

No. 79
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Tuesday, November 9, 1999.

10:00 a.m.

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

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

Bennett—present
Bullard—present
Byrum—present
Cherry—present
DeBeaussaert—present
DeGrow—present
Dingell—present
Dunaskiss—present
Emerson—present
Emmons—present
Gast—present
Goschka—present
Gougeon—present

Hammerstrom—present
Hart—present
Hoffman—present
Jaye—present
Johnson—present
Koivisto—present
Leland—present
McCotter—present
McManus—present
Miller—present
Murphy—present
North—present
Peters—present

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

Senator George A. McManus, Jr., of the 36st District offered the following invocation:

This morning's prayer will be directed at the fact that there is a higher power than us mere mortals. We need to recognize the fact that we are going to have 70 degrees today, in November. We don't control the weather. Some might call it global warming, but when we are in deer camp next week and it goes to ten below zero, we'll call it global cooling. Amen.

Senator Young entered the Senate Chamber.

Motions and Communications

Senators Sikkema, Cherry and Vaughn entered the Senate Chamber.

Senator Rogers moved that Senator Hoffman be temporarily excused from today's session.
The motion prevailed.

Senator V. Smith moved that Senators Leland and Murphy be temporarily excused from today's session.
The motion prevailed.

Senator Rogers moved that the following bill, now on Committee Reports, be referred to the Committee on Appropriations:

Senate Bill No. 661, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by amending the title, as amended by 1991 PA 98, and by adding section 710g.

The motion prevailed.

The following communications were received:

Office of the Auditor General

November 3, 1999

Enclosed is a copy of the following audit report and/or executive digest:

Performance Audit of the Standish Maximum Security Correctional Facility and Camp Lehman, Department of Corrections, October 1999.

November 3, 1999

Enclosed is a copy of the following audit report and/or executive digest:

Performance Audit of Vehicle and Travel Services, Department of Management and Budget, November 1999.

Sincerely,
Thomas H. McTavish, C.P.A.
Auditor General

The communications were referred to the Secretary for record.

The following communications were received:

Department of State

Administrative Rules Notices of Filing

October 7, 1999

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 1:15 p.m. this date, administrative rule (99-10-8) for the Department of Agriculture, Pesticide and Plant Pest Management Division, entitled "*Commercial Fertilizer Bulk Storage*," effective 15 days hereafter.

October 11, 1999

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 10:05 a.m. this date, administrative rule (99-10-9) for the Department of Environmental Quality, Surface Water Quality Division, entitled "*Clean Michigan Initiative Nonpoint Source Pollution*," effective 15 days hereafter.

October 15, 1999

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 10:10 a.m. this date, administrative rule (99-10-11) for the Department of Environmental Quality, Air Quality Division, entitled "*Water Resources Protection*," effective 15 days hereafter.

October 22, 1999

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 1:16 p.m. this date, administrative rule (99-10-17) for the Department of Consumer and Industry Services, Financial Institutions Bureau, entitled "*Secondary Mortgage Act*," effective 15 days hereafter.

October 25, 1999

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 11:00 a.m. this date, administrative rule (99-10-18) for the Department of Consumer and Industry Services, Public Service Commission, entitled "*Uniform System of Accounts for Class A and Class B Water Companies*," effective 15 days hereafter.

October 25, 1999

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 11:02 a.m. this date, administrative rule (99-10-19) for the Department of Consumer and Industry Services, Public Service Commission, entitled "*Preservation of Records of Electric, Gas, and Water Companies*," effective 15 days hereafter.

Sincerely,
Candice S. Miller
Secretary of State
Helen Kruger, Supervisor
Office of the Great Seal

The communications were referred to the Secretary for record.

The Secretary announced that the following House bills were received in the Senate and filed on Thursday, November 4:

House Bill Nos. 4458 5040 5041 5042

The Secretary announced the enrollment printing and presentation to the Governor on Thursday, November 4, for his approval the following bill:

Enrolled Senate Bill No. 554 at 11:14 a.m.

The Secretary announced the enrollment printing and presentation to the Governor on Friday, November 5, for his approval the following bill:

Enrolled Senate Bill No. 809 at 11:09 a.m.

The Secretary announced the printing and placement in the members' files on Thursday, November 4 of:

Senate Bill Nos. 880 881
House Bill Nos. 5093 5094 5095

The Secretary announced the printing and placement in the members' files on Friday, November 5 of:

Senate Bill No. 882
House Bill Nos. 5096 5097 5098 5099 5100 5101 5102 5103 5104

Pursuant to rule 3.203, the Majority Leader made the following committee reassignment:

House Bill No. 4903

The bill was referred to the Committee on Farming, Agribusiness and Food Systems.

Senators Leland and Hoffman entered the Senate Chamber.

Senator Rogers moved that the rules be suspended and that the following bill, now on Committee Reports, be placed on the General Orders calendar for consideration today:

Senate Bill No. 867

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

Senator Rogers moved that the rules be suspended and that the following bills, now on Committee Reports, be placed on the General Orders calendar for consideration today:

Senate Bill No. 878

Senate Bill No. 879

Senate Bill No. 877

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 serving voting therefor, as follows:

Roll Call No. 581

Yeas—23

Bennett	Goschka	McCotter	Shugars
Bullard	Gougeon	McManus	Sikkema
DeGrow	Hammerstrom	North	Steil
Dunaskiss	Hoffman	Rogers	Stille
Emmons	Jaye	Schuette	Van Regenmorter
Gast	Johnson	Schwarz	

Nays—14

Byrum	Emerson	Miller	Smith, V.
Cherry	Hart	Peters	Vaughn
DeBeaussaert	Koivisto	Smith, A.	Young
Dingell	Leland		

Excused—1

Murphy

Not Voting—0

In The Chair: President

Protest

Senator V. Smith, under his constitutional right of protest (Art. 4, Sec. 18), protested against the motion to suspend the rules to allow consideration of Senate Bill Nos. 877, 878 and 879 on the General Orders calendar today.

Senator V. Smith's statement is as follows:

Mr. President, I voted "no" on the suspension of the rules for Senate Bill Nos. 878, 879 and 877 because these bills would dramatically change the administrative rule-making ability by state government, increase the ability of the executive branch of government in the drafting of these rules, and diminish the involvement of the legislative branch in the drafting of administrative rule process.

We think this is a dramatic shift with the transfer of power from the Legislature to the executive branch. We think this is something we are not in support of, and we would like the record to reflect so.

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 have a very special announcement today, if I may, Mr. President.

We are very honored today to have someone who has survived yet one more year on this great planet of ours. I just want to make one recommendation. This particular person happens to be a physician. I never like to give physicians advice, but I would say he ought to get a little more sleep and take care of himself a little more because he's looking a little rough for turning 31 today.

To commemorate this special day, we do have cake that will be served in the lobby, and since our good doctor is quite famous for quoting Germans on the floor, I'd like a thought, if I could, be placed in the Senate Journal. This is a quote from, I believe, Otto von Bismark, Vice Chancellor of 19th Century Germany. I took Chinese in college, but here's my shot at German here today: "Fehler zu machen ist Menschlich, Zu Verzeihen ist Gottlich. In diesem Saal sind Beide keine Sorge."

The rough translation is, Mr. President, "To err is human, to forgive is divine, and in this chamber, neither are a worry."

Please give a round of applause to the good doctor, Senator Joe Schwarz.

Messages from the Governor

The following messages from the Governor were received and read:

November 5, 1999

There are herewith presented for consideration and confirmation by the Senate, the following appointments to office:

State Child Abuse and Neglect Prevention Board

Dr. Teressa V. Staten, 500 South Verlinden, Lansing, Michigan 48915, county of Ingham, as a member representing educators, succeeding Mrs. Gail M. Nugent of Frankfort, whose term has expired, for a term expiring on December 19, 2002.

Rev. Ira Combs, Jr., 3146 McCain Road, Jackson, Michigan 49203, county of Jackson, as a member representing religious communities, succeeding Reverend Edward G. Dobson of Belmont, whose term has expired, for a term expiring on December 19, 2001.

Mrs. Carlota R. Beauprey, RR#1 Box, Baraga, Michigan 49908, county of Baraga, as a member representing persons familiar with abuse, succeeding the Honorable Larry E. Julian of Lennon, who has resigned, for a term expiring on December 19, 2001.

Mr. Robert R. Tisch, 2900 E. Delhi, Ann Arbor, Michigan 48103, county of Washtenaw, as a member representing parents, succeeding Mrs. Gratia K. Lousma of Ann Arbor, whose term has expired, for a term expiring on December 19, 2002.

Dr. Christine M. Nelson, 213 Hampton S.E., Grand Rapids, Michigan 49506, county of Kent, as a member representing professional providers, succeeding Dr. Grenae` Dudley of Southfield, whose term has expired, for a term expiring on December 19, 2001.

November 8, 1999

There are herewith presented for consideration and confirmation by the Senate, the following appointments and reappointments to office:

Michigan Tax Tribunal

Mr. Thomas J. Hughes, 1111 Willow Lane, Birmingham, Michigan 48009, county of Oakland, as a member representing attorneys, succeeding himself, for a term expiring on June 30, 2003.

Mr. R. Conrad Morrow, 37541 Burton Drive, Farmington Hills, Michigan 48331, county of Oakland, as a member representing real estate appraisers, succeeding himself, for a term expiring on June 30, 2003.

Mr. Richard A. Southern, 5750 White Lake Road, Clarkston, Michigan 48346, county of Oakland, as a member representing general public with at least five years of state or local tax experience, succeeding Mr. Norman D. Shinkle of Williamston, who has resigned, for a term expiring on June 30, 2002.

Ms. Victoria L. Enyart, 2411 Twilight Street, Jackson, Michigan 49203, county of Jackson, as a member representing Certified Level IV Assessors, succeeding Ms. Lynette Markowski of Drummond Island, who has resigned, for a term expiring on June 30, 2000.

Sincerely,
John Engler
Governor

The appointments were referred to the Committee on Government Operations.

Senator Murphy entered the Senate Chamber.

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:

Senate Bill No. 763, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 36109 (MCL 324.36109), as amended by 1996 PA 233.

The above bill was read a third time.

The question being on the passage of the bill,
 Senator Jaye offered the following amendment:

1. Amend page 9, following line 19, by inserting:

"(9) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, BEGINNING ON THE EFFECTIVE DATE OF THE 1999 AMENDMENTS TO THIS SECTION, A PUBLICLY HELD CORPORATION IS NOT ELIGIBLE FOR THE TAX CREDITS PROVIDED IN THIS SECTION."

The question being on the adoption of the amendment,

Senator V. Smith requested the yeas and nays.

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

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

Roll Call No. 582

Yeas—16

Byrum	Emerson	Leland	Smith, A.
Cherry	Hart	Miller	Smith, V.
DeBeaussaert	Jaye	Murphy	Vaughn
Dingell	Koivisto	Peters	Young

Nays—22

Bennett	Goschka	McManus	Shugars
Bullard	Gougeon	North	Sikkema
DeGrow	Hammerstrom	Rogers	Steil
Dunaskiss	Hoffman	Schuette	Stille
Emmons	Johnson	Schwarz	Van Regenmorter
Gast	McCotter		

Excused—0

Not Voting—0

In The Chair: President

Protest

Senator McManus, under his constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senator Jaye to Senate Bill No. 763 and moved that the statement he made during the discussion of the amendment be printed as his reasons for voting "no."

The motion prevailed.

Senator McManus' statement is as follows:

I rise to oppose the Jaye amendment and start from the premise that when we did the hearings last summer across the state, we were looking for ways which we could help improve the agriculture situation in the state of Michigan and at the same time preserve state farmland.

When it comes to Public Act No. 116, which is a bill that was put together better than 30 years ago with all the various factors that were involved in land use at the time, we only suggested one change and no more. That one change was to lower the 7-percent requirement to 3.5 percent. I would encourage you to stick with that today and not get into a whole lot of other changes in Public Act No. 116. As far as this particular strawman approach, we don't have publicly held corporations in farming in Michigan. In the first place, there isn't money enough in it. I don't know why anybody would invest in a publicly held farm corporation because of the kind of money you can make in the stock market. We do have family-held corporations in the state of Michigan. They're put together by families who don't want to divide up the agricultural land into separate ownerships but want to do it with a corporate entity. We have some of those; they're mainly done for legal purposes.

This whole issue of factory farms is a strawman issue thrown up for political reasons, apparently, and I would suggest we turn the amendment down.

Senator Rogers moved that the remaining pending amendments offered by Senator Jaye be considered en bloc. The motion prevailed.

Senator Jaye offered the following amendment:

1. Amend page 9, following line 19, by inserting:

“(9) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, AN OWNER OF RESIDENTIAL PROPERTY MAY ENTER INTO A DEVELOPMENT RIGHTS AGREEMENT WITH THE DEPARTMENT FOR THE PURPOSE OF PRESERVING THE OPEN SPACE ON THAT RESIDENTIAL PROPERTY. AN OWNER OF RESIDENTIAL PROPERTY AND RELATED BUILDINGS COVERED BY 1 OR MORE DEVELOPMENT RIGHTS AGREEMENTS WHO IS REQUIRED OR ELIGIBLE TO FILE A RETURN AS AN INDIVIDUAL OR A CLAIMANT UNDER THE STATE INCOME TAX ACT MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX LIABILITY FOR THE AMOUNT BY WHICH THE PROPERTY TAXES ON THE LAND AND STRUCTURES, INCLUDING THE HOMESTEAD, RESTRICTED BY THE DEVELOPMENT RIGHTS AGREEMENT EXCEED 7% OF THE HOUSEHOLD INCOME AS DEFINED IN CHAPTER 9 OF THE STATE INCOME TAX ACT, 1967 PA 281, MCL 206.501 TO 206.532.”.

Senator Jaye offered the following amendment:

1. Amend page 1, line 7, after “operation,” by inserting “NOT”.

Senator Jaye offered the following amendment:

1. Amend page 1, line 7, after “including” by inserting “NOT MORE THAN \$250,000.00, AS THIS AMOUNT IS ADJUSTED EACH YEAR TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX, APPORTIONED FOR”.

The question being on the adoption of the amendments,

Senator V. Smith requested the yeas and nays.

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

The amendments were not adopted, a majority of the members serving not voting therefor, as follows:

Roll Call No. 583

Yeas—15

Cherry	Hart	Miller	Smith, V.
DeBeaussaert	Jaye	Murphy	Vaughn
Dingell	Koivisto	Peters	Young
Emerson	Leland	Smith, A.	

Nays—23

Bennett	Gast	McCotter	Shugars
Bullard	Goschka	McManus	Sikkema
Byrum	Gougeon	North	Steil
DeGrow	Hammerstrom	Rogers	Stille
Dunaskiss	Hoffman	Schuette	Van Regenmorter
Emmons	Johnson	Schwarz	

Excused—0

Not Voting—0

In The Chair: President

Protests

Senators Emmons, Rogers and Goschka, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendments offered by Senator Jaye to Senate Bill No. 763 and moved that the statements they made during the discussion of the amendments be printed as their reasons for voting “no.”

The motion prevailed.

Senator Emmons’ statement, in which Senator Rogers concurred, is as follows:

I think we need some truth in legislation.

This is a 30-year-old program. It’s been in effect 30 years. All of the imaginations of the Senator who is proposing these amendments have not happened.

It bothers me a lot to have farmers talked about in the way the Senator does because there isn’t anybody who works harder, and this program has helped farmers. It hasn’t helped rich executives. It hasn’t helped publicly owned corporations—it’s helped farmers. If there were all of these terrible problems with PA 116, the Farmland Preservation Act, somebody, somewhere in the 30 years would have found them and would have taken care of them. It wouldn’t have happened in a lot of legislatures because simply more people were tied to the land, and they knew what a farmer did and what went on on a farm.

One of these bills is particularly odorous, I think, because I live on a farm, and I know what went on in that farmhouse. There was always an office. There were hired hands living in the farmhouse, and they were fed at the kitchen table. That’s not out-of-line. I’ve been up to McManus’ farm in Traverse City. Clara was feeding people who worked on their farm in their farmhouse, and that’s generally what a farmhouse is used for.

These amendments are looking for a problem that just flat out isn’t there. Nobody I know is going to sign out for 10 or 20 years for this program unless they really have a benefit.

The kind of people that are being talked about in these amendments simply don’t have farm income nor do they live on farms.

I oppose all of these amendments.

Senator Rogers’ statement is as follows:

The reason that we are here today is because under Proposal A we gave tax relief to the very people the Senator from the 12th District says he supposedly wants to help. Public Act No. 116 was designed to preserve farmland in the state of Michigan from development, from urban sprawl, from taking away food-producing land and converting it to something other than that. This program has been around for 12 years, and it has worked. What happened under Proposal A, when we granted tax relief to all of those hard-working Michigan families and their residences, and my parents, my homestead, your homestead, and everybody in here, is it disadvantaged the whole concept of preserving farmland under Public Act No. 116.

Now the Senator did not do his homework very well because the numbers he gives you do not include: (1) cost of operations on farms, and (2) it does not account for the number of those farms that he discussed, including hobby farmers—his words—that will be enrolled in Public Act No. 116. The numbers enrolled in Public Act No. 116 are shrinking. They are shrinking because the pressure to develop that land is greater than any tax relief that we can give them under the current system. This improves that system. It works for farmers, family farmers, farmers of 1,000 acres, 500 acres, 10 acres, or 50 acres. Who cares, if they are farming and producing food on that ground? We ought to stand up for them today.

We ought to stand up proudly and say we support the farmers in the great state of Michigan. We want you to produce food right here at home. I love the fact that we can go down in the summertime and buy fruits and vegetables for my family. I do not want to see that go away. I do not want to see another subdivision on some great fertile ground here in this state if we can avoid it. If they want to be there, and they want to farm that land, we need to encourage them.

Right now less than 8 percent of the farmers coming into agriculture are under the age of 35. What is going to happen to agriculture, to farming in Michigan, if we cannot attract new people to farming? It is going to go away, and you are going to have more strip malls, more developments, less food grown here in this state, and more dependency on foreign countries for food. It is that important of an issue. That is why we have kind of rushed this package through, through the leadership of Senator McManus and those of us who saw the need and took up bills to fill the void for what we could do for those farmers here in the state. It is that important.

What the Senator from the 12th District seeks to do is kind of blow a hole in the plan to save farms. It sounds great. It makes for great rhetoric, and maybe it gets a headline, but it certainly is a disservice to those who are getting up early. They are working all day; they are going home and going to bed late. They are finding out that not only are they not going to make any money, it is going to cost them money to get those crops out of the field. It is about time that we stood up in Michigan and said that we respect the work that they do.

I would even encourage the Senator from the 12th District to go down and look at the peach orchards in Romeo. I think that is his district. If there is any land that we ought to be protecting in one of the fastest growing counties in the state, it is Macomb County and those peach orchards. Those farmers have earned the right for us to make it at least economically viable for them to toil hard and earn a living. A decent living is all we are asking. If we are going to do that, we need to stand up today and say “no” to the Jaye amendments. They seek to do nothing but derail this train from helping the very people who need it most in this state. I wish the Senator had joined us in those task force hearings. I think he could have learned a lot about the plight of agriculture in the state of Michigan. A box of oats, you pay \$3.50-\$4.00 for in cereal, the average farmer makes less than a nickel. On a loaf of bread, you see 12 slices in the average loaf of bread, and less than three-quarters of that loaf of bread goes to him or his family.

It is time that we stand up for those people. It is time that we stand up for farmland preservation in its truest sense and support this bill without loading it up with amendments that seek to destroy the very thing we are trying to do. I urge this body’s strong rejection of this amendment. It is not about saving family farms. It’s about lining the pockets of people who are doing okay in this economy right now anyway. I urge the defeat of this amendment.

Senator Goschka’s statement is as follows:

I also rise in opposition to these amendments. We really need to be about the business of preserving farmland in the state of Michigan. I applaud Senator Rogers for his leadership in recognizing the importance of farmland preservation. These amendments, however well intentioned, change the entire intent of this bill. It is because of that that we must turn down these amendments, preserve the integrity of the intent of the legislation, and preserve farmland for Michigan. I urge opposition to these amendments.

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. 584

Yeas—36

Bennett	Emmons	Leland	Schwarz
Bullard	Gast	McCotter	Shugars
Byrum	Goschka	McManus	Sikkema
Cherry	Gougeon	Miller	Smith, A.
DeBeaussaert	Hammerstrom	Murphy	Steil
DeGrow	Hart	North	Stille
Dingell	Hoffman	Peters	Van Regenmorter
Dunaskiss	Johnson	Rogers	Vaughn
Emerson	Koivisto	Schuette	Young

Nays—2

Jaye	Smith, V.
------	-----------

Excused—0

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Protest

Senator V. Smith, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 763 and moved that the statements he made during the discussion of the amendments offered by Senator Jaye be printed as his reasons for voting “no.”

The motion prevailed.

Senator V. Smith’s first statement is as follows:

I can appreciate the argument that was made by the good Senator from the 23rd District. I’m quite sure that farmers do work hard, but I also understand the nature of the amendments put forth by the good Senator from the 12th District. There are a lot of other hardworking people in this state. We’ve got a lot of truck drivers who are driving long hours. We’ve got a lot of small business owners who are putting in 14 to 16 hours a day in order to make it. I understand the nature of the Jaye amendments. I understand what he is trying to do with these amendments. I don’t really see anything wrong with assenting some of the protections that we’ve offered to farmers to other individuals in terms of open space preservation, and I also don’t understand the problem with trying to limit the resources that we provide and the breaks that we provide to farmers to those that are struggling. The Jaye amendment has a \$250,000 threshold. If you’re living in a house worth more than a quarter of a million dollars, I don’t know how much struggling you’re doing. There are plenty of houses within the city of Detroit and only the ones that are worth a quarter million are in our most expensive neighborhoods. The average person is not living in a \$250,000 house. These are our very well-to-do, well off.

So if we’re going to try to provide benefits for struggling farmers, I can understand the logic of the amendments made by the Senator from the 12th District. These folks are not struggling, and they need to come into the real world and stop being pampered by some of my colleagues on this floor.

Senator V. Smith’s second statement is as follows:

Oh my goodness! The good Senator from the 12th District has really started a wail and cry from the other side of the aisle—only because he has proposed limiting the advantage of these amendments to those that don’t live in houses that are valued at less than \$250,000. I don’t know about the average Senator on this floor, but most of the people that I represent do not live in \$250,000 houses. I am as much in support of preserving open farmland as everyone else in this Senate, and I’ve voted plenty of times to do so. What’s wrong with the amendment that the good Senator from the 12th District put on the table? Is it because all of a sudden you want to limit this benefit to those that are most in need that now there’s a problem with these amendments? I think the problem with these amendments is the clarity that it points out and the differences in approach. So go ahead and support the farmers that have these big rich houses. While the people that I represent—where you want to take money out of my constituents’ pockets to pay for it—where you want to extend their exemption from 7 percent of their income to 3.5 percent of their income—where is the same concern about the voters that I represent that are living on \$20,000 to \$30,000 to \$25,000 income a year? They won’t ever get to see a \$250,000 house.

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

The motion prevailed.

Senator Jaye’s first statement is as follows:

What this legislation does is it says that any agriculture property that has property taxes that exceed 3.5 percent of the income will be rebated to the taxpayers by the state treasury. What this amendment does is it says it excludes publicly held corporations from this special subsidy. We can target the family farms. We can target the partnerships. We can target the L corporations, which are the hybrid of partnerships, but a publicly held corporation that has property taxes exceeding 3.5 percent should not get a special subsidy by the taxpayers. They should pull their own weight. I request your support of this amendment.

Senator Jaye’s second statement is as follows:

The trend clearly is more factory farms—large processing of pigs and chickens. If these bill sponsors and advocates say, “Oh, but there aren’t any factory farms out there right now,” then why don’t we shut the door to potential abuse by a large corporation? Corporations should pull their own weight. They should be good corporate citizens. They should pay their property taxes. This amendment will shut the door on any potential abuse and would actually help preserve family farms by making less of a financial incentive for these big corporations to gobble up an adjacent family farm.

Senator Jaye’s third statement is as follows:

It certainly is disappointing to find out that the state Senate in Michigan is not a deliberative body. We have legislation in front of us today to spend over \$11 million each year of the taxpayer’s sacred dollars, and I had five amendments, and in the interest of time, I withdrew the first one.

I don't believe it is a burden to spend maybe 15 or 20 minutes debating public policy issues that add up to over \$11 million of the taxpayers' money. I also believe that, although it may be uncomfortable for folks to vote on certain amendments, we were not drafted to be legislators. We volunteered. The only way you may be uncomfortable on legislation is either you violates your taxpayer preference or your conscience, or both.

Mr. President and Senate colleagues, the area for abuse in this legislation is that the property tax break extends not just to the agriculture land and the barn and all the equipment but also to the home, the homestead. My amendments which are before us say number one, that all people who own homes, all residential property should be exempt from taxes if it exceeds 3.5 percent of their income. Where did I get such an idea? Article 1, Section 1 of the Michigan Constitution—all political powers inherent in the people of government is instituted for the equal benefit, security and protection.

The Michigan Homestead Property Tax Credit is only \$1,200 and has not been increased for years.

I believe that if one person's home is protected from property taxes exceeding 3.5 percent of their income, then all residential property under the concept of open space should also be protected. That also addresses the uniformity clause of the Michigan Constitution.

The second part is that there are some wealthy townships that have minimum lot requirements—five acres or more. They do this to maintain an affluent community. Sometimes they try to keep working people out of the community. Well, agricultural land, a farm under definition in Michigan law is five acres or more in which you have \$501 of agriculture produce. What these amendments do is try to close the loopholes, so you don't have a wealthy individual say to the neighbor, "Look, bud, we're in this cul-de-sac with five acre lots. If you purchased from me \$501 of grazing rights or vegetables, I'll purchase from you \$501 of grazing rights or vegetables, and guess what, we'll both have a refund from the taxpayers anytime our property taxes on our big mansion, on our five or ten acre parcels of property, exceeds 3.5 percent of our income." How often does that happen? It happens too frequently. Take a look at the Senate Fiscal Agency report.

We have in the state of Michigan people without any income at all getting \$1.6 million of a tax break, and people making less than \$1; \$659 million are getting these special tax breaks. There are farms, farms valued by sales, less than \$1,000 of sales. There 7,756 farms that have less than \$1,000 in sales. Between \$1,000 and \$2,499, there are another 4,801 farms. These are called, most commonly, hobby farms or gentlemen's farms. Well, if these individuals want to have a hobby, they want to have an activity, good for them. However, the legislation is currently drafted where a sharp C.P.A. could allow a person who raises race horses for a living to get a sharp tax break if during that year, the horses didn't do well and suffered an economic loss. Or you can have a person as long, as their property is zoned agriculture, has had a business loss. Again the taxpayers will subsidize the individual. Or maybe they're house rich and cash poor. All they have to do is to have \$200 per acre of agriculture products, grazing or vegetables.

I do support the family farms. I voted for the property tax breaks, the right to farm. I voted, and I will be voting for assessment at the lowest current value as opposed to highest use, but I do not believe that it is appropriate for taxpayer dollars to be used to subsidize wealthy individuals or to subsidize people engaged in wealthy activities, like equestrian or horse racing.

My amendment would extend the tax break to every other homeowner in the state of Michigan. It would limit the tax breaks to the homes to \$250,000 or more so we are not going to be subsidizing millionaires, and these amendments I wish could have been dealt with singly.

I would hope that we would turn this legislation into a narrowly focused approach to help the family farmer, the legitimate family farmer, not the scam artist with five or ten acres who are shirking their responsibility to pay property taxes that benefits children, senior citizen services, police and fire services that they are using and should have to pay their share.

Senator Jaye's fourth statement is as follows:

I wish we could have truth in advertising at least on issues that are in front of us on paper and in black and white and amendments. I live less than two miles from these Romeo peach orchards, and it is those areas that I am trying to protect. What I don't want to protect are individuals that are maybe about six miles away from me who are on five-acre lots with million-dollar homes, who are able to scam the taxpayers. I don't want to punish those who are doing well. Good luck to the millionaires. However, the millionaires should not get special subsidies from the other working-class people in the state of Michigan. If you're doing well, I don't want to increase taxes on you, but I also want to draw the line and say that just because you're doing well, you shouldn't take advantage of these loopholes to get special tax breaks paid for by all the other working men and women in small businesses in the state of Michigan.

My amendments, if you read the amendments, focus these tax breaks on the legitimate farmers. The average farmer according to the Senate Fiscal Agency, a nonpartisan group of individuals, is 215 acres, not five acres—215. In 1997, the average farm sale was \$361 per acre, not \$200 per acre. My legislation puts some honesty and focus and accountability in the process while closing the door to those who are wealthy from scamming the taxpayers in the state of Michigan.

I know I might lose a couple of votes of those silk stocking rich folks up in northern Macomb County that have these five-acre lots. However, we took an oath of office in order to pass legislation for people's equal protection and benefit. I was not elected to take the taxpayers' sacred dollars to subsidize people who are well off. If you vote for these Jaye amendments, you're protecting the family farmer, and you are closing the door on those scam artists, who are well off and who are not involved in farming but who are looking for a special tax break anytime their property taxes exceed 3.5 percent of their income taxes not on their land, but on their mansions.

I request you take a second look at the amendment and support these three amendments.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator Rogers moved that the rules be suspended and that the following bills, now on Committee Reports, be placed on the General Orders calendar for consideration today:

House Bill No. 4624

House Bill No. 4625

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

By unanimous consent the Senate proceeded to the order of

General Orders

Senator Rogers 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 Posthumus, designated Senator Goschka as Chairperson.

After some time spent therein, the Committee arose; and, the President pro tempore, Senator Schwarz, having assumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bills:

Senate Bill No. 878, entitled

A bill to amend 1970 PA 193, entitled "An act to provide for the compilation of the general laws of this state and the compilation and revision of state administrative rules; and to prescribe the functions of the legislative council relative thereto," by amending the title and sections 1, 2, 3, 4, 5, 6, 7, and 8 (MCL 8.41, 8.42, 8.43, 8.44, 8.45, 8.46, 8.47, and 8.48).

Senate Bill No. 879, entitled

A bill to amend 1986 PA 268, entitled "Legislative council act," by amending sections 201, 202, and 203 (MCL 4.1201, 4.1202, and 4.1203), section 203 as amended by 1999 PA 101.

House Bill No. 4624, 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 allow for the operation of certain facilities by private entities; 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 44 (MCL 791.234 and 791.244), section 34 as amended by 1998 PA 512 and section 44 as amended by 1992 PA 181.

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

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

Senate Bill No. 830, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 9 (MCL 211.9), as amended by 1996 PA 582.

Substitute (S-2).

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
Senate Bill No. 867, entitled

A bill to create certain authorities; to authorize creation of certain funds; to authorize expenditures from the funds; to finance the purchase of land and the development of certain convention facilities and of public improvements or related facilities; and to prescribe the powers and duties of certain state and local officials.

Substitute (S-1).

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
Senate Bill No. 877, entitled

A bill to amend 1969 PA 306, entitled "Administrative procedures act of 1969," by amending the title and sections 5, 7, 7a, 8, 24, 25, 33, 36, 40, 41a, 42, 44, 45, 46, 47, 48, 52, 53, 55, 56, 57, 58, and 59 (MCL 24.205, 24.207, 24.207a, 24.208, 24.224, 24.225, 24.233, 24.236, 24.240, 24.241a, 24.242, 24.244, 24.245, 24.246, 24.247, 24.248, 24.252, 24.253, 24.255, 24.256, 24.257, 24.258, and 24.259), the title as amended by 1993 PA 7, sections 5, 24, 52, and 56 as amended by 1982 PA 413, section 7 as amended by 1996 PA 489, sections 7a, 40, and 53 as added by 1984 PA 273, sections 8 and 57 as amended by 1988 PA 333, sections 42, 44, 45, and 46 as amended by 1993 PA 141, sections 48, 55, and 58 as amended by 1986 PA 292, and section 59 as amended by 1995 PA 178, and by adding sections 28, 34, 39, 39a, 45a, and 54.

Substitute (S-1).

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

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

House Bill No. 4625, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," (MCL 760.1 to 777.69) by adding section 3a to chapter X.

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

1. Amend page 2, line 2, by striking out "RECOMMENDED".
2. Amend page 2, following line 7, following subdivision (C), by inserting:

"(4) WHILE ESTABLISHING THAT A PLEA OF GUILTY, GUILTY BUT MENTALLY ILL, OR NOLO CONTENDERE WAS MADE UNDERSTANDINGLY AND VOLUNTARILY UNDER MICHIGAN COURT RULE 6.302 OR ITS SUCCESSOR RULE, AND BEFORE ACCEPTING THE PLEA, THE COURT SHALL ADVISE THE DEFENDANT THAT, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IF THE PLEA IS ACCEPTED BY THE COURT, THE DEFENDANT WAIVES THE RIGHT TO HAVE AN ATTORNEY APPOINTED AT PUBLIC EXPENSE TO ASSIST IN FILING AN APPLICATION FOR LEAVE TO APPEAL OR TO ASSIST WITH OTHER POSTCONVICTION REMEDIES, AND SHALL DETERMINE WHETHER THE DEFENDANT UNDERSTANDS THE WAIVER. UPON SENTENCING, THE COURT SHALL FURNISH THE DEFENDANT WITH A FORM DEVELOPED BY THE STATE COURT ADMINISTRATIVE OFFICE THAT IS NONTECHNICAL AND EASILY UNDERSTOOD AND THAT THE DEFENDANT MAY COMPLETE AND FILE AS AN APPLICATION FOR LEAVE TO APPEAL.

Enacting section 1. This amendatory act takes effect April 1, 2000."

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

By unanimous consent the Senate returned to the order of

Third Reading of Bills

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

Senate Bill No. 734, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by amending section 4d (MCL 205.94d), as amended by 1992 PA 267.

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. 585**Yeas—37**

Bennett	Goschka	McCotter	Shugars
Bullard	Gougeon	McManus	Sikkema
Cherry	Hammerstrom	Miller	Smith, A.
DeBeaussaert	Hart	Murphy	Smith, V.
DeGrow	Hoffman	North	Steil
Dingell	Jaye	Peters	Stille
Dunaskiss	Johnson	Rogers	Van Regenmorter
Emerson	Koivisto	Schuette	Vaughn
Emmons	Leland	Schwarz	Young
Gast			

Nays—0**Excused—0****Not Voting—1**

Byrum

In The Chair: Schwarz

The Senate agreed to the title of the bill.

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

The motion prevailed.

Senator Schuette's statement is as follows:

I rise in support of Senate Bill No. 734, and I would urge adoption of this bill. This bill amends the Use Tax Act so that meals provided to employees by restaurants, people in the food service industry who are trying to help the employees by giving them free lunch or breakfast or dinner, which I think is a good benefit for employees to have, doesn't end up being a sting operation where they're having to pay taxes after they're being kind to their employees. I'd urge adoption of this bill.

I also appreciate the work of Senator Shugars, who has a companion measure on the sales tax component of this bill. I'd urge adoption.

The following bill was read a third time:

Senate Bill No. 773, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 4g (MCL 205.54g), as amended by 1999 PA 116.

The question being on the passage of the bill,

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

The motion prevailed.

Senator Byrum entered the Senate Chamber.

Senator Shugars offered the following amendment:

1. Amend page 4, line 16, after "HOURS" by inserting "FOR FREE OR".

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

The question being on the passage of the bill,

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

Roll Call No. 586**Yeas—38**

Bennett	Gast	McCotter	Shugars
Bullard	Goschka	McManus	Sikkema
Byrum	Gougeon	Miller	Smith, A.
Cherry	Hammerstrom	Murphy	Smith, V.
DeBeaussaert	Hart	North	Steil
DeGrow	Hoffman	Peters	Stille
Dingell	Jaye	Rogers	Van Regenmorter
Dunaskiss	Johnson	Schuette	Vaughn
Emerson	Koivisto	Schwarz	Young
Emmons	Leland		

Nays—0**Excused—0****Not Voting—0**

In The Chair: Schwarz

The Senate agreed to the title of the bill.

By unanimous consent the Senate proceeded to the order of

Resolutions

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

Senate Resolution No. 99**Senate Resolution No. 100**

The resolution consent calendar was adopted.

Senator DeBeaussaert offered the following resolution:

Senate Resolution No. 99.

A resolution honoring St. Joseph's Mercy of Macomb for the past 100 years of service to the community.

Whereas, On November 21, 1899, the Sisters of Charity dedicated the St. Joseph Sanitarium and Bath House. It was built with the promise of quality service and commitment to the community to relieve suffering of body, mind, and spirit. That mission continues today, 100 years later; and

Whereas, In 1900, St. Joseph's renovated the third floor of the facility and began treating acutely ill patients. St. Joseph's was essentially the only hospital between Port Huron and Detroit at that time; and

Whereas, Over the years, St. Joseph's continued to expand and improve services. In the 1920s 100 beds were added. In the 1930s, the first pediatrics department was established, the first house doctor hired, and the first outpatient clinic opened. The 1950s saw the opening of an X-ray school, a disabled children's clinic, and physical therapy department. The area's first inpatient alcoholism treatment center was opened in the early 1960s, and St. Joseph's was one of the first to recognize mental illness as a disease; and

Whereas, The greatest expansion of St. Joseph's capabilities came in 1972 when ground was broken for its Clinton Township facility. The facility opened in 1975 as a 300-plus-bed hospital and remains a focal point for the provision of high quality, technically advanced health services; and

Whereas, Sponsorship of St. Joseph's was transferred in 1990 from the Sisters of Charity to the Sisters of Mercy. St. Joseph's Mercy became part of an innovative partnership between Mercy Health Services and Henry Ford Health System. Since that transition, St. Joseph's Mercy has become an even stronger force in the Macomb County community, developing new programs, critical life-saving initiatives, and community outreach activities; and

Whereas, St. Joseph's Mercy has upheld the mission and tradition of growing, changing, and responding to the needs of the community for the past 100 years. However, the advancements in technology are only part of the story. The spirit that guides St. Joseph's is the very heart and soul of the organization dedicated to creating a healthier Macomb County; now, therefore, be it

Resolved by the Senate, That this document is signed and dedicated to commend and congratulate St. Joseph's Mercy of Macomb on its historic service to the community for 100 years; and be it further

Resolved, That copies of this resolution be transmitted to St. Joseph's Mercy of Macomb as evidence of our respect and admiration for the men and women who for the past 100 years have helped build a better, healthier Michigan through their programs and services.

Senators Dingell, Goschka and Schwarz were named co-sponsors of the resolution.

Senators Young, V. Smith, Murphy, Hart, Vaughn, Miller, Leland and Schwarz offered the following resolution:

Senate Resolution No. 100.

A resolution memorializing the life of Mildred L. Stallings.

Many daughters have done virtuously, but
thou excellest them all...Give her of the
fruit of her hands; and let her own works
praise her in the gates.

—Proverbs 31:29-31

Whereas, It is with great respect for the loving legacy that Ms. Stallings bequeathed that we offer our words of praise as a memorial for her life. A beloved mother, a successful professional, and an active and concerned citizen, she touched and enriched countless lives through her kind words, good deeds, and fine example. While her voice is silenced, she will long live in the hearts of all who had the pleasure of knowing her; and

Whereas, Born in Macon, Georgia, Ms. Stallings moved with her family to Detroit where she attended Wayne State University and worked at Winkelman's until retiring in 1978. She became interested in politics at an early age and utilized her many talents to actively support those areas which were important to her—including civil rights and women's rights. Given her active involvement and many contributions to the community, Ms. Stallings moved quickly through the Democratic Party ranks. She served under former Mayor Coleman Young as the administrative coordinator for the Employment and Training Department and, in 1989, became chairwoman of the Democrats' 14th congressional district. She also served on the Democratic National Committee; and

Whereas, Ms. Stallings not only enjoyed a successful career, but was also recognized throughout the community as a dedicated mother and grandmother who cherished her twin granddaughters. She was involved in several community organizations giving freely of her time and many talents. With genuine respect for her legacy of accomplishments, we join with the community in extending our condolences to her family and friends. She will be sincerely missed and long remembered; and

Whereas, The life of Mildred L. Stallings was a study in the power of hard work, dedication, and commitment to her family, career, community, and her state. We are deeply grateful for her achievements which will continue to help Michigan in the future; now, therefore, be it

Resolved by the Senate, That we offer words of praise and gratitude as a memorial for the good life of Mildred L. Stallings. May her family accept this resolution as a symbol of the high regard in which her memory is held by the people of Michigan; and be it further

Resolved, That a copy of this resolution be transmitted to the family of Mildred L. Stallings as evidence of our respect and gratitude for her outstanding contributions.

House Concurrent Resolution No. 49.

A concurrent resolution to memorialize the Congress and the President of the United States to maintain or improve our nation's commitment to military retirees to provide lifetime health care.

Whereas, The men and women who have devoted themselves to military service on behalf of their fellow citizens are entitled to receive the benefits promised them when they began their patriotic service. When these people signed up for the difficult and dangerous work of protecting our country and way of life, they were assured that the country would provide lifetime health care benefits; and

Whereas, This implied contract is not being fulfilled. Upon reaching the age of sixty-five, military retirees lose a significant portion of promised health care due to Medicare eligibility. This situation is made more severe by the fact that many military retirees do not live near military treatment facilities; and

Whereas, Military retirees have significantly less access to health care than other retired federal employees covered under the Federal Employees Health Benefits Program. This is especially true in light of inequities between coverages for pharmaceuticals; and

Whereas, There are proposals under consideration in Congress to rectify this problem and extend to military retirees the benefits they have earned and deserve. In addition, there are pilot projects operating that address the problem by allowing Medicare-eligible retirees to enroll in a program through the Department of Defense. Clearly, there are options available to provide military retirees the care to which they are entitled; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we memorialize the Congress and the President of the United States to maintain or improve our nation's commitment to military retirees to provide lifetime health care; and be it further

Resolved, That copies of this resolution be transmitted to the Office of the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

The House of Representatives has adopted the concurrent resolution.

Pending the order that, under rule 3.204, the concurrent resolution be referred to the Committee on Government Operations,

Senator Rogers moved that the rule be suspended.

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

The question being on the adoption of the concurrent resolution,

Senator Rogers moved that the concurrent resolution be referred to the Committee on Human Resources, Labor, Senior Citizens and Veterans Affairs.

The motion prevailed.

Senators Dingell, Goschka and Schwarz were named co-sponsors of the concurrent resolution.

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

Senate Bill No. 734

By unanimous consent the Senate proceeded to the order of

Statements

Senators Jaye and McManus asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Jaye's statement is as follows:

I'm going to speak a little more on the record about the administrative rules process and about the Joint Committee on Administrative Rules.

The Michigan Constitution is recognized in every democracy and every religion says that there are certain inalienable human rights—political rights, civil rights. Article 1, Section 1 of the Michigan Constitution says all political powers inherent in the people, government is instituted for the benefits, security and protection.

We, as legislators, are elected to vote on policy. All of the power of the people is temporarily given to the politicians in the form of the Constitution. The Constitution is a contract between the people and the legislators. It says we will temporarily give you, the politicians, certain powers within these boundaries.

Underneath the Constitution, we pass on laws for issues that the taxpayers, the working people of Michigan, need and expect. The Constitution requires of us public education, public health, public transportation, recreation and stewardship of the environment. We vote on laws in broad language and goals. However, it doesn't end there. Then these bureaucrats, these unelected, unaccountable bureaucrats promulgate rules. Those rules have the force of law. What is the force of law? That means the police power the state, a sheriff or a police officer or a bureaucrat can shut down your business, can close your business, can take over your school operation based on the rules that either go too far, or go to the left or to the right, or don't go far enough based on legislative intent. That's why the rules process is so important to every Michigan citizen.

JCAR, Joint Committee on Administrative Rules, was set up to make sure there was honesty, integrity and accountability in the legal promulgation of laws. We should have a system where those rules come to us, to the Legislature, not just the committees, but at the full House and Senate level for our approval or rejection within a reasonable time frame. This still gives the bureaucrats a lot of flexibility. The day-to-day managers, underneath the rules, can promulgate bulletins and can promulgate memorandums.

I'll give you an example: We had a sales tax exemption on food because food was a necessity for human life, and sales tax is regressive. However, these bureaucrats in the Treasury Department promulgated a rule, a bulletin, that said that crackers with peanut butter between them were sandwiches, and since that was a prepared food, it was subject to the sales tax. Or they said, because Twinkies and Hostess cakes were delivered through a vending machine, the food was served to you. When the legislative intent was that when you go to a restaurant, that's being served to you, not by a vending machine.

These are some examples of why these rules by these bureaucrats who you can never fire, who are pushing around the small businesses, pushing around property owners, people who are trying to enjoy their cottage, that's why these rules are so very important for us as a Legislature to approve or disapprove, instead of just turning things over to the executive branch.

I know it's easy just to show up; however, we have an obligation. We have a constitutional duty to make sure that our legislative power is discharged through an accountability process that includes the rules procedures.

I want those rules to come to the full Senate and the full House, so we don't have to sub-delegation of our responsibility.

Think of all the responsibilities we have in addition to laws. We have case work; we have community events; we have helping people with their problems with state government. We've got our family obligations, and we have our staff obligations. With all the myriad of responsibilities, the bureaucrats know they can wear you down, wait you out, and with term limits, you will be gone.

So at the very least, let us collectively together agree that we are not just going to turn over the state government to any governor, Republican or Democrat, current or future and that we will make sure that the legislative rules comply with the majority vote in the House and the Senate as a preservation for the stewardship that we all individually and collectively maintain on behalf of the taxpayers, the voters of the state of Michigan.

Senator McManus' statement is as follows:

I rise to compliment the Senate this morning on the passage of Senate Bill No. 763, the amendment to Public Act No. 116, the Open Space and Farmland Preservation Act. This is one more step in a series of bills that are passing through the chambers this fall in order to preserve agriculture in this state and also, in the process of doing that, preserve farmland and open space. I think all Senators can take an at-a-boy this morning with the passage of this bill.

I want to especially commend Senator Rogers, the author and sponsor of the bill. He not only authored and sponsored this bill, but took the time this summer even though he was not on the agricultural task force to come to the hearings, listen to the farmers and what the other people in the community had to say about the importance of this issue.

Hats off to the Senators this morning, and particularly Senator Rogers, for this move.

By unanimous consent the Senate returned to the order of

Introduction and Referral of Bills

Senators Rogers, Hammerstrom, Johnson and Emmons introduced

Senate Bill No. 883, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 145e. The bill was read a first and second time by title and referred to the Committee on Judiciary.

Senator Jaye introduced

Senate Bill No. 884, entitled

A bill to require an employee to use the value of vacation time accrued during a work year by the end of that work year; and to prohibit an employer from carrying forward the value of an employee's vacation time accrued during a work year to a subsequent work year.

The bill was read a first and second time by title and referred to the Committee on Human Resources, Labor, Senior Citizens and Veterans Affairs.

Senator Steil introduced

Senate Bill No. 885, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 160 of chapter XVII (MCL 777.160), as added by 1998 PA 317.

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

House Bill No. 4458, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 803q. 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. 5040, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 811n. 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. 5041, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 811k. 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. 5042, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 811i. 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.

Committee Reports

The Committee on Local, Urban and State Affairs reported

Senate Bill No. 867, entitled

A bill to create certain authorities; to authorize creation of certain funds; to authorize expenditures from the funds; to finance the purchase of land and the development of certain convention facilities and of public improvements or related facilities; and to prescribe the powers and duties of certain state and local officials.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

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

Thaddeus G. McCotter
Chairperson

To Report Out:

Yeas: Senators McCotter, Shugars and Van Regenmorter

Nays: None

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

The Committee on Local, Urban and State Affairs reported

House Bill No. 4628, entitled

A bill to amend 1959 PA 168, entitled "An act to provide for township planning; for the creation, organization, powers and duties of township planning commissions; for the regulation and subdivision of land; and to prescribe penalties and provide remedies," by amending section 9 (MCL 125.329).

With the recommendation that the bill pass.

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

Thaddeus G. McCotter
Chairperson

To Report Out:

Yeas: Senators McCotter, Shugars and Van Regenmorter

Nays: None

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

The Committee on Local, Urban and State Affairs reported

House Bill No. 4629, entitled

A bill to amend 1846 RS 16, entitled "Of the powers and duties of townships, the election and duties of township officers, and the division of townships," by amending section 72a (MCL 41.72a), as amended by 1996 PA 465.

With the recommendation that the bill pass.

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

Thaddeus G. McCotter
Chairperson

To Report Out:

Yeas: Senators McCotter, Shugars and Van Regenmorter

Nays: None

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Local, Urban and State Affairs submits the following:

Meeting held on Wednesday, November 3, 1999, at 3:00 p.m., Room 405, Capitol Building

Present: Senators McCotter (C), Shugars, Van Regenmorter and Miller

Excused: Senator Murphy

The Committee on Families, Mental Health and Human Services reported

Senate Bill No. 661, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by amending the title, as amended by 1991 PA 98, and by adding section 710g.

With the recommendation that the bill pass.

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

Beverly S. Hammerstrom

Chairperson

To Report Out:

Yeas: Senators Hammerstrom, Johnson, Goschka, Hart and Vaughn

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Families, Mental Health and Human Services reported

Senate Bill No. 836, entitled

A bill to amend 1974 PA 258, entitled "Mental health code," by amending sections 100b and 705 (MCL 330.1100b and 330.1705), as added by 1995 PA 290.

With the recommendation that the bill pass.

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

Beverly S. Hammerstrom

Chairperson

To Report Out:

Yeas: Senators Hammerstrom, Gougeon, Jaye, Johnson and Goschka

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Families, Mental Health and Human Services reported

Senate Bill No. 837, entitled

A bill to amend 1994 PA 203, entitled "Foster care and adoption services act," by amending section 4c (MCL 722.954c), as added by 1997 PA 172.

With the recommendation that the bill pass.

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

Beverly S. Hammerstrom

Chairperson

To Report Out:

Yeas: Senators Hammerstrom, Gougeon, Jaye, Johnson, Goschka, Hart and Vaughn

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Families, Mental Health and Human Services submits the following:

Meeting held on Wednesday, November 3, 1999, at 3:00 p.m., Room 100, Farnum Building

Present: Senators Hammerstrom (C), Gougeon, Jaye, Johnson, Goschka, Hart and Vaughn

The Committee on Judiciary reported

Senate Bill No. 756, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 411 (MCL 750.411).

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

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

William Van Regenmorter
Chairperson

To Report Out:

Yeas: Senators Van Regenmorter, McCotter, Bullard, Rogers, Peters, V. Smith and Dingell

Nays: None

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

The Committee on Judiciary reported

House Bill No. 4010, entitled

A bill to amend 1964 PA 170, entitled "An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers and paying damages sought or awarded against them; to provide for the legal defense of public officers and employees; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal certain acts and parts of acts," by amending sections 1 and 2 (MCL 691.1401 and 691.1402), section 1 as amended by 1986 PA 175 and section 2 as amended by 1996 PA 150, and by adding section 2a.

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, McCotter, Bullard, Rogers, Peters, V. Smith and Dingell

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Judiciary reported

House Bill No. 4618, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2441 (MCL 600.2441).

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, McCotter, Bullard, Rogers, Peters, V. Smith and Dingell

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Judiciary reported

House Bill No. 4624, 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 allow for the operation of certain facilities by private entities; 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 44 (MCL 791.234 and 791.244), section 34 as amended by 1998 PA 512 and section 44 as amended by 1992 PA 181.

With the recommendation that the bill pass.

William Van Regenmorter
Chairperson

To Report Out:

Yeas: Senators Van Regenmorter, McCotter, Bullard, Rogers and Dingell

Nays: Senators Peters and V. Smith

The bill was referred to the Committee of the Whole.

The Committee on Judiciary reported

House Bill No. 4625, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," (MCL 760.1 to 777.69) by adding section 3a to chapter X.

With the recommendation that the bill pass.

William Van Regenmorter
Chairperson

To Report Out:

Yeas: Senators Van Regenmorter, McCotter, Bullard and Rogers

Nays: Senators Peters, V. Smith and Dingell

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submits the following:

Meeting held on Wednesday, November 3, 1999, at 1:00 p.m., Rooms 402 and 403, Capitol Building

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

The Committee on Farming, Agribusiness and Food Systems reported

Senate Bill No. 456, entitled

A bill to amend 1970 PA 207, entitled "An act to exempt certain dogs from license fees," by amending section 1 (MCL 287.291), as amended by 1984 PA 112.

With the recommendation that the bill pass.

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

George A. McManus, Jr.
Chairperson

To Report Out:

Yeas: Senators McManus, Stille, Byrum and Hart

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Farming, Agribusiness and Food Systems reported

Senate Bill No. 795, entitled

A bill to amend 1978 PA 90, entitled "Youth employment standards act," by amending section 11 (MCL 409.111), as amended by 1996 PA 499.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

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

George A. McManus, Jr.
Chairperson

To Report Out:

Yeas: Senators McManus, Stille and Gougeon

Nays: Senator Byrum

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Farming, Agribusiness and Food Systems submits the following:
Meeting held on Wednesday, November 3, 1999, at 1:30 p.m., Room 405, Capitol Building
Present: Senators McManus (C), Stille, Gougeon, Byrum and Hart

The Committee on Government Operations reported

Senate Bill No. 877, entitled

A bill to amend 1969 PA 306, entitled "Administrative procedures act of 1969," by amending the title and sections 5, 7, 7a, 8, 24, 25, 33, 36, 40, 41a, 42, 44, 45, 46, 47, 48, 52, 53, 55, 56, 57, 58, and 59 (MCL 24.205, 24.207, 24.207a, 24.208, 24.224, 24.225, 24.233, 24.236, 24.240, 24.241a, 24.242, 24.244, 24.245, 24.246, 24.247, 24.248, 24.252, 24.253, 24.255, 24.256, 24.257, 24.258, and 24.259), the title as amended by 1993 PA 7, sections 5, 24, 52, and 56 as amended by 1982 PA 413, section 7 as amended by 1996 PA 489, sections 7a, 40, and 53 as added by 1984 PA 273, sections 8 and 57 as amended by 1988 PA 333, sections 42, 44, 45, and 46 as amended by 1993 PA 141, sections 48, 55, and 58 as amended by 1986 PA 292, and section 59 as amended by 1995 PA 178, and by adding sections 28, 34, 39, 39a, 45a, and 54.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

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

Thaddeus G. McCotter
Chairperson

To Report Out:

Yeas: Senators McCotter, Hammerstrom and Sikkema

Nays: None

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

The Committee on Government Operations reported

Senate Bill No. 878, entitled

A bill to amend 1970 PA 193, entitled "An act to provide for the compilation of the general laws of this state and the compilation and revision of state administrative rules; and to prescribe the functions of the legislative council relative thereto," by amending the title and sections 1, 2, 3, 4, 5, 6, 7, and 8 (MCL 8.41, 8.42, 8.43, 8.44, 8.45, 8.46, 8.47, and 8.48).

With the recommendation that the bill pass.

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

Thaddeus G. McCotter
Chairperson

To Report Out:

Yeas: Senators McCotter, Hammerstrom and Sikkema

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Government Operations reported

Senate Bill No. 879, entitled

A bill to amend 1986 PA 268, entitled "Legislative council act," by amending sections 201, 202, and 203 (MCL 4.1201, 4.1202, and 4.1203), section 203 as amended by 1999 PA 101.

With the recommendation that the bill pass.

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

Thaddeus G. McCotter
Chairperson

To Report Out:

Yeas: Senators McCotter, Hammerstrom and Sikkema

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Government Operations reported

Senate Resolution No. 73.

A resolution to request the Michigan Board of Dentistry to reconsider disciplinary subcommittee sanctions imposed on Kimberlee Miller, and to clarify who may lawfully engage in the practice of teeth whitening to the general public. (For text of resolution, see Senate Journal No. 57, p. 1248.)

With the recommendation that the resolution be adopted.

Thaddeus G. McCotter
Chairperson

To Report Out:

Yeas: Senators McCotter, Hammerstrom and Sikkema

Nays: None

The resolution was placed on the order of Resolutions.

The Committee on Government Operations reported

Senate Concurrent Resolution No. 26.

A concurrent resolution to memorialize the Congress of the United States to enact legislation to provide for the establishment of a national cemetery in the Detroit metropolitan area.

(For text of resolution, see Senate Journal No. 77, p. 1709.)

With the recommendation that the concurrent resolution be adopted.

Thaddeus G. McCotter
Chairperson

To Report Out:

Yeas: Senators McCotter, Hammerstrom and Sikkema

Nays: None

The concurrent resolution was placed on the order of Resolutions.

COMMITTEE ATTENDANCE REPORT

The Committee on Government Operations submits the following:

Meeting held on Thursday, November 4, 1999, at 1:00 p.m., Room 405, Capitol Building

Present: Senators McCotter (C), Hammerstrom and Sikkema

Excused: Senators V. Smith and Miller

The Committee on Banking and Financial Institutions reported

Senate Bill No. 668, entitled

A bill to amend 1988 PA 161, entitled "Consumer financial services act," by amending sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, and 19 (MCL 487.2052, 487.2053, 487.2054, 487.2055, 487.2056, 487.2057, 487.2058, 487.2059, 487.2060, 487.2061, 487.2062, 487.2064, 487.2065, 487.2066, 487.2067, and 487.2069), sections 5, 7, 8, 11, 12, and 15 as amended by 1992 PA 76, and by adding sections 10a, 10b, 10c, 10d, 10e, 10f, 10g, 16a, and 16b; and to repeal acts and parts of acts.

With the recommendation that the substitute (S-2) be adopted and that the bill then pass.

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

Glenn Steil
Chairperson

To Report Out:

Yeas: Senators Steil, Shugars, Emmons and Cherry

Nays: None

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Banking and Financial Institutions submits the following:

Meeting held on Thursday, November 4, 1999, at 2:35 p.m., Room 210, Farnum Building

Present: Senator Steil (C), Shugars, Emmons and Cherry

Excused: Senator Rogers, Miller and V. Smith

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Transportation submits the following:

Meeting held on Tuesday, November 2, 1999, at 2:00 p.m., Room 100, Farnum Building

Present: Senators Hoffman (C), Goschka and Young

COMMITTEE ATTENDANCE REPORT

The Committee on Financial Services submits the following:

Meeting held on Wednesday, November 3, 1999, at 9:30 a.m., Room 110, Farnum Building

Present: Senators Bullard (C), Emmons, Dunaskiss, Shugars, Jaye, Miller and Leland

COMMITTEE ATTENDANCE REPORT

The Committee on Education submits the following:

Meeting held on Wednesday, November 3, 1999, at 3:00 p.m., Room 810, Farnum Building

Present: Senators Bennett (C), Emmons, Stille and Leland

Excused: Senator Peters

Scheduled Meetings

Appropriations Committee - Wednesday, November 10, at 11:00 a.m. or later immediately following session, Senate Appropriations Room, 3rd Floor, Capitol Building (3-6960).

Capital Outlay Joint Appropriations Subcommittee - Wednesday, November 10, at 8:45 a.m., House Appropriations Room, 3rd Floor, Capitol Building (3-6960).

Education Committee - Wednesday, November 10, at 3:00 p.m., Room 810, Farnum Building (3-7350).

Families, Mental Health and Human Services Committee - Wednesday, November 10, at 9:30 a.m., Room 100, Farnum Building (3-3543). (CANCELED)

Farming, Agribusiness and Food Systems Committee - Wednesday, November 10, at 1:00 p.m., Room 810, Farnum Building (3-1725).

Financial Services Committee - Wednesday, November 10, at 9:30 a.m., Room 110, Farnum Building (3-1758).

Health Policy Committee - Wednesday, November 10, at 1:30 p.m., Room 100, Farnum Building (3-0793).

Hunting, Fishing and Forestry Committee - Wednesday, November 10, at 2:00 p.m., Room 110, Farnum Building (3-7670).

Judiciary Committee - Wednesday, November 10, at 1:00 p.m., Rooms 402 and 403, Capitol Building (3-6920).

Local, Urban and State Affairs Committee - Wednesday, November 10, at 3:00 p.m., Room 405, Capitol Building (3-1707).

Natural Resources and Environmental Affairs Committee - Wednesday, November 10, at 9:30 a.m., Room 405, Capitol Building (3-0797).

Senator Rogers moved that the Senate adjourn.

The motion prevailed, the time being 12:18 p.m.

The President pro tempore, Senator Schwarz, declared the Senate adjourned until Wednesday, November 10, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

