

No. 65
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, September 23, 1998.

10:00 a.m.

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

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

Bennett—present
Berryman—present
Bouchard—present
Bullard—present
Byrum—present
Cherry—present
Cisky—present
Conroy—present
DeBeausaert—present
DeGrow—present
Dingell—present
Dunaskiss—present
Emmons—present

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

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

Senator Jackie Vaughn III of the 4th District offered the following invocation:

From the book of Proverbs we learn of the immeasurable value of wisdom:

“For wisdom is better than rubies; and all the things that may be desired are not to be compared to it.”

Proverbs 8:11

A wise man will hear and will increase learning; and a man of understanding shall attain unto wise counsels. Wisdom leads in the way of righteousness, in the midst of the paths of judgment. He that handleth a matter wisely shall find good.

As we listen, as we deliberate, as we speak, and as we make decisions on behalf of the people of Michigan, give us wisdom. Amen.

Motions and Communications

Senators Stille and Vaughn entered the Senate Chamber.

Senator DeGrow moved that Senators Bouchard, Gast, Geake, McManus, Posthumus, Rogers and Van Regenmorter be temporarily excused from today’s session.

The motion prevailed.

Senator DeGrow moved that Senator Hoffman be excused from today’s session.

The motion prevailed.

Senator Bouchard entered the Senate Chamber.

Senator V. Smith moved that Senators Hart and Young be temporarily excused from today’s session.

The motion prevailed.

Senator V. Smith moved that Senator O’Brien be excused from today’s session.

The motion prevailed.

Senator Geake entered the Senate Chamber.

Senator V. Smith moved that the Committee on Human Resources, Labor and Veterans Affairs be discharged from further consideration of the following bill:

House Bill No. 5654, entitled

A bill to amend 1972 PA 230, entitled “State construction code act of 1972,” by amending sections 2, 8, and 28 (MCL 125.1502, 125.1508, and 125.1528), section 2 as amended by 1998 PA 42, section 8 as amended by 1994 PA 128, and section 28 as amended by 1996 PA 48, and by adding section 8a; and to repeal acts and parts of acts.

On which motion Senator V. Smith requested the yeas and nays.

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

The question being on the motion to discharge,

Senator DeGrow moved that consideration of the motion be postponed temporarily.

The motion prevailed.

Senators Rogers, Van Regenmorter and Hart entered the Senate Chamber.

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

House Bill No. 5654, entitled

A bill to amend 1972 PA 230, entitled “State construction code act of 1972,” by amending sections 2, 8, and 28 (MCL 125.1502, 125.1508, and 125.1528), section 2 as amended by 1998 PA 42, section 8 as amended by 1994 PA 128, and section 28 as amended by 1996 PA 48, and by adding section 8a; and to repeal acts and parts of acts.

(The motion was made earlier today to discharge the Committee on Human Resources, Labor and Veterans Affairs from further consideration, yeas and nays ordered and consideration postponed. See p. 1762.)

The question being on the motion to discharge,

Senator DeGrow moved that consideration of the motion be postponed until Thursday, November 5.

On which motion Senator V. Smith requested the yeas and nays.

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

The motion prevailed, a majority of the members voting therefor, as follows:

Roll Call No. 703

Yeas—17

Bouchard
Bullard

Emmons
Geake

North
Rogers

Shugars
Steil

Cisky
DeGrow
Dunaskiss

Gougeon
Jaye

Schuetze
Schwarz

Stille
Van Regenmorter

Nays—13

Bennett
Byrum
Cherry
Conroy

DeBeaussiaert
Dingell
Hart

Koivisto
Miller
Peters

Smith, A.
Smith, V.
Vaughn

Excused—6

Gast
Hoffman

McManus
O'Brien

Posthumus

Young

Not Voting—1

Berryman

In The Chair: President

Protests

Senators Cherry, Conroy, Dingell and Byrum, under their constitutional right of protest (Art. 4, Sec. 18), protested against postponing consideration of the motion to discharge the Committee on Human Resources, Labor and Veterans Affairs from further consideration of House Bill No. 5654.

Senator Cherry's statement is as follows:

I voted "no" on postponing the motion to discharge until November 5 because, as I noted, the good Senator from the 26th District said it was his intention to deal with this bill in the fall. My calendar shows that the fall season has started. Clearly, we are still engaged in the school construction season. This bill deals with that issue—is timely.

The incident in Flushing is at least debatable as to what impact this bill would have had. Others say that there were design flaws in the construction there, and in fact, a view of those plans perhaps would have discovered that design flaw. It is a debatable issue, but what is not debatable is that there have been a number of instances across the state here. We have had mishaps resulting from faulty construction at school sites. Those incidences were so numerous that on a previous occasion, this body had put a bill on the Governor's desk that unfortunately arrived there at the same time as another bill that resulted in the Governor vetoing this one so not to result in changes to the potty parity law.

Clearly the bill is timely; this is not a new issue for the body. It seems to me there is no reason why we couldn't proceed and debate this bill on the Senate floor, adopt it, and send it to the Governor's desk. It is not a new issue for us. Clearly, we have construction workers who are on school construction sites who potentially could be impacted. We have children that will be in these school buildings after construction that could be impacted. It is an issue of public safety. We need to move on this bill as we have done in the past and put this bill on the Governor's desk, unimpeded by other legislation that has been the case in the past so it can be signed into the law. In fact, these buildings will receive the appropriate state inspection they ought to have. There is really no reason not to proceed, and that's why I voted "no" on the motion to postpone.

Senator Conroy's statement is as follows:

I heard the chair of the committee make some comments about apparently what some of us over here think about this issue, and the reason I was in favor of a discharge on this motion is that there are only nine session days left in this year. It happens to be nine in the Lieutenant Governor's life as well as the speaker here. So, I do want to get this issue resolved, and I wanted Senator Rogers to know that I did introduce a bill this week that would license builders who build commercial, industrial, and school buildings. I have been at the site, Senator Rogers; the site is in my district. Those four young men got killed at a school in my district. So, it is important to me, and it has nothing to do with an election. I know some of you who are running—everything seems to revolve around elections. It doesn't with me. I think we should protect the development of structures in this state in an appropriate way. If we could have discharged that bill, we could have at least talked about that issue.

Builders who build school buildings don't even have to be licensed in this state—not even like pawn brokers. It seems to me that we ought to at least discuss the idea that we should have inspections of buildings. I am sure I have built 150 structures before I ever got to this Legislature, and I always supported those basements with support systems just as soon as we put those basement walls up. I understand that there were not support systems for that. Basement walls or foundation walls will move if, indeed, there are not support systems to make certain that they stay up while they are drying out.

I think we should have some oversight on commercial, industrial, and school buildings. The Senator has shown leadership to put this issue in front of us. I think it is something we ought to look at when you have four deaths that occur; that's a pretty serious problem. I agree with the Senator that we ought to allow those families to grieve, but we are doing work down here that allows future sites such as this not to have serious accidents. The way they do it now is that they have architects and builders build these buildings without any public inspection. That's inappropriate and that is not something that other states do. Michigan has a glitch in the law, and I know because I am a licensed residential builder, but there is no way in the world that I feel confident to build a school building. So, I think we do have to have these people licensed and to have some inspections by the state. We have the people to do it. Let's get on with the discussion on this bill.

Senator Dingell's statement is as follows:

Eight years ago, in the district I represented, a school building almost fell down. At that time, I was the only engineer in the Michigan Legislature; House or Senate. I had extensive experience in building buildings when I worked at Ford Motor Company, including design work. I have a very good idea of how buildings are supposed to be built. And the design professionals' responsibility is not being lived up to if they don't pay attention to things such as bracing of walls. There is a word for design professionals that are supposed to be overseeing a construction project and who do not look at worker safety as a part of their responsibility. That word is malpractice, and I hope they get sued down to their BVDs.

Now, with regard to this legislation, there are no complicated unresolved issues; none at all. This legislation has been in front of us three times. It has actually been passed by the House and Senate and put on the Governor's desk. There are no groups other than ones with a pecuniary interest, such as insurance companies, who are expressing any kind of concern. There are some school superintendents who are expressing some minor opposition now. In the past, they have expressed no opposition. What the problem is, as far as school inspections, is that school districts don't get along with local governments, and therefore, they do not want to be subject to inspection by local building inspectors. There is at least some rationale for this in that in many parts of Michigan, school buildings are easily the largest structures. They are also structures that have architectural features that are not in common with any architectural features in the community. So, it's nice to have an experienced inspector doing it. Therefore, it makes sense to have somebody from the outside do it, like the state of Michigan.

Well, current statute says that we would have the state Department of Education do that inspection work. In a questionable referral delegation of authority some years ago, the Michigan Department of Education gave it to the fire marshal. Well, the money didn't go with it, so essentially school inspections stopped at that time. Here we are many years later; I'm still trying to get our children and working people protected from unsafe conditions—unsafe conditions that wouldn't be tolerated in any kind of other construction project or building. There aren't any controversial issues here, really. There are no unresolved questions. Do you believe in having school buildings inspected? If you don't, well, continue to vote "no," continue to drag your feet. If you believe that we should take up these issues and do something about it, well, you voted with me.

I'd like to note if I could, that long before the collapse that cost so many lives recently, I had already asked this bill to be taken up. I had already signaled that I was going to be making exactly this motion at exactly this time. There're no politics related to the collapse that happened a few days ago and the lives that were taken then. This is a simple request that's made everyday by members of this body. Either do it, or if you drag your feet, I'll take you up in a forum where the people know about it and hold you accountable, and I hope they hold you accountable.

Senator Byrum's statement is as follows:

I frankly don't know why the committee didn't take up the bill. That's really irrelevant at this point and time. It's the end of the year, time is of the essence, and this is a critical issue in terms of not only workers' safety, but more importantly, school children's safety. We can talk and argue about the incident in Flushing and whether or not that would have made a difference with the school inspection bill. However, let's look a little bit closer to home. Let's look at DeWitt. Let's look at the situation where we had a failure of a wall or a column. I really hadn't intended to speak on this, or I would have pulled the article. The anchor bolts and the foundation were failed—flawed. After there was a worker injured because of a collapse of this column or wall, there was an inspection done on the site; it turned out that some 90 percent of the foundation anchor bolts were flawed. It was only because there was an incident on site, because this building had not been properly inspected. This was a high school building that is currently under

construction. This happened this calendar year. I would submit to you, with all of the construction that is going on across the state of Michigan in all of our communities, that it would behoove us to make sure that these buildings are being put up safely by safety building codes, so they could be safe places of learning for our children. Safety for our children in a school building goes beyond interaction with other school children and adults. It goes also to the structure of that building.

I think this is important legislation. It is a safety issue. It's important to all of the citizens of this state, particularly our children. We have an opportunity to act today. Because the committee failed to take the legislation up should not stop the body as a whole from taking action. We know this makes good public sense. We know this is a safety issue. Let's act today. Otherwise, we run the risk of having this legislation die because there aren't enough session days left to act. So for me, this isn't a political issue. I wasn't even going to speak on this issue today until the debate started to be wrapped up—well, this is just politics. What happened in DeWitt was not politics. What happened in DeWitt was a failure to adhere to construction and safety codes that could have endangered every child and every individual that would go into that potentially brand new high school. I think we have a duty to act, and that is why I give my "no" vote explanation.

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

The motion prevailed.

Senator Rogers' statement is as follows:

I would argue here today, if this discharge is about the safety of our children or about politics and the next election, I think it's a shameful occasion.

I took the time to go up to the site of this particular accident, and it was a horrible tragedy; it was terrible. These people lost their lives—some of them very young. One was going to get married on the coming Saturday before this accident happened. To have folks stand up and say, "Boy, if we had just passed my bill, this wouldn't have happened," only serves to increase the anxiety, the hurt, and the pain of those families who are trying to regather their lives after they've lost a loved one. I say, shame on every one of you.

I would venture to guess that no Senator over there has even been to the site or talked to the investigators or talked to the inspectors. Quite frankly, what happened in the particular cases brought up by the Senator from the 7th District was not the fact that the wall was improperly built or unsafely built. It came down to the fact that the workers on the site did not properly brace the wall. It has nothing to do with what this bill would have done. No inspector in the world could have caught that! MIOSHA inspectors on the site said, "We could have been here a day before and not been able to determine that would have happened."

Construction is a dangerous business, and if you know anything about it, the site changes everyday, practically every hour. The structure of that site changes, and the safety of that site changes, hour by hour, day by day. If you had taken the time to talk to the inspectors, if you'd taken the time to talk to the investigators, you know, sir, that, in fact, is not true. This bill would have done nothing for the safety of those workers. To put those families through even more pain than they're going through now is disgusting, at best.

This is all about electioneering. I have promised to give this bill a hearing in the fall. I fully intend to do that. There are some very real safety issues in this bill. Who's qualified to give safety inspections? Are the locals? Or are the architects and engineers who are on the site everyday on these job sites? That's a question that we need to talk about and debate, not make political.

If you're truly concerned about our children, if you're truly concerned about the safety of schools, then you would electioneer this bill and put it on the floor today. You'll wait until we can address all the serious safety issues that arise in this bill. I'm going to say it one more time because it's very important—the passage of this bill, if it were last week, last year, three years ago or next year, would have not prevented the accident that happened that cost four workers their lives. Let those families grieve in peace. Let them find peace in the terrible upcoming months they have ahead of them. Don't rehash it. Don't give them false hope. Let's let those folks, and rest their souls, in peace.

Senator Young entered the Senate Chamber.

Senators Berryman and Young stated that had they been present when the vote was taken on the motion to discharge the following bill, they would have voted "nay":

House Bill No. 5654

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, September 22:

House Bill Nos. 5815 5816 5978

The Secretary announced the printing and placement in the members' files on Tuesday, September 22 of:

Senate Bill Nos.	1227	1228	1229	1230	1231	1232	1233	1234	1235	1236	1237	1238	1239	1240
	1241	1242	1243	1244	1245	1246	1247	1248	1249	1250	1251	1252	1253	1254
	1255	1256	1257	1258	1259	1260	1261	1262	1267	1268	1269	1270	1271	1272
	1273	1274	1275	1276	1277	1278	1279	1280	1281	1284	1285	1286	1287	1288
	1289	1290	1291	1292	1293	1294	1295	1296	1297					
House Bill Nos.	6008	6009	6010	6011	6012	6013	6014	6015	6034	6036	6037	6038	6041	6042
	6043	6044	6046	6047	6048	6049	6050	6051	6052	6053	6054	6055	6056	6057
	6058	6059	6060	6061	6062	6063	6064	6065	6066	6067	6068	6069	6070	6071
	6072	6073	6087											

By unanimous consent the Senate proceeded to the order of

Third Reading of Bills

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

House Bill No. 5887, entitled

A bill to amend 1982 PA 528, entitled "An act to authorize the department of natural resources to convey certain state owned property in Sanilac county; and to prescribe conditions for the conveyance," by amending the title and sections 2 and 3 and by adding sections 2a and 2b.

The above bill was read a third time.

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. 704

Yeas—31

Bennett	DeBeaussaert	Jaye	Shugars
Berryman	DeGrow	Koivisto	Smith, A.
Bouchard	Dingell	Miller	Steil
Bullard	Dunaskiss	North	Stille
Byrum	Emmons	Peters	Van Regenmorter
Cherry	Geake	Rogers	Vaughn
Cisky	Gougeon	Schuetz	Young
Conroy	Hart	Schwarz	

Nays—0

Excused—5

Gast	McManus	O'Brien	Posthumus
Hoffman			

Not Voting—1

Smith, V.

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.
The Senate agreed to the title of the bill.

Recess

Senator DeGrow moved that the Senate recess subject to the call of the President.
The motion prevailed, the time being 10:44 a.m.

10:46 a.m.

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

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

The motion prevailed.

Senator Jaye statement is as follows:

I am very privileged and excited today to introduce a special guest here to the state Capitol. Joining us in the east Galleries of the Senate is the Romeo Peach Festival Queen, Heather Hampton, who is escorted by Malcolm Castle. I would like Heather Hampton and her escort to rise and receive a warm Senate welcome from my colleagues. Welcome to the Capitol.

Recess

Senator DeGrow moved that the Senate recess subject to the call of the President.
The motion prevailed, the time being 10:48 a.m.

10:50 a.m.

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

Senator DeGrow moved that rule 2.106 be suspended to allow the Committee on Health Policy and Senior Citizens to meet during Senate session.

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

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senators Rogers, Schuette, Stille, Steil and Bullard introduced

Senate Bill No. 1317, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 6b of chapter V (MCL 765.6b), as amended by 1994 PA 335.

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

Senator Jaye introduced

Senate Bill No. 1318, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 1301.

The bill was read a first and second time by title and referred to the Committee on Natural Resources and Environmental Affairs.

Senator Jaye introduced

Senate Bill No. 1319, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 10, 11, and 492 (MCL 168.10, 168.11, and 168.492), section 492 as amended by 1989 PA 142.

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

Senator Jaye introduced

Senate Bill No. 1320, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 1602 (MCL 324.1602), as added by 1995 PA 60, and by adding section 1503.

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

Senator Jaye introduced

Senate Bill No. 1321, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 1610.

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

Senator Jaye introduced

Senate Bill No. 1322, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 1611.

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

Senator Jaye introduced

Senate Bill No. 1323, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 30311 (MCL 324.30311), as added by 1995 PA 59.

The bill was read a first and second time by title and referred to the Committee on Natural Resources and Environmental Affairs.

Senators Schuette, Bullard, Shugars and Schwarz introduced

Senate Bill No. 1324, entitled

A bill to create an urban homestead program for single-family public housing; to provide that certain local governmental units, public housing entities, nonprofit community organizations, and certain state entities create and administer urban homestead programs for single-family public housing; to prescribe the powers and duties of certain state and local governmental units, public housing entities, and nonprofit community organizations; and to provide for the disposition of personal and real property.

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

Senators Schuette, Bullard, Shugars and Schwarz introduced

Senate Bill No. 1325, entitled

A bill to amend 1933 (Ex Sess) PA 18, entitled "An act to authorize any city, village, township, or county to purchase, acquire, construct, maintain, operate, improve, extend, and repair housing facilities; to eliminate housing conditions which are detrimental to the public peace, health, safety, morals, or welfare; and for any such purposes to authorize any such city, village, township, or county to create a commission with power to effectuate said purposes, and to prescribe the powers and duties of such commission and of such city, village, township, or county; and for any such purposes to authorize any such commission, city, village, township, or county to issue notes and revenue bonds; to regulate the issuance, sale, retirement, and refunding of such notes and bonds; to regulate the rentals of such projects and the use of the revenues of the projects; to prescribe the manner of selecting tenants for such projects; to provide for condemnation of private property for such projects; to confer certain powers upon such commissions, cities, villages, townships, and counties in relation to such projects, including the power to receive aid and cooperation of the federal government; to provide for a referendum thereon; to provide for cooperative financing by 2 or more commissions, cities, villages, townships, or counties or any combination thereof; to provide for the issuance, sale, and retirement of revenue bonds and special obligation notes for such purposes; to provide for financing agreements between cooperating borrowers; to provide for other matters relative to the bonds and notes and methods of cooperative financing; and for other purposes," by amending section 44b (MCL 125.694b).

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

Senators Schuette, Bullard, Shugars and Schwarz introduced

Senate Bill No. 1326, entitled

A bill to create an urban homestead program for multifamily public housing; to provide that certain local governmental units, public housing entities, and certain state entities create and administer urban homestead programs for multifamily public housing; to prescribe the powers and duties of certain state and local governmental units, public housing entities, and nonprofit community organizations; and to provide for the disposition of personal and real property.

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

Senators Schwarz, Schuette, Shugars and Bullard introduced

Senate Bill No. 1327, entitled

A bill to provide for the creation of housing opportunity zones; to provide for the adoption of an alternative building code; and to provide for the sale of affordable housing to lower and middle income families.

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

Senators Hoffman, Schwarz and Schuette introduced

Senate Bill No. 1328, entitled

A bill to amend 1972 PA 230, entitled "State construction code act of 1972," (MCL 125.1501 to 125.1531) by adding section 8a.

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

Senators Peters, Emmons and Schuette introduced

Senate Bill No. 1329, entitled

A bill to allow for the identification of abandoned real property; to permit the accelerated foreclosure of abandoned real property; to require certain procedures of certain local governmental units; to provide for the imposition of certain fees; and to provide for the disposition of foreclosed abandoned property.

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

Senators Emmons and Schuette introduced

Senate Bill No. 1330, entitled

A bill to allow for the identification of tax delinquent homestead property; to permit an accelerated quiet title process for tax delinquent homestead property; to require certain procedures of certain local units of government; to provide for the imposition of certain fees; and to provide for the disposition of certain tax delinquent homestead property.

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

Senators Posthumus, Gast and McManus entered the Senate Chamber.

Senators Schuette, Bullard, Shugars and Schwarz introduced

Senate Bill No. 1331, entitled

A bill to create an urban homestead program; to provide that certain local governmental units, nonprofit community organizations, and certain state entities create and administer urban homestead programs; to prescribe the powers and duties of certain state and local governmental units; and to provide for the disposition of personal and real property.

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

Senators Schuette, Bullard, Shugars and Schwarz introduced

Senate Bill No. 1332, entitled

A bill to amend 1966 PA 346, entitled "State housing development authority act of 1966," by amending section 22 (MCL 125.1422), as amended by 1998 PA 33.

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 Van Regenmorter introduced

Senate Bill No. 1333, entitled

A bill to prohibit certain organized gang-related activity; to create the statewide organized gang data base; to prescribe the powers and duties of certain state and local officials and agencies; and to prescribe remedies and penalties.

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

House Bill No. 5815, entitled

A bill to amend 1994 PA 204, entitled "The children's ombudsman act," (MCL 722.921 to 722.935) by adding section 6a.

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. 5816, entitled

A bill to amend 1969 PA 306, entitled "Administrative procedures act of 1969," by amending section 45 (MCL 24.245), as amended by 1993 PA 141.

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.

Recess

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

The motion prevailed, the time being 10:55 a.m.

11:05 a.m.

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

By unanimous consent the Senate returned to the order of

Messages from the House

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

Senate Bill No. 752

Senate Bill No. 386

Senate Bill No. 866

Senate Bill No. 874

House Bill No. 4259

House Bill No. 5261

House Bill No. 5317

The motion prevailed.

House Bill No. 4044, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9948) by adding sections 2965, 2966, and 2967.

(For text of amendments, see Senate Journal No. 56, p. 1370.)

The question being on concurring in the House amendments made to the Senate substitute,

Senator Van Regenmorter offered the following amendment to the House amendments:

1. Amend House Amendment No. 1, page 2, line 3, after "2967." by striking out the balance of the section and inserting "(1) EXCEPT AS PROVIDED IN SECTION 2966, A FIREFIGHTER OR POLICE OFFICER WHO SEEKS TO RECOVER DAMAGES FOR INJURY OR DEATH ARISING FROM THE NORMAL, INHERENT, AND FORESEEABLE RISKS OF HIS OR HER PROFESSION WHILE ACTING IN HIS OR HER OFFICIAL CAPACITY MUST PROVE THAT 1 OR MORE OF THE FOLLOWING CIRCUMSTANCES ARE PRESENT:

(A) AN INJURY OR RESULTING DEATH THAT IS A BASIS FOR THE CAUSE OF ACTION WAS CAUSED BY A PERSON'S CONDUCT AND THAT CONDUCT IS 1 OR MORE OF THE FOLLOWING:

(i) GROSSLY NEGLIGENT.

(ii) WANTON.

(iii) WILLFUL.

(iv) INTENTIONAL.

(v) CONDUCT THAT RESULTS IN A CONVICTION, GUILTY PLEA, OR PLEA OF NO CONTEST TO A CRIME UNDER STATE OR FEDERAL LAW, OR A LOCAL CRIMINAL ORDINANCE THAT SUBSTANTIALLY CORRESPONDS TO A CRIME UNDER STATE LAW.

(B) THE CAUSE OF ACTION IS A PRODUCT LIABILITY ACTION THAT IS BASED ON FIREFIGHTING OR POLICE OFFICER EQUIPMENT THAT FAILED WHILE IT WAS BEING USED BY THE FIREFIGHTER OR

POLICE OFFICER DURING THE LEGALLY REQUIRED OR AUTHORIZED DUTIES OF THE PROFESSION, WHICH DUTIES WERE PERFORMED DURING AN EMERGENCY SITUATION AND WHICH DUTIES SUBSTANTIALLY INCREASED THE LIKELIHOOD OF THE RESULTING DEATH OR INJURY, AND ALL OF THE FOLLOWING ARE TRUE:

(i) THE NEGLIGENT PERSON IS NOT SOMEONE WHOSE ACT OR OMISSION RESULTED IN THE FIREFIGHTER'S OR POLICE OFFICER'S PRESENCE AT THE PLACE WHERE THE INJURY OCCURRED; OR THE PERSON IS SOMEONE WHOSE ACT OR OMISSION RESULTED IN THE FIREFIGHTER'S OR POLICE OFFICER'S PRESENCE AT THE PLACE WHERE THE INJURY OCCURRED AND THE ACTION IS BASED ON AN ACT BY THAT PERSON THAT OCCURRED AFTER THE FIREFIGHTER OR POLICE OFFICER ARRIVED AT THE PLACE WHERE THE INJURY OCCURRED.

(ii) THE NEGLIGENT PERSON IS NOT SOMEONE FROM WHOM THE FIREFIGHTER OR POLICE OFFICER HAD SOUGHT OR OBTAINED ASSISTANCE OR IS NOT AN OWNER OR TENANT OF THE PROPERTY FROM WHERE THE FIREFIGHTER OR POLICE OFFICER SOUGHT OR OBTAINED ASSISTANCE.

(iii) THE NEGLIGENT PERSON IS NOT SOMEONE WHO IS AN OWNER OR TENANT OF THE PROPERTY THAT THE FIREFIGHTER OR POLICE OFFICER WAS ON IN HIS OR HER OFFICIAL CAPACITY; OR THE PERSON IS SOMEONE WHO IS AN OWNER OR TENANT OF THE PROPERTY THAT THE FIREFIGHTER OR POLICE OFFICER WAS ON IN HIS OR HER OFFICIAL CAPACITY AND THE ACTION IS BASED ON AN ACT BY THAT PERSON THAT OCCURRED AFTER THE FIREFIGHTER OR POLICE OFFICER ARRIVED AT THE PLACE WHERE THE INJURY OCCURRED.

(C) AN INJURY OR RESULTING DEATH THAT IS A BASIS FOR THE CAUSE OF ACTION WAS CAUSED BY A PERSON'S ORDINARY NEGLIGENCE AND ALL OF THE FOLLOWING ARE TRUE:

(i) THE NEGLIGENT PERSON IS NOT SOMEONE WHOSE ACT OR OMISSION RESULTED IN THE FIREFIGHTER'S OR POLICE OFFICER'S PRESENCE AT THE PLACE WHERE THE INJURY OCCURRED; OR THE PERSON IS SOMEONE WHOSE ACT OR OMISSION RESULTED IN THE FIREFIGHTER'S OR POLICE OFFICER'S PRESENCE AT THE PLACE WHERE THE INJURY OCCURRED AND THE ACTION IS BASED ON AN ACT BY THAT PERSON THAT OCCURRED AFTER THE FIREFIGHTER OR POLICE OFFICER ARRIVED AT THE PLACE WHERE THE INJURY OCCURRED.

(ii) THE NEGLIGENT PERSON IS NOT SOMEONE FROM WHOM THE FIREFIGHTER OR POLICE OFFICER HAD SOUGHT OR OBTAINED ASSISTANCE OR IS NOT AN OWNER OR TENANT OF THE PROPERTY FROM WHERE THE FIREFIGHTER OR POLICE OFFICER SOUGHT OR OBTAINED ASSISTANCE.

(iii) THE NEGLIGENT PERSON IS NOT SOMEONE WHO IS AN OWNER OR TENANT OF THE PROPERTY THAT THE FIREFIGHTER OR POLICE OFFICER WAS ON IN HIS OR HER OFFICIAL CAPACITY; OR THE PERSON IS SOMEONE WHO IS AN OWNER OR TENANT OF THE PROPERTY THAT THE FIREFIGHTER OR POLICE OFFICER WAS ON IN HIS OR HER OFFICIAL CAPACITY AND THE ACTION IS BASED ON AN ACT BY THAT PERSON THAT OCCURRED AFTER THE FIREFIGHTER OR POLICE OFFICER ARRIVED AT THE PLACE WHERE THE INJURY OCCURRED.

(iv) THE FIREFIGHTER OR POLICE OFFICER WAS ENGAGED IN 1 OR MORE OF THE FOLLOWING:

(A) A ROUTINE PROPERTY INSPECTION FOR A STATE OR LOCAL CODE VIOLATION THAT OCCURS IN A NONEMERGENCY SITUATION AND THAT OCCURS BEFORE AND IS NOT RELATED TO INJURY, LOSS, OR DAMAGE TO A PERSON OR PROPERTY.

(B) OPERATING, OR RIDING IN OR ON, A MOTOR VEHICLE THAT IS BEING OPERATED IN CONFORMITY WITH THE LAWS APPLICABLE TO THE GENERAL PUBLIC.

(C) AN ACT INVOLVING THE LEGALLY REQUIRED OR AUTHORIZED DUTIES OF THE PROFESSION THAT DID NOT SUBSTANTIALLY INCREASE THE LIKELIHOOD OF THE RESULTING DEATH OR INJURY. THE COURT SHALL NOT CONSIDER THE FIREFIGHTER OR POLICE OFFICER TO HAVE BEEN ENGAGED IN AN ACT THAT SUBSTANTIALLY INCREASED THE LIKELIHOOD OF DEATH OR INJURY IF THE INJURY OCCURRED WITHIN A HIGHWAY RIGHT-OF-WAY, IF THERE WAS EMERGENCY LIGHTING ACTIVATED AT THE SCENE, AND IF THE FIREFIGHTER OR POLICE OFFICER WAS ENGAGED IN EMERGENCY MEDICAL SERVICES, ACCESSING A FIRE HYDRANT, TRAFFIC CONTROL, MOTORIST ASSISTANCE, OR A TRAFFIC STOP FOR A POSSIBLE VIOLATION OF LAW.

(2) THIS SECTION SHALL NOT BE CONSTRUED TO AFFECT A RIGHT, REMEDY, PROCEDURE, OR LIMITATION OF ACTION THAT IS OTHERWISE PROVIDED BY STATUTE OR COMMON LAW.

(3) AS USED IN THIS SECTION:

(A) "GROSSLY NEGLIGENT" MEANS CONDUCT SO RECKLESS AS TO DEMONSTRATE A SUBSTANTIAL LACK OF CONCERN FOR WHETHER INJURY RESULTS.

(B) "PERSON" MEANS AN INDIVIDUAL OR A PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, ASSOCIATION, OR OTHER LEGAL ENTITY.

(C) "PRODUCT LIABILITY ACTION" MEANS THAT TERM AS DEFINED IN SECTION 2945."

The question being on the adoption of the amendment to the House amendments,

Senator Van Regenmorter offered the following amendment to the amendment:

1. Amend Senator Van Regenmorter's Amendment No. 1, page 2, line 3, subsection (1)(C)(iv), by striking out all of sub-subparagraph (A) and relettering the remaining sub-subparagraphs.

The amendment to the amendment was adopted.

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

The motion prevailed.

The question being on the adoption of the amendment to the House amendments,

Senator Dingell requested the yeas and nays.

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

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

Roll Call No. 705

Yeas—21

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

Nays—13

Berryman	DeBeaussaert	Koivisto	Smith, A.
Byrum	Dingell	Miller	Vaughn
Cherry	Hart	Peters	Young
Conroy			

Excused—3

Hoffman	O'Brien	Smith, V.
---------	---------	-----------

Not Voting—0

In The Chair: President

Senator Dingell offered the following amendment to the House amendments:

1. Amend House Amendment No. 1, page 2, line 3, after "2967." by striking out the balance of the section and inserting "(1) EXCEPT AS PROVIDED IN SECTION 2966, A POLICE OFFICER WHO SEEKS TO RECOVER DAMAGES FOR INJURIES ARISING FROM THE NORMAL, INHERENT, AND FORESEEABLE RISKS OF HIS OR HER PROFESSION WHILE ACTING IN HIS OR HER OFFICIAL CAPACITY MUST PROVE THAT 1 OR MORE OF THE FOLLOWING CIRCUMSTANCES ARE PRESENT:

(A) AN INJURY THAT IS A BASIS FOR THE CAUSE OF ACTION WAS CAUSED BY A PERSON'S CONDUCT AND THAT CONDUCT IS 1 OR MORE OF THE FOLLOWING:

(i) GROSSLY NEGLIGENT.

(ii) WANTON.

(iii) WILLFUL.

(iv) INTENTIONAL.

(v) CONDUCT THAT RESULTS IN A CONVICTION, GUILTY PLEA, OR PLEA OF NO CONTEST TO A CRIME UNDER STATE OR FEDERAL LAW, OR A LOCAL ORDINANCE THAT SUBSTANTIALLY CORRESPONDS TO A CRIME UNDER STATE LAW.

(B) AN INJURY THAT IS A BASIS FOR THE CAUSE OF ACTION WAS CAUSED BY A PERSON'S ORDINARY NEGLIGENCE AND ALL OF THE FOLLOWING ARE TRUE:

(i) THE NEGLIGENT PERSON IS NOT SOMEONE WHOSE ACT OR OMISSION RESULTED IN THE POLICE OFFICER'S PRESENCE AT THE PLACE WHERE THE INJURY OCCURRED; OR THE PERSON IS SOMEONE

WHOSE ACT OR OMISSION RESULTED IN THE POLICE OFFICER'S PRESENCE AT THE PLACE WHERE THE INJURY OCCURRED AND THE ACTION IS BASED ON AN ACT BY THAT PERSON THAT OCCURRED AFTER THE POLICE OFFICER ARRIVED AT THE PLACE WHERE THE INJURY OCCURRED.

(ii) THE NEGLIGENT PERSON IS NOT SOMEONE FROM WHOM THE POLICE OFFICER HAD SOUGHT OR OBTAINED ASSISTANCE OR IS NOT AN OWNER OR TENANT OF THE PROPERTY FROM WHERE THE POLICE OFFICER SOUGHT OR OBTAINED ASSISTANCE.

(iii) THE NEGLIGENT PERSON IS NOT SOMEONE WHO IS AN OWNER OR TENANT OF THE PROPERTY THAT THE POLICE OFFICER WAS ON IN HIS OR HER OFFICIAL CAPACITY; OR THE PERSON IS SOMEONE WHO IS AN OWNER OR TENANT OF THE PROPERTY THAT THE POLICE OFFICER WAS ON IN HIS OR HER OFFICIAL CAPACITY AND THE ACTION IS BASED ON AN ACT BY THAT PERSON THAT OCCURRED AFTER THE POLICE OFFICER ARRIVED AT THE PLACE WHERE THE INJURY OCCURRED.

(iv) THE POLICE OFFICER WAS ENGAGED IN 1 OR MORE OF THE FOLLOWING:

(A) THE OPERATION OF A MOTOR VEHICLE IN CONFORMITY WITH THE LAWS APPLICABLE TO THE GENERAL PUBLIC.

(B) AN ACT INVOLVING THE LEGALLY REQUIRED OR AUTHORIZED DUTIES OF THE PROFESSION THAT DID NOT SUBSTANTIALLY INCREASE THE LIKELIHOOD OF THE OCCURRENCE OF THE RESULTING DEATH OR INJURY. IF A POLICE OFFICER WAS ENGAGED IN TRAFFIC CONTROL, MOTORIST ASSISTANCE, OR A TRAFFIC STOP FOR A POSSIBLE VIOLATION OF LAW AND THERE WAS EMERGENCY LIGHTING ACTIVATED AT THE SCENE, THE COURT SHALL NOT CONSIDER THE POLICE OFFICER TO HAVE BEEN ENGAGED IN AN ACT THAT SUBSTANTIALLY INCREASED HIS OR HER LIKELIHOOD OF DEATH OR INJURY.

(2) EXCEPT AS PROVIDED IN SECTION 2966, A FIREFIGHTER WHO SEEKS TO RECOVER DAMAGES FOR INJURIES ARISING FROM THE NORMAL, INHERENT, AND FORESEEABLE RISKS OF HIS OR HER PROFESSION WHILE ACTING IN HIS OR HER OFFICIAL CAPACITY MUST PROVE ALL OF THE FOLLOWING CIRCUMSTANCES ARE PRESENT:

(A) AN INJURY THAT IS A BASIS FOR THE CAUSE OF ACTION CAUSES A SERIOUS IMPAIRMENT OF A BODY FUNCTION OR DEATH.

(B) AN INJURY THAT IS A BASIS FOR THE CAUSE OF ACTION OCCURRED IN 1 OF THE FOLLOWING PLACES:

(i) A COMMERCIAL OR INDUSTRIAL AREA.

(ii) ONE OF THE FOLLOWING LOCATIONS WITHIN A RESIDENTIAL AREA:

(A) AN ENTRYWAY.

(B) A HALLWAY.

(C) A LIVING ROOM, DINING ROOM, OR FAMILY ROOM.

(D) ANY OTHER ROOM FREQUENTLY USED BY RESIDENTS AND THEIR INVITEES.

(C) THE CAUSE OF AN INJURY THAT IS A BASIS FOR THE CAUSE OF ACTION WOULD BE UNFORESEEABLE TO AN ORDINARY FIREFIGHTER ACTING UNDER SIMILAR CIRCUMSTANCES.

(3) THIS SECTION SHALL NOT BE CONSTRUED TO AFFECT A RIGHT, REMEDY, PROCEDURE, OR LIMITATION OF ACTION THAT IS OTHERWISE PROVIDED BY STATUTE OR COMMON LAW.

(4) AS USED IN THIS SECTION:

(A) "GROSSLY NEGLIGENT" MEANS CONDUCT SO RECKLESS AS TO DEMONSTRATE A SUBSTANTIAL LACK OF CONCERN FOR WHETHER INJURY RESULTS.

(B) "PERSON" MEANS AN INDIVIDUAL OR A PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, ASSOCIATION, OR OTHER LEGAL ENTITY.

(C) "SERIOUS IMPAIRMENT OF A BODY FUNCTION" INCLUDES, BUT IS NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

(i) LOSS OF A LIMB OR USE OF A LIMB.

(ii) LOSS OF A HAND OR FOOT OR USE OF A HAND OR FOOT.

(iii) LOSS OF AN EYE OR EAR OR USE OF AN EYE OR EAR.

(iv) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION.

(v) A COMATOSE STATE THAT LASTS FOR MORE THAN 14 DAYS.

(vi) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.

(vii) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.

(viii) SUBDURAL HEMORRHAGE OR SUBDURAL HEMATOMA."

The amendment to the amendments was not adopted.

Senator Berryman requested the yeas and nays.

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

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

Roll Call No. 706**Yeas—13**

Berryman
Byrum
Cherry
Conroy

DeBeaussaert
Dingell
Hart

Koivisto
Miller
Peters

Smith, A.
Vaughn
Young

Nays—21

Bennett
Bouchard
Bullard
Cisky
DeGrow
Dunaskiss

Emmons
Gast
Geake
Gougeon
Jaye

McManus
North
Posthumus
Rogers
Schuette

Schwarz
Shugars
Steil
Stille
Van Regenmorter

Excused—3

Hoffman

O'Brien

Smith, V.

Not Voting—0

In The Chair: President

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

Senator Koivisto entered the Senate Chamber.

The question being on concurring in the House amendments made to the Senate substitute,
The amendments were concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 707**Yeas—26**

Bennett
Bouchard
Bullard
Byrum
Cisky
DeBeaussaert
DeGrow

Dunaskiss
Emmons
Gast
Geake
Gougeon
Hart
Jaye

Koivisto
McManus
Miller
North
Posthumus
Rogers

Schuette
Schwarz
Shugars
Steil
Stille
Van Regenmorter

Nays—7

Berryman
Cherry

Conroy
Dingell

Peters
Smith, A.

Young

Excused—3

Hoffman

O'Brien

Smith, V.

Not Voting—1

Vaughn

In The Chair: President

Protests

Senators Dingell and Berryman, under their constitutional right of protest (Art. 4, Sec. 18), protested against concurring in the House amendments to the Senate substitute to House Bill No. 4044.

Senator Dingell moved that the statements he made during the discussion of the amendment be printed as his reasons for voting “no.”

The motion prevailed.

Senator Dingell’s first statement is as follows:

Madam Governor, the chairman of the committee and I both agree at least in concept that police and fire people who are hurt on the job by others who have done something reprehensible should be able to sue those persons who have done something reprehensible. We differ on how to get there.

The concept that the House passed was very simple and very efficient. He came forth with a plan which we have adopted. I want to displace it with one that I feel is far more efficient, not as efficient as the House-passed version, but far more efficient than his. What it says is this: There are three types of places where firemen get hurt on the job. There are commercial places of business; there are industrial places of business; and there are residential properties.

Now the first two types of property are ones that are supposed to be kept reasonably safe because of workplace safety rules. If the employer or owner don’t do that then they have done something reprehensible. I think that police and fire should be allowed to sue those employers who have done something reprehensible. They’re supposed to keep the workplace reasonably safe.

Homes are a different matter, though, in that each of us has cans of paint in the basement in a pile. We have Coleman lantern fluid sitting on a shelves or down in the basement. We have other things that would not be tolerated by workplace safety rules. They are not reasonably safe. These things are kept in places that are not usually frequented by even the people who live there. I think that in residential property, at least in those portions of it where people can usually be found and where these kinds of hazards won’t be found, that firemen should be able to sue just the same way they should be able to sue in workplaces. If there’s a man trapped in one of these places, they should be able to sue for the injuries caused to them. That is the concept of the bill that I have in front of you here.

The only other qualification would be that the injuries that a fireman has to suffer on the job would have to be career-ending injuries. But understand, police and fire don’t sue in these kinds of cases except for career-ending injuries. The reason why is workers’ compensation simply takes away their settlement if it isn’t a career-ending injury. I think it’s particularly important that we allow police and fire to sue rather freely in cases where the policeman or fireman is killed because of changes that that side of the chamber made a couple of years ago. When somebody gets killed on the job, they don’t get any workers’ compensation at all! With that, I recommend this amendment to my colleagues.

Senator Berryman’s statement is as follows:

Madam Governor, I rise for a “no” vote explanation—just to say that now this bill will go back to the House, and it’s my hope and I voted “no” because I hope the House will return some fairness that both our men and women of police and fire can benefit from this and not just be one-sided. I think everyone here would like to see a little more fairness in treating our firefighters and police the same, so it is my hope that the House will straighten this out. We’ll have an agreement, and then we can walk out of here, and we can all support this bill.

Senator Dingell’s second statement is as follows:

Madam Governor, the comments of my colleagues were predictable. One of them believes that workers injured on the job through no fault of their own by persons from outside the workplace should get stuck with workers’ comp alone. I mean, he’s quietly very open about it. He just doesn’t like lawyers, and there are times when I don’t like lawyers either. However, I believe that when somebody comes into the workplace and injures a worker through reprehensible conduct, the person should have to pay for their reprehensible conduct. This is a difference between Republicans and Democrats.

For my other colleague, he strongly overplays things. Workplace safety rules are very strict. If it’s a workplace, it must be safe under current law. It must be safe—all of it must be safe. In persons’ homes, well, there are certain parts of a home where I think a fireman can expect to be reasonably safe, and they have an expectation that there should be no man traps. When a fire person puts their life on the line and tries to help me, I think they have an expectation of

safety in at least certain small parts of my home. Frankly, in my home, which is only 1,400 square feet, the hallways, the living room, the dining room, family room, that's a small portion of it. You look at bedrooms; you look at the attic; you look at the basement—that's the majority of the home. In these places, people do have things like piles of cans of paint.

Now, what kind of expectations police and fire people have when they're on the job? It's a reasonable expectation of safety but under the conditions that exist. What are those conditions? They're not normal at all. You look at firemen. What kind of expectations do they reasonably have? Well, the building is probably on fire. It's been hastily evacuated. It's probably, to some extent, torn up by either the evacuation, by fire damage, by explosion damage, by toxins running wild. Do they have the same kind of expectations of reasonable safety that you and I have in a workplace? The is "no." The expectation is far less. However, they do have an expectation of a certain amount of concern by the employer in a commercial or industrial area. They have a certain expectation of safety in a home in, at least, the entryway and the areas where people are always expected to be found. You know, when I was a boy, there was an expectation that my parents talked to me about in the home, which is by 10:00, even on the weekend, everything was picked up and neat at least in these front areas or commonly visited places of the home. I mean, that's the expectation—reasonable safety. To oppose this language is to what the Republicans are really wanting to say is, "We'd like to stick police and fire with just workers' comp only, but that's not politically salable in an election year."

Shame on them.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator DeGrow moved that rule 2.106 be suspended to allow the Legislative Retirement Board of Trustees to meet during Senate session.

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

By unanimous consent the Senate proceeded to the order of

Resolutions

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

Senate Resolution No. 230

Senate Resolution No. 232

Senate Resolution No. 233

The resolution consent calendar was adopted.

Senators Peters, Byrum, A. Smith, DeBeaussaert, Miller, Vaughn, Dingell, Berryman, Hart, North, McManus, Cherry, Young, Hoffman, Geake, Bullard, Bouchard, Cisky, DeGrow, Bennett, Gast, Stille, Steil, Dunaskiss, Rogers, Gougeon, Emmons, Schwarz, Schuette, Shugars and Conroy offered the following resolution:

Senate Resolution No. 230

A resolution to recognize September 15, 1998 - October 15, 1998, as Hispanic Heritage Month.

Whereas, It is a privilege to join with the Hispanic community of Michigan to recognize September 15 - October 15, 1998, as Hispanic Heritage Month in Michigan. This observance offers citizens statewide an opportunity to explore the many important historical and cultural contributions Hispanics have made in our Great Lakes State; and

Whereas, Activities during Hispanic Heritage Month will center on the theme for this year, "Distinct Paths, Converging Voice." Leaders in the Hispanic community recognize differences in national debates over bilingual education, affirmative action, technology training, and cultural obstacles and seek to address these issues as they celebrate past successes. Hispanics have become a greater influence in the arts, government, education, business, and all other areas of society. We must continue to forge new policies that positively impact our Hispanic communities, while bringing them together; and

Whereas, Hispanic Heritage Month provides all citizens with a fitting opportunity to become more aware of how Hispanic individuals, families, and communities enrich our great state. The dignity, courage, and creative spirit that the Hispanic people have displayed in meeting the challenges and responsibilities of fulfilling the American dream are an inspiration to us all. It is a pleasure to recognize the lasting impact that Hispanic Americans have had on the strength and progress of Michigan; now, therefore, be it

Resolved by the Senate, That we hereby recognize September 15, 1998 - October 15, 1998, as Hispanic Heritage Month in Michigan; and be it further

Resolved, That a copy of this resolution be transmitted to organizers of this event as evidence of our support for an enjoyable and inspirational observance.

Senators Cherry, Conroy, Cisky and Gougeon offered the following resolution:

Senate Resolution No. 232

A resolution honoring the members and coaches of Frankenmuth Grasel Graphics, of Frankenmuth, Michigan upon winning the International Softball Congress World Tournament in Kimberly, Wisconsin.

Whereas, The International Softball Congress is a Class A Member associated with the United States Fastpitch Association and an Allied Member of the Amateur Softball Association, which is Headquartered in Anaheim Hills, California; and

Whereas, The coaches and members of the Frankenmuth Grasel Graphics, of Frankenmuth, Michigan earned the right to play for the World Championship in Kimberly, Wisconsin by winning the North American East Nineteen and Under Championship held in Frankenmuth, Michigan in July of 1998; and

Whereas, The members and coaches of Frankenmuth Grasel Graphics won the Championship by winning the 13-team qualifier which consisted of two American and eleven Canadian teams. Frankenmuth defeated Wroxeter, Ontario in a best-of-four-game series, three games to one. Frankenmuth won the first game with a score of 2-1. They won the second game in eight innings with a score of 4-2 and completed the series winning the third game 8-1, thus earning them the Championship; and

Whereas, Frankenmuth Grasel Graphics is the first team from Michigan and the United States to win this Championship and to have the first girl ever, Libby Poellet, to participate in the ISC World Tournament; now, therefore, be it

Resolved by the Senate, That we proudly honor the members and coaches of Frankenmuth Grasel Graphics, the 1998 International Softball Congress Boys Nineteen and under World Champions; and be it further

Resolved, That a copy of this resolution be transmitted to the coaches and staff: Tom Stasik, Manager; Del Benson, Ron Gwizdala, Hub Fehrman and Adam Kern, Assistant Managers; Marc Stasik, Batboy; and Charlie Moore, Scorekeeper. And that a copy also be transmitted to the following players: Allan Phibbs, Andrew Phibbs, Brent Fehrman, Jason Jucius, Chad Stasik, Everett Ketelhut, Kenny Radford, Nathan McGinnis, Greg Roseberry, Kyle Bierlein, Pat Murtha, Libby Poellet, Reid Benson, Troy Lynch, Steve Bouvy, Todd Moore, Jamie Carnes, Adam Osantowski and Chris Cramer.

Senators Shugars, Young and Dunaskiss were named co-sponsors of the resolution.

Senators Young, Peters, Hart, A. Smith, DeBeaussaert, Dingell, Miller, Vaughn, Byrum, Berryman, V. Smith, Koivisto, North, Gougeon, Geake and Conroy offered the following resolution:

Senate Resolution No. 233

A resolution honoring the 75th Anniversary of the Travelers Aid Society of Detroit

Whereas, The citizens of the State of Michigan have benefitted from the diligent services of the Travelers Aid Society of Detroit for 75 years; and

Whereas, The Travelers Aid Society of Detroit is a non-profit human services organization affiliated with Travelers Aid International, a beneficiary of United Way Community Services and a valued partner with the City of Detroit and Wayne County in helping homeless Detroiters recover from the tragedy; and

Whereas, Established in 1923, the Society is committed to an effective and efficient delivery of an array of social work services to socially and economically depressed populations and assistance to travelers in need; and

Whereas, Travelers Aid responds with the continual development and refinement of emergency, case management, assessment, screening, advocacy, crisis intervention, employment and housing placement services, and that the Society's response is focused on the needs of people who are socially and economically deprived, including the homeless, the stranded, substance abusers, runaway youth and victims of domestic violence; and

Whereas, The Travelers Aid philosophy is the continual assessment and refinement of services to guide and direct its populations, including the socially and economically deprived, toward a more stable, self-sufficient lifestyle; and

Whereas, Noting that in collaboration with public and private organizations, government agencies and the business community in a web of coordinated services, the Society is distinctive in that the focus and emphasis of case management and assessment as social work service provide its core values for operation; now, therefore, be it

Resolved by the Senate, That we honor and commemorate the Travelers Aid Society of Detroit for its work for the traveler, the homeless person and the family at risk of homelessness, on the occasion of its 75th Anniversary, October 15, 1998; and be it further

Resolved, That a copy of this resolution be transmitted to the organization as a reflection of our admiration.

Committee Reports

The Committee on Judiciary reported

House Bill No. 4364, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 3 of chapter XI (MCL 771.3), as amended by 1994 PA 445.

With the recommendation that the bill pass.

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

William Van Regenmorter
Chairperson

To Report Out:

Yeas: Senators Van Regenmorter, Rogers, Geake, Peters and V. Smith

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Judiciary reported

House Bill No. 4365, entitled

A bill to amend 1984 PA 118, entitled "The prisoner reimbursement to the county act," by amending sections 3 and 5 (MCL 801.83 and 801.85), section 3 as amended by 1994 PA 212.

With the recommendation that the bill pass.

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

William Van Regenmorter
Chairperson

To Report Out:

Yeas: Senators Van Regenmorter, Rogers, Geake, Peters and V. Smith

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submits the following:

Meeting held on Tuesday, September 22, 1998, at 1:00 p.m., Rooms 402 and 403, Capitol Building

Present: Senators Van Regenmorter (C), Rogers, Geake, Dingell, Peters and V. Smith

Excused: Senator Cisky

COMMITTEE ATTENDANCE REPORT

The Committee on Hunting, Fishing and Forestry submits the following:

Meeting held on Tuesday, September 22, 1998, at 1:00 p.m., Room 110, Farnum Building

Present: Senators Jaye (C), McManus, Byrum and Dingell

Excused: Senator Hoffman

COMMITTEE ATTENDANCE REPORT

The Committee on Farming, Agribusiness and Food Systems submits the following:

Meeting held on Tuesday, September 22, 1998, at 1:30 p.m., Room 210, Farnum Building

Present: Senators McManus (C), Stille, Gougeon and Byrum

Excused: Senator Berryman

COMMITTEE ATTENDANCE REPORT

The Committee on Health Policy and Senior Citizens submits the following:

Meeting held on Tuesday, September 22, 1998, at 3:00 p.m., Room 100, Farnum Building

Present: Senators Shugars (C), Schwarz, Jaye and Byrum

Excused: Senator O'Brien

Scheduled Meeting

Financial Services Committee - Friday, September 25, at 3:00 p.m., Birmingham City Hall, City Commission Room, 151 Martin, Birmingham (3-2523).

Senator DeGrow moved that the Senate adjourn.

The motion prevailed, the time being 12:03 p.m.

The President, Lieutenant Governor Binsfeld, declared the Senate adjourned until Thursday, September 24, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.