, and by adding sections 63103a, 63103b, 63103c, and 63103d.

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. 551

Yeas—35

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

Nays—0

Excused—2

Bouchard	Stallings
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Not Voting—0

In The Chair: President

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

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 63101 (MCL 324.63101), as added by 1995 PA 57, and by adding sections 63103a, 63103b, 63103c, 63103d, and 63103e.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

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 North as Chairperson.

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

Senate Bill No. 280, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7401 and 7403 (MCL 333.7401 and 333.7403), as amended by 1996 PA 249.

Substitute (S-6).

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

1. Amend page 12, line 5, by striking out all of enacting section 1 and inserting:

“Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 89th Legislature are enacted into law:

- (a) Senate Bill No. 278.
- (b) Senate Bill No. 279.
- (c) Senate Bill No. 281.”.

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:

Senate Bill No. 281, entitled

A bill to amend 1953 PA 232, entitled “An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act,” by amending sections 34 and 36 (MCL 791.234 and 791.236), section 34 as amended by 1994 PA 345 and section 36 as amended by 1996 PA 554.

Substitute (S-4).

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

1. Amend page 7, line 15, after “services.” by inserting “A PRISONER WHO IS SENTENCED TO IMPRISONMENT FOR LIFE UNDER SECTION 7401 OR 7403 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401 AND 333.7403, AND WHO IS RELEASED ON PAROLE SHALL BE REQUIRED TO REPORT IN PERSON TO HIS OR HER PAROLE SUPERVISOR NOT LESS THAN ONCE EACH MONTH DURING THE ENTIRE PERIOD OF PAROLE. SUCH A PRISONER SHALL NOT BE DISCHARGED FROM PAROLE, NOR SHALL SUPERVISION BE SUSPENDED BY THE DEPARTMENT FOR ANY REASON.”.

2. Amend page 10, line 16, by striking out all of enacting section 1 and inserting:

“Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 89th Legislature are enacted into law:

- (a) Senate Bill No. 278.
- (b) Senate Bill No. 279.
- (c) Senate Bill No. 280.”.

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 proceeded to the order of

Introduction and Referral of Bills

Senators Peters, Miller, Vaughn, DeBeaussaert, A. Smith, Stallings, Young, Dingell, Byrum, Cherry, V. Smith, Hart, Koivisto, Schwarz, Hoffman, Geake, Gast, Stille, North, Gougeon, Rogers and Shugars introduced

Senate Bill No. 774, entitled

A bill to amend 1986 PA 87, entitled “An act regarding warranties on new motor vehicles; to require certain repairs thereto; and to provide remedies for the failure to repair such vehicles,” by amending sections 1, 3, 6, and 9 (MCL 257.1401, 257.1403, 257.1406, and 257.1409).

The bill was read a first and second time by title and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

Senator Bouchard introduced

Senate Bill No. 775, entitled

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

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

House Bill No. 4280, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 710e and 909 (MCL 257.710e and 257.909), section 710e as amended by 1991 PA 25.

The House of Representatives has passed the bill.

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

House Bill No. 4875, entitled

A bill to amend 1986 PA 268, entitled "Legislative council act," (MCL 4.1101 to 4.1901) by adding section 204e. The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4879, entitled

A bill to amend 1986 PA 268, entitled "Legislative council act," (MCL 4.1101 to 4.1901) by adding section 204d. The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4884, entitled

A bill to amend 1986 PA 268, entitled "Legislative council act," (MCL 4.1101 to 4.1901) by adding section 204b. The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4885, entitled

A bill to amend 1986 PA 268, entitled "Legislative council act," (MCL 4.1101 to 4.1901) by adding section 204c. The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4886, entitled

A bill to amend 1986 PA 268, entitled "Legislative council act," (MCL 4.1101 to 4.1901) by adding section 204a. The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

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 passed the bill and ordered that it be given immediate effect.

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

House Bill No. 5006, entitled

A bill to amend 1986 PA 268, entitled "Legislative council act," by amending section 204 (MCL 4.1204).

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

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

Committee Reports

The Committee on Natural Resources and Environmental Affairs reported

House Bill No. 5092, entitled

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

With the recommendation that the bill pass.

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

Loren N. Bennett
Chairperson

To Report Out:

Yeas: Senators Bennett, Dunaskiss and DeBeaussaert
 Nays: None
 The bill was referred to the Committee of the Whole.

The Committee on Natural Resources and Environmental Affairs reported

House Bill No. 5093, entitled

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

With the recommendation that the bill pass.

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

Loren N. Bennett
 Chairperson

To Report Out:

Yeas: Senators Bennett, Dunaskiss and DeBeaussaert
 Nays: None
 The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

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

Meeting held on Tuesday, October 28, 1997, at 3:00 p.m., 8th Floor Conference Room, Farnum Building
 Present: Senators Bennett (C), Dunaskiss and DeBeaussaert
 Excused: Senators Gast and Dingell

COMMITTEE ATTENDANCE REPORT

The Committee on Finance submits the following:

Meeting held on Tuesday, October 28, 1997, at 1:00 p.m., 8th Floor Conference Room, Farnum Building
 Present: Senators Emmons (C), Bullard, Shugars, Peters and Stallings

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Transportation submits the following:

Meeting held on Tuesday, October 28, 1997, at 1:00 p.m., Senate Appropriations Room, Capitol Building
 Present: Senators Hoffman (C), DeGrow and Young

Scheduled Meetings

Families, Mental Health and Human Services Committee - Thursday, October 30, at 1:00 p.m., Room 100, Farnum Building (3-1777).

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

Senate Fiscal Agency Board of Governors - Wednesday, November 4, at 2:30 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (3-6960).

Senator DeGrow moved that the Senate adjourn.
 The motion prevailed, the time being 12:50 p.m.

The President, Lieutenant Governor Binsfeld, declared the Senate adjourned until Thursday, October 30, at 10:00 a.m.

CAROL MOREY VIVENTI
 Secretary of the Senate.

