

No. 75
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Thursday, October 28, 1999.

10:00 a.m.

The Senate was called to order by the Assistant President pro tempore, Senator Philip E. Hoffman.

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

Bennett—present
Bullard—present
Byrum—present
Cherry—excused
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

Father Rick Bokinskie of St. Elizabeth's Catholic Church of Marlette offered the following invocation:

Radiant God, we rejoice with hearts filled with gratitude that You are not a hidden God, for You reveal Yourself daily through the mystery of light. Your majesty and glory shine out from within all of creation, as well as from the sun, moon, and stars. We walk by their light, and we also feed upon that light as it is transformed daily into our food. We are grateful for the daily light of insight, that gift by which we see our way to You. We are also grateful for shadows and nightfall, which serve as a background for this light. In our lives we often stand in the darkness of failings, mistakes, anger, and sufferings. May Your divine light penetrate the overcast times and radiate outward from the horizon of our hearts. May Your divine presence be a shining star in the midst of all we do here today that the plants of Earth may be leaned toward You. Help us today to be light to all we meet. Blessed are You, loving God, who has filled creation with light and with splendor. Amen.

Senators Young and Gougeon entered the Senate Chamber.

Motions and Communications

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

Senator V. Smith moved that Senator Emerson be temporarily excused from today's session.
The motion prevailed.

Senator V. Smith moved that Senator Cherry be excused from today's session.
The motion prevailed.
Senator Cherry is attending to family business.

The President, Lieutenant Governor Posthumus, assumed the Chair.

Senators Koivisto, North, Hoffman, A. Smith, Hammerstrom and Hart asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Koivisto's statement is as follows:

This is the first time I have risen in this body to make this kind of announcement that one of my staff people is leaving. But that's the case today. Ted O'Dell is going to be leaving. He's going to be working with the National Democratic Institute for International Affairs. He'll be flying to Washington this coming Monday and be stationed there for two weeks, and then he will be going overseas for a two-week period. He'll be going to Armenia; to the capital of Armenia. The first thing he is going to take up is security. But at any rate, he will be stationed there. It's going to be quite an experience for him. It's a case where he's going to be broadening his horizons and getting some international experience.

He's certainly done a good job for me. Every day I've been on this Senate floor, he's been here with me. He's been with me for a total of seven years, so that's quite a little stint. He's been with me through a couple different elections, so we all appreciate the great work he's done.

I'd like to also introduce his parents who are here today, Ted and Donna O'Dell, if you would rise.

We would like to say good-bye to Ted. So with that, I'd like to thank him for his many dedicated years of service and just announce to the body that he will be departing, and that's the reason he's departing. If you need any information on what's going on in Armenia, I'm sure he will be in center of things.

Senator North's statement is as follows:

I would like to concur in the remarks that Senator Koivisto, Ted's employer the last seven years, has made, especially regarding his service. Because Senator Koivisto's district butts up to mine, and we are the only two members in this chamber who resident in the Upper Peninsula, we've had an occasion to work very closely. For the last five years that I've been in the Senate with Senator Koivisto's staff, I've found Ted to be very responsive. He will be missed.

Interestingly enough, his job in Armenia is to teach democracy to the people over there. And perhaps if he had been on the job earlier, yesterday's incident would have been avoided.

Senator Hoffman's statement is as follows:

I, too, want to join my other colleagues in thanking Ted O'Dell for his many years of service to not only to Senator Koivisto, but also to all the members of the Michigan Senate. Rarely do you get a person of Ted's caliber who comes into the chamber and, frankly, is more interested in good public policy than good politics; and Ted is one of those individuals.

I've had the pleasure of joining Ted in the years past, fishing and hunting, and can only tell you that he's a straight shooter in the field, just like he is on the Senate floor. That's going to be a loss for Senator Koivisto, but it will be a gain for the people of Armenia.

Ted, I only want to offer you this when you do come back—and I know you will—from Armenia, and you'll be looking for work, stop by our office and if the opportunity presents itself, we'd be honored to have a person of your caliber.

And also want to take a moment to recognize Ted's parents in the Gallery. They've obviously done a great job raising their son, and they have a lot to be proud of. I think we owe Ted and his family a round of gratitude. Thank you, Ted.

Senator A. Smith's statement is as follows:

I would like to join my colleagues, Senator Koivisto and Senator North, in a tribute to Ted. As many of you may know, Senator Koivisto's office is on the fifth floor along with mine, and we have had the pleasure of sharing Ted and Sasha, his dog, for a number of months with Sasha but Ted for a number of years.

Ted has been a wealth of information and insight on this process. I know he has a lot to share on his tour of duty; teaching democracy in a very strife torn, at the moment, place. I also wish that you are safe and that you come back with a great experience under your belt that will allow you to serve in whatever capacity you choose in the future.

Senator Hammerstrom's statement is as follows:

I, too, want to wish Ted all the best. I have shared space on the fifth floor with him as well. Ted also lived in my district, and his parents do right now. I thought it was very interesting that Senator Hoffman was going to offer him a job when he came back from Armenia. That means he would once again become a Republican perhaps because I knew Ted when he was a Republican. I was the chairman of the county party, and he was my youth vice chairman. So he does believe in good government. Ted, I want to wish you all the best.

Senator Hart's statement is as follows:

I've been sitting here trying to think of something nice to say about Ted, and I'm still thinking. But as an Armenian-American, I certainly welcome you on behalf of all Armenians everywhere, you are welcome to Armenia.

The following communications were received:
Department of State

Administrative Rules
Notices of Filing

October 12, 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 10:37 a.m. this date, administrative rule (99-10-10) for the Department of Environmental Quality, Air Quality Division, entitled "*Air Pollution Control*," effective 15 days hereafter.

October 18, 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 2:10 p.m. this date, administrative rule (99-10-12) for the Department of Consumer and Industry Services, Safety Standards Division, entitled "*Lead Exposure in Construction*," 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 Wednesday, October 27:

House Bill Nos. 4280 4281 4755

By unanimous consent the Senate proceeded to the order of
Resolutions

Senators Jaye, Dingell, McManus, Miller and DeBeaussaert offered the following resolution:
Senate Resolution No. 93.

A resolution to commemorate Polish-American Heritage Month and to commend the many Polish-American churches, cultural organizations, and businesses which enhance the quality of life in the state of Michigan.

Whereas, It is with great respect and appreciation that this legislative body commemorates the month of October as Polish-American Heritage Month and joins in the national celebration of Polish-American history, culture, achievements, and pride; and

Whereas, On October 1, 1608, the English ship *Margaret and Mary* arrived in Jamestown, Virginia, with eight people of Polish descent, who had been hired by the Glass Company of England to help open a "glass house" in the New World. These glass items not only served the needs of the Jamestown colony, but also became the first glass products to be exported from America to Europe; and

Whereas, The arrival of the first Polish settlers in America marked a humble, yet significant, entry into American history. These Polish settlers are among the tens of millions of immigrants who endured great hardship and adversity to come to America from all over the world and are proud to call America their home. Beginning with General Thaddeus Kosciuszko, who helped lead American Revolutionary soldiers in their successful war of independence with Great Britain, thousands of Polish men and women helped defend America in several armed conflicts; and

Whereas, During the month of October, we recognize the valuable business, academic, sports, cultural, and spiritual contributions Polish-Americans have made to enhance the quality of life for all Americans. Their proud, noble heritage and culture are important segments of America's past, present, and future; now, therefore, be it

Resolved by the Senate, That the month of October 1999 be commemorated as Polish-American Heritage Month to commend all Polish-Americans; and be it further

Resolved, That a copy of this resolution be transmitted to the Polish-American Congress, Polish Cultural Center, Polish Veterans Organization, Polish Century Club, Polish Scouting Organization, Polish Varieties Radio Show, Polish World Newspaper, and other Polish-American organizations with our respect, gratitude, and appreciation.

Pending the order that, under rule 3.204, the 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 resolution was adopted.

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

By unanimous consent the Senate returned to the order of
Motions and Communications

Senator Rogers moved that rule 3.902 be suspended to allow the guests of Senator Jaye admittance to the Senate floor.

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

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

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

Recess

Senator Rogers moved that the Senate recess subject to the call of the President.
The motion prevailed, the time being 10:17 a.m.

10:27 a.m.

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

During the recess, Senators Jaye and Dingell made a special presentation recognizing October as Polish-American Heritage Month.

A special prayer was rendered in Polish and English.

Messages from the Governor

The following messages from the Governor were received and read:

October 27, 1999

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

Collection Practices Advisory Board

Mr. Harley Krapohl, 1253 Chartwell Carriageway, East Lansing, Michigan 48823, county of Ingham, as a member representing the general public, succeeding himself, for a term expiring on June 30, 2003.

Mr. Dwight D. Stewart, 8200 E. Jefferson, Apt. 1402, Detroit, Michigan 48214, county of Wayne, as a member representing the general public, succeeding Ms. Sandra Kay Upton of Kentwood, who has resigned, for a term expiring on June 30, 2000.

Mr. Donald J. Turner, 304 Quincy Street, P.O. 247, Hancock, Michigan 49930, county of Houghton, as a member representing licensed professionals, succeeding Mr. Richard R. Parr of Alpena, whose term has expired, for a term expiring on June 30, 2003.

October 27, 1999

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

Occupational Health Standards Commission

Mr. Robert D. DeBruyn, 101 East Washington, P.O. Box 76, Zeeland, Michigan 49464, county of Ottawa, as a member representing management, succeeding himself, for a term expiring on August 5, 2002.

Mr. Richard D. Olson, 2108 East Wheeler Road, Midland, Michigan 48640, county of Midland, as a member representing management, succeeding himself, for a term expiring on August 5, 2002.

Dr. Gerald Robert DeYoung, 785 Adaway SE, Grand Rapids, Michigan 49546, county of Kent, as a member representing employees, succeeding himself, for a term expiring on August 5, 2002.

Ms. Margaret Angela Vissman, 30101 Five Mile Road, Livonia, Michigan 48154, county of Wayne, as a member representing employees, succeeding Mr. Mark T. Gaffney of Dearborn, whose term has expired, for a term expiring on August 5, 2002.

Sincerely,
John Engler
Governor

The appointments were referred to the Committee on Government Operations.

Messages from the House

Senate Bill No. 554, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 248 (MCL 257.248), as amended by 1998 PA 384.

Substitute (H-1).

The question being on concurring on the substitute made to the bill by the House,

The substitute was concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 535

Yeas—36

Bennett
Byrum
DeBeaussaert

Goschka
Gougeon
Hammerstrom

McCotter
McManus
Miller

Shugars
Sikkema
Smith, A.

DeGrow
Dingell
Dunaskiss
Emerson
Emmons
Gast

Hart
Hoffman
Jaye
Johnson
Koivisto
Leland

Murphy
North
Peters
Rogers
Schuette
Schwarz

Smith, V.
Steil
Stille
Van Regenmorter
Vaughn
Young

Nays—0

Excused—2

Bullard

Cherry

Not Voting—0

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,
The recommendation was concurred in, 2/3 of the members serving voting therefor.
The Senate agreed to the full title.
The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

Senate Bill No. 463, entitled

A bill to amend 1972 PA 230, entitled “State construction code act of 1972,” by amending the title and sections 2, 4, 7, 8, 10, and 22 (MCL 125.1502, 125.1504, 125.1507, 125.1508, 125.1510, and 125.1522), the title and section 4 as amended by 1995 PA 270, section 2 as amended by 1998 PA 42, section 8 as amended by 1994 PA 128, section 10 as amended by 1989 PA 135, and section 22 as amended by 1980 PA 371, and by adding sections 2a, 3a, 8a, 8b, 9b, and 13d; and to repeal acts and parts of acts.

The House of Representatives has substituted (H-2) the bill.

The House of Representatives has passed the bill as substituted (H-2), ordered that it be given immediate effect and amended the title to read as follows:

A bill to amend 1972 PA 230, entitled “An act to create a construction code commission and prescribe its functions; to authorize the commission to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to prescribe energy conservation standards for the construction of certain buildings; to provide for statewide approval of premanufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide that governmental subdivisions may with exceptions elect not to be subject to certain parts of the act; to provide for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish remedies and sanctions for violations of the act; to repeal acts and parts of acts; and to provide an appropriation,” by amending the title and sections 1, 2, 4, 7, 8, 9, 10, and 22 (MCL 125.1501, 125.1502, 125.1504, 125.1507, 125.1508, 125.1509, 125.1510, and 125.1522), the title and section 4 as amended by 1995 PA 270, section 2 as amended by 1998 PA 42, section 8 as amended by 1994 PA 128, section 9 as amended by 1994 PA 22, section 10 as amended by 1989 PA 135, and section 22 as amended by 1980 PA 371, and by adding sections 2a, 3a, 8a, 8b, 9b, and 13d; and to repeal acts and parts of acts.

Pursuant to rule 3.202, the bill was laid over one day.

Senate Bill No. 430, entitled

A bill to amend 1931 PA 328, entitled “The Michigan penal code,” by amending section 316 (MCL 750.316), as amended by 1996 PA 21.

The House of Representatives has amended the bill as follows:

1. Amend page 3, following line 8, by inserting:

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

The House of Representatives has passed the bill as amended and pursuant to Joint Rule 20, inserted the full title.

Pursuant to rule 3.202, the bill was laid over one day.

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. 745, entitled

A bill to revise and codify the laws relating to banks, out-of-state banks, and foreign banks; to provide for their regulation and supervision; to prescribe the powers and duties of banks; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties; and to repeal acts and parts of acts.

The above bill was read a third time.

The question being on the passage of the bill,

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

Roll Call No. 536

Yeas—36

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

Nays—0

Excused—2

Bullard Cherry

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Senator Bullard entered the Senate Chamber.

The following bill was read a third time:

Senate Bill No. 398, entitled

A bill to amend 1974 PA 163, entitled “L.E.I.N. policy council act of 1974,” by amending section 4 (MCL 28.214), as amended by 1998 PA 459.

The question being on the passage of the bill,

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

Roll Call No. 537

Yeas—37

Bennett	Goschka	McCotter	Shugars
Bullard	Gougeon	McManus	Sikkema
Byrum	Hammerstrom	Miller	Smith, A.

DeBeaussaert
DeGrow
Dingell
Dunaskiss
Emerson
Emmons
Gast

Hart
Hoffman
Jaye
Johnson
Koivisto
Leland

Murphy
North
Peters
Rogers
Schuette
Schwarz

Smith, V.
Steil
Stille
Van Regenmorter
Vaughn
Young

Nays—0

Excused—1

Cherry

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 180, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 43902 and 43905 (MCL 324.43902 and 324.43905), as added by 1995 PA 57.

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. 538

Yeas—37

Bennett
Bullard
Byrum
DeBeaussaert
DeGrow
Dingell
Dunaskiss
Emerson
Emmons
Gast

Goschka
Gougeon
Hammerstrom
Hart
Hoffman
Jaye
Johnson
Koivisto
Leland

McCotter
McManus
Miller
Murphy
North
Peters
Rogers
Schuette
Schwarz

Shugars
Sikkema
Smith, A.
Smith, V.
Steil
Stille
Van Regenmorter
Vaughn
Young

Nays—0

Excused—1

Cherry

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 770, entitled

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

The question being on the passage of the bill,

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

Roll Call No. 539

Yeas—37

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

Nays—0

Excused—1

Cherry

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 826, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” by amending sections 803l and 804 (MCL 257.803l and 257.804), section 803l as amended by 1998 PA 68 and section 804 as amended by 1995 PA 129, and by adding sections 6d, 17b, 30b, 811d, 811e, 811f, 811g, and 811h; and to repeal acts and parts of acts.

The question being on the passage of the bill,

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

Roll Call No. 540

Yeas—37

Bennett	Goschka	McCotter	Shugars
Bullard	Gougeon	McManus	Sikkema
Byrum	Hammerstrom	Miller	Smith, A.
DeBeaussaert	Hart	Murphy	Smith, V.
DeGrow	Hoffman	North	Steil
Dingell	Jaye	Peters	Stille
Dunaskiss	Johnson	Rogers	Van Regenmorter

Emerson
Emmons
Gast

Koivisto
Leland

Schuette
Schwarz

Vaughn
Young

Nays—0

Excused—1

Cherry

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

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

Senate Bill No. 828, entitled

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

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. 541

Yeas—37

Bennett
Bullard
Byrum
DeBeaussaert
DeGrow
Dingell
Dunaskiss
Emerson
Emmons
Gast

Goschka
Gougeon
Hammerstrom
Hart
Hoffman
Jaye
Johnson
Koivisto
Leland

McCotter
McManus
Miller
Murphy
North
Peters
Rogers
Schuette
Schwarz

Shugars
Sikkema
Smith, A.
Smith, V.
Steil
Stille
Van Regenmorter
Vaughn
Young

Nays—0

Excused—1

Cherry

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

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:

Mr. President, I just wanted to talk about the bill briefly—its final passage. We are very close in the state of Michigan to getting a Vietnam memorial for the 2,649 Michigan men and women who so valiantly gave their lives in defense of the United States of America.

This is an important bill. We are awful close. I think we need about \$700,000 as a very small token to say thank you not only to those who have passed on, but to the living so that we can remember their sacrifice and their patriotism to the greatest country on the face of the earth. And when you think of the climate today and shootouts in parliaments and the Pakistanian coup by the military, how lucky and grateful we should be to have the freedoms and liberty we so enjoy. It only happens because those 2,649 were willing to answer the call when their country needed them most. This bill, again, just gives us the ability to collect some money to finish off a project that is long, long over due, so that we can complete the healing of a terrible time of a terrible war but no less heroic by those who fought in it. I would urge the body's strong support.

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

Senate Bill No. 827, entitled

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

The above bill was read a third time.

The question being on the passage of the bill,

Senator Young offered the following amendment:

1. Amend page 1, following "THE PEOPLE OF THE STATE OF MICHIGAN ENACT:" by inserting:

"SEC. 803Q. (1) A PERSON WHO IS EMPLOYED BY A DIPLOMATIC CORPS OF A NATION OTHER THAN THE UNITED STATES THAT IS RECOGNIZED BY THE GOVERNMENT OF THE UNITED STATES AND WHO IS ASSIGNED OR STATIONED IN MICHIGAN MAY MAKE APPLICATION TO THE SECRETARY OF STATE FOR A SPECIAL REGISTRATION PLATE. THE SPECIAL REGISTRATION PLATE SHALL HAVE THE WORDS "HONORARY CONSUL" INSCRIBED BENEATH THE REGISTRATION LETTERS AND NUMBERS.

(2) APPLICATION FOR THE SPECIAL REGISTRATION PLATE DESCRIBED IN SUBSECTION (1) SHALL BE ON A FORM PRESCRIBED BY THE SECRETARY OF STATE, AND SHALL BE ACCOMPANIED BY ANY PROOF OF THE APPLICANT BEING AN INDIVIDUAL WHO IS EMPLOYED IN A FOREIGN CONSULATE THAT IS LOCATED IN MICHIGAN THAT THE SECRETARY OF STATE REQUIRES. THE APPLICATION FOR THE SPECIAL REGISTRATION PLATE SHALL ALSO BE ACCOMPANIED BY PAYMENT OF A \$10.00 SERVICE FEE AND A \$25.00 FUND-RAISING DONATION.

(3) UPON PROPER APPLICATION AND PAYMENT OF THE \$10.00 SERVICE FEE AND THE \$25.00 FUND-RAISING DONATION REQUIRED UNDER SUBSECTION (2), THE SECRETARY OF STATE SHALL ISSUE A SPECIAL REGISTRATION PLATE DESCRIBED IN SUBSECTION (1) FOR EACH APPLICANT FOR USE ON A PASSENGER VEHICLE. A PERSON ISSUED A SPECIAL REGISTRATION PLATE UNDER THIS SECTION SHALL BE ASSESSED THE APPLICABLE TAX UNDER SECTION 801.

(4) THE USE OF A SPECIAL REGISTRATION PLATE DESCRIBED IN SUBSECTION (1) ON A VEHICLE OTHER THAN THE VEHICLE FOR WHICH THE PLATE IS ISSUED, OR BY A PERSON WHO DOES NOT QUALIFY UNDER THIS SECTION, IS A MISDEMEANOR.

(5) THE SPECIAL REGISTRATION PLATE ISSUED UNDER THIS SECTION SHALL EXPIRE ON THE BIRTHDAY OF THE VEHICLE OWNER. WHEN NEW PLATES ARE ISSUED BY THE SECRETARY OF STATE, THE APPLICATION FOR RENEWAL OF THE SPECIAL REGISTRATION PLATE SHALL BE ACCOMPANIED BY A \$10.00 SERVICE FEE. HOWEVER, THE APPLICANT SHALL NOT BE REQUIRED TO FURNISH THE PROOF PROVIDED IN SUBSECTION (2).

(6) THE \$25.00 FUND-RAISING DONATION COLLECTED UNDER SUBSECTION (2) SHALL BE TRANSFERRED BY THE SECRETARY OF STATE TO THE STATE TREASURER, WHO SHALL CREDIT THE DONATION MONEY TO THE CHILDREN'S TRUST FUND CREATED UNDER SECTION 1 OF 1982 PA 249, MCL 21.171, FOR THE SUPPORT AND BENEFIT OF THE CHILDREN OF THIS STATE."

The question being on the adoption of the amendment,

Senator Young requested the yeas and nays.

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

The question being on the adoption of the amendment,

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

The motion did not prevail.

The question being on the adoption of the amendment,
 Senator Young withdrew the amendment.
 The question being on the passage of the bill,
 The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 542**Yeas—37**

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

Nays—0**Excused—1**

Cherry

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 829, entitled

A bill to amend 1982 PA 249, entitled “An act to establish the state children’s trust fund in the department of treasury; and to provide certain powers and duties of the department of treasury with respect to the trust fund,” by amending section 1 (MCL 21.171), as amended by 1997 PA 34.

The question being on the passage of the bill,

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

Roll Call No. 543**Yeas—37**

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

Nays—0

Excused—1

Cherry

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 399, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending the part heading of part 465 and sections 46501 and 46509 (MCL 324.46501 and 324.46509), as added by 1995 PA 57, and by adding section 46510; and to repeal acts and parts of acts.

The question being on the passage of the bill,

Senator Jaye offered the following amendment:

1. Amend page 2, line 1, by striking out all of subdivision (C) and relettering the remaining subdivisions.

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

Senator Gougeon offered the following amendments:

1. Amend page 3, line 4, after “SECTION,” by striking out “\$500.00” and inserting “\$200.00, PLUS COURT COSTS”.

2. Amend page 3, line 6, after “SECTION,” by striking out “\$1,000.00” and inserting “\$500.00, PLUS COURT COSTS”.

3. Amend page 3, line 9, by striking out all of subsection (3) and renumbering the remaining subsections.

The amendments were 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. 544

Yeas—32

Bennett
Bullard
Byrum
DeGrow
Dingell
Dunaskiss
Emerson
Emmons

Goschka
Gougeon
Hammerstrom
Hart
Hoffman
Jaye
Johnson
Leland

McCotter
McManus
Miller
Murphy
North
Peters
Rogers
Schuette

Schwarz
Shugars
Sikkema
Smith, A.
Smith, V.
Steil
Vaughn
Young

Nays—5

DeBeaussaert
Gast

Koivisto

Stille

Van Regenmorter

Excused—1

Cherry

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

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

Senate Bill No. 810, entitled

A bill to provide for the redistricting of congressional districts; and to establish guidelines for the decennial adoption of a redistricting plan for congressional districts.

The above bill was read a third time.

The question being on the passage of the bill,

Senator V. Smith offered the following amendment:

1. Amend page 3, line 4, by striking out all of subdivision (c) and inserting:

“(c) The secondary guidelines in no order of priority are compactness, contiguity, preservation of the integrity of county and municipal boundaries, maintenance of the cores of existing districts, preservation of cultural, social, and economic communities of interest, and political and racial fairness.”.

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. 545**Yeas—14**

Byrum
DeBeaussaert
Dingell
Emerson

Hart
Koivisto
Leland
Miller

Murphy
Peters
Smith, A.

Smith, V.
Vaughn
Young

Nays—22

Bennett
Bullard
DeGrow
Dunaskiss
Emmons
Gast

Goschka
Hammerstrom
Hoffman
Jaye
Johnson
McCotter

McManus
North
Rogers
Schuette
Schwarz

Shugars
Sikkema
Steil
Stille
Van Regenmorter

Excused—1

Cherry

Not Voting—1

Gougeon

In The Chair: President

Senator Leland offered the following amendment :

1. Amend page 1, line 9, by striking out all of subdivision (a) and inserting:

“(a) The constitutional guideline is that each congressional district shall achieve precise mathematical equality of population in each district. District boundaries may be determined by using population counts derived from statistical sampling to add or subtract population by inference. Other governmental census figures of total population may be used if taken subsequent to the last decennial United States census and the United States census figures are not adequate for the purposes of this act. A contract may be entered into with the United States Census Bureau or any other governmental unit to make any special census for the purposes of this act.”.

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. 546

Yeas—14

Byrum
DeBeaussaert
Dingell
Emerson

Hart
Koivisto
Leland
Miller

Murphy
Peters
Smith, A.

Smith, V.
Vaughn
Young

Nays—23

Bennett
Bullard
DeGrow
Dunaskiss
Emmons
Gast

Goschka
Gougeon
Hammerstrom
Hoffman
Jaye
Johnson

McCotter
McManus
North
Rogers
Schuette
Schwarz

Shugars
Sikkema
Steil
Stille
Van Regenmorter

Excused—1

Cherry

Not Voting—0

In The Chair: President

The question being on the passage of the bill,
Senator Leland moved that the Senate adjourn.

The motion did not prevail.

The question being on the passage of the bill,

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

Roll Call No. 547

Yeas—23

Bennett
Bullard
DeGrow

Goschka
Gougeon
Hammerstrom

McCotter
McManus
North

Shugars
Sikkema
Steil

Dunaskiss
Emmons
Gast

Hoffman
Jaye
Johnson

Rogers
Schuette
Schwarz

Stille
Van Regenmorter

Nays—14

Byrum
DeBeaussaert
Dingell
Emerson

Hart
Koivisto
Leland
Miller

Murphy
Peters
Smith, A.

Smith, V.
Vaughn
Young

Excused—1

Cherry

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Protests

Senators V. Smith, Leland and DeBeaussaert, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 810 and moved that the statements they made during the discussion of the amendments and bill be printed as their reasons for voting “no.”

The motion prevailed.

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

My amendment would strike the Apol criteria. Senate Bill No. 810 imports the Apol criteria from the state legislative redistricting into the congressional redistricting. These criteria stress the preservation of county, city, and township lines. The list of criteria is neither accurate nor fair to Democrats. The Apol criteria do not reflect the criteria historically recognized by federal courts in Michigan’s congressional redistricting. These nonprioritized factors were articulated in the case of Good v. Austin, 800 S. Supp. 557, 563-66 and n. 6 (1992). The factors are compactness, contiguity, preservation of the integrity of county and municipal boundaries, maintenance of the cores of existing districts, preservation of cultural, social and economic communities of interest, and political and racial fairness. The Apol criteria are biased against Democrats in general and will result in the severe dilution of African-American voting strength in particular, and thus, does not promote political and racial fairness.

Redistricting criteria which limit the ability to split jurisdictions are detrimental to the construction of plans which are fair to Democratic candidates. Limiting the splitting of jurisdictions is designed to pack as many Democrats, and particularly, African-American and other minority voters, into as few districts as possible. Thus, creating supermajority Democratic districts, packing these districts with as many Democratic and minority voters as possible, leading to the creation of many more Republican districts than if Democratic votes could be distributed evenly. While these supermajority Democratic districts would reliably elect Democratic and minority representatives to the Congress and the Legislature, these districts could be constructed with far fewer Democratic voters so as not to pack Democratic voters in a district.

Let me make it clear. The Voting Rights Act prohibits packing, and if the Apol Standards are adopted for congressional redistricting, it will allow packing to occur, and thus, lead to a violation of the Voting Rights Act. The U.S. Supreme Court has held in the Burns v. Richardson case and in Fortson v. Dorsey that the apportionment plans will constitute invidious discrimination when it is shown that designingly or otherwise the apportionment would operate to minimize or cancel out the voting strength of racial or political elements of the voting population. Adoption of this bill and the rest of the bills in this package will undoubtedly lead to costly and acrimonious litigation.

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

I thought Senator Schuette made my argument. He kept talking about hearings. I don't know where the hearings were; we only had one hearing. We only had five days' notice when that bill was introduced until the time that the actual hearing took place. So I don't know what he is talking about when he's making reference to hearings.

I also thought that he help make my argument, and I do appreciate the language Senator Schuette has included under the voting rights into this particular legislation. But if he was sincere in wanting to see the voting rights language have applicability, then he would adopt that Smith amendment because in effect the language that he has had drafted into the bill itself would take away from the voting rights statute by making the elements of not breaking county lines, village lines, city lines, and compactness to be considered in a criteria in a higher priority than the language that would affect the racial gerrymandering of the districts, which is prohibited by the Voting Rights Act. Mr. President, I will reserve my comments in terms of the passage of the bill until the point when we get to passage.

Senator V. Smith's third statement is as follows:

My remarks regarding passage will be short. One of the things that I wanted to point out in terms of the process is that on this particular piece of legislation and on all five bills within this package, we felt that we did not have adequate time to have all of the representatives whom we would have liked to have had to appear in front of the committee when the reapportionment process was debated.

When we got to committee, we saw the Republican lawyer there who had handled reapportionment in the past on behalf of the Republican Party. We saw statisticians there who were there to give support for the arguments that were being advanced by the members of the Republican Party. We would have wanted to have had the same happen on the Democratic side of the issue. The time frame in which these bills were introduced on the 14th, and then taken up in front of committee on the 20th, did not give us adequate opportunity. I did ask the chairperson of the committee to delay the hearing on the reapportionment bills for one week. That request was denied. We were not able to get our attorneys there to properly put before the committee issues related to the reapportionment process from a Democratic perspective before the committee. We were not able to get statisticians there to also buttress our argument. We were able to get the chairperson of our party there. He responded on very short notice. I thought he did a good job with the time frame that he had been allowed.

I'd also like to say that as much as the good sponsor of these bills has reiterated, I respect him greatly as an individual and as a Senator. But as he speaks to the nonpartisan nature of the bills that have been put in front of this body, what he fails to say is that these are probably the most partisan bills that this body will face as opposing Democratic and Republican positions, this is a very political process. This is the process which will govern how lines will be redrawn not only for the congressional districts, but for the legislative districts, for the Court of Appeals districts, and for the county commissioner districts. This is a very political process. This is a process in which both parties will attempt to get their best positions put forward. In our estimation, the Republican majority is doing what we probably would do if we were in control. That is, trying to lock in their positions through statutory changes in the law and to give guidance and direction to the courts as they have to make learned decisions on the drafting of the reapportionment process.

Regarding Mr. Apol. Mr. Apol was a Republican. Even though in 1982, in the redistricting process, we understood that the court had a 3-3 split with one Independent. On many occasions in that court, Justice Levin, who was the Independent, did side with his Republican counterparts in decisions that were placed in front of that body. We felt that at the time that reapportionment was done in 1982, the selection of Mr. Apol was clearly a Republican who laid out standards that were to the advantage of the Republican Party in both the 1980 reapportionment process and in the 1990 reapportionment process. So even though the other side of the aisle felt it was fair and deliberative, we felt that it did still have the indication of a partisan political process. It placed standards within those reapportionment bills which gave some advantage to the Republicans on behalf of reapportionment, as that process evolved within this state.

I would also like to speak to the fact that the good Senator from the 35th District made reference to the state of Arizona. How these bills are reflective of the Arizona Legislature and that the same standards that were placed in the Arizona legislation was indeed legislation that is reflective of what my counterparts on the other side of the aisle are attempting to do here. Those standards and that information was challenged by the United States Department of Justice. They sent a letter to the civil rights division within the state of Arizona, asking for clarification and asking many questions in terms of the partisan nature of the standards that were placed within those bills in the Arizona Legislature. Indeed, it was a political process in Arizona.

So we think that partisan politics is driving this issue. We think that both parties are attempting to get their best position put forward in these particular bills. That is what is going on here today. We are trying to document our position. We are trying to make sure that since in this state, which is at this point, we have a Republican Legislature, a Republican House, a Republican Governor, and a Republican-controlled Supreme Court, we document and prepare our position for the upcoming battle that will occur within the federal courts to try to make sure that the reapportionment process indeed reflects a process which is inclusive of all citizens in this state; which is inclusive of both parties being able to have reapportioned lines that give them a fair ability to be elected and be representative

within the legislative bodies not only in the county commission, but in the halls of the state legislature and in the United States Congress.

Senator V. Smith's fourth statement is as follows:

Mr. President, just a quick response to the good Senator from the 31st District. I do have the opinion that was rendered by the United States Supreme Court in the Department of Commerce v. House of Representatives, which is a slip opinion. I would again refute the good Senator's interpretation of that United States Supreme Court decision. In that decision, the United States Supreme Court again delineated the fact that in terms of the hard count for each of the 428 congressional districts, it had to be based on the census, and those numbers had to be equally apportioned among each of the congressional districts. But, and I quote, the Court did say, "Except for the determination of population for purposes of congressional apportionment, the secretary shall if he considers it feasible, authorized the use of statistical sampling in carrying out the provisions of this title." And that language is also included, which in our interpretation, means that in our reading of the language of that congressional decision, does give support that statistical sampling could be used outside of the populations for outside the determination of population for purposes of congressional apportionment which could, indeed, be used in terms of the drafting of the geographical lines contained within those particular districts by the 50 individual states.

Senator Leland's first statement is as follows:

My amendment simply allows the use of statistical sampling rather than limiting redistricting to only the use of enumerated count. The ban on sampling will lead to the use of less accurate population data. No one disputes the last few censuses have seriously undercounted the population. While the undercount occurred throughout the country and among all groups, about three times more African-Americans, Hispanic-Americans, Asian-Americans, and rural Americans were missed in the national average. In Detroit alone, the undercount was 28,000 people.

The civil rights community has united in its support for using statistical sampling to ensure all Americans are counted, and they are not alone. Twenty-five major newspapers across the country have editorialized in support of statistical sampling. Because minority populations lean more towards the Democratic Party than the Republican Party, the Republicans believe that using sampling methods to bring about a more accurate count on the nation's population will harm their political interests. In a memo from the Republican National Committee, from Jim Nicholson to all state party chairs, he states the following, and I quote from his memo: "The Clinton administration is implementing a radical new way of taking the new census that will effectively add nearly 4.5 million Democrats to the nation's population. This is the political outcome of a controversial executive decision to use a complex mathematical formula to estimate and adjust the 2000 census. Using this process, Democrats gained a critical advantage in the next redistricting that will undermine GOP efforts to elect Republicans to both federal and state offices. It is vital that Republicans be united in opposing an adjusted census."

This legislation raises serious concerns regarding racial discrimination because it is undisputed that census data obtained through usual traditional county methods are racially biased. The sampling ban may violate the Voting Rights Act because it undercounts minorities. The ban on sampling violates the census act. In a case just this year, the United States Supreme Court held in Department of Commerce v. House of Representatives that while the federal census act prohibits the use of statistical sampling to apportion congressional districts among the states, the act does allow for statistical sampling of congressional districts within our state. The Secretary of Commerce has declared that sampling procedures are feasible within states.

The following remarks are from the American Statistical Association, the ASA, which is a professional association of 18,000 members made up of teachers of statistics, statisticians from business, industry, and government. According to the ASA, I quote: "Sampling is often a better and more accurate method of gaining such knowledge that is inadvertently an incomplete attempt to serve all members of a population. Therefore, in principle, statistical sampling applied to the census has the potential to increase the quality and accuracy of the count and to reduce the cost. The appropriate use of sampling can improve a count of a population. The basic idea underlying this conclusion is that some parts of the population will be easier to count and some will be more difficult. After an effort has been made to reach all households, some number of households will not have been reached. Little is known about these households. Well-designed sampling to obtain information about them can reduce what would otherwise be a differential undercount between the easier to count and harder to count groups in the population."

Statistical sampling has been endorsed by many nonpartisan experts as well as Barbara Bryant, a Republican who directed the census in 1990. Sampling is a critical tool for reducing uncertainty, therefore, I hope the members will support my amendment.

Senator Leland's second statement is as follows:

I think we should have had an interpreter there because it seems that what the demographer said at the committee meeting has different interpretations from the members who were present. I thought what I heard the state demographer say was let's count everyone. I thought what I heard the state demographer say was that sampling is good. Let's fix the

methodology. I thought what I heard him say was let's make the sample better. I thought I also heard the state demographer say that there were problems with the hard count. He acknowledged, I thought I heard him say, that he acknowledged the problems with the hard count, and it appeared to me that what he was saying, and maybe it was in a cryptic way, was that let's use both. There's credibility with the hard, enumerated account, and there's credibility with statistical sampling. That's what I thought I heard the demographer say. Let's fix it; let's make it better. Statistical sampling makes it better. It counts everyone. No one gets left out.

Senator Leland's third statement is as follows:

Getting on the process issue with this discussion. I guess my constituents, myself, particularly my colleges from Detroit, felt that once again we have been humiliated by what is going on here.

We know that you folks are, at least on our side of the aisle, but we know who's in charge. We know what time it is, and we know you got the votes. But we're still members of this body, and this is supposed to be a kinder and gentler body. This did not have to get rushed out through here as expeditiously as it did. You could have honored our request and heard some people from Detroit come up and testify, particularly Mr. Wheeler from NAACP—given us a little more deference. This is the second time this body has done this to my constituency, and I just hope that it is the last time.

A couple more comments on the bill. The chairman, my good friend from the 35th District, in his remarks said that this process for these bills was supposed to be fair and accurate. The chairman, and my good friend from the 35th District, said that during the committee—and he said that today—it was supposed to be a fair and accurate process, that he did not want to dilute any minority representation, and as we all know, my district is made up largely of minority representation. He wanted to make sure that the rights of minorities were protected and that everyone was important to be counted. Well, I don't think that his discussion in his argument really was about any of those things. I think what it really was about was not policy, but was about politics as clearly stated in this Republican National Committee memo that I am going to share with the good Senator. I will leave it on my desk, and you can pick it up for your review.

As the chairman of the RNC stated, statistical sampling will affect the GOP outcome in the year 2000. Statistical sampling will affect the GOP outcome in the year 2000. So I think, listen, we know what time it is, but let's be fair about this. Let's just call this what it is. This is politics; this isn't policy here.

Now you talk about how a sampling is riddled with problems and how it's not fair. The ASA would differ with you—the statistical association. Twenty-five newspapers around the country editorialized on statistical sampling and they felt that—and these, by the way, aren't exactly as one of my Republican colleagues said, “pinko newspapers”—the newspapers across the country, 25 of them suggested that statistical sampling gets closer to the truth. I'll leave that on my desk for some of you if you want to review what some of the major newspapers across the country from LA to New York said about sampling.

People do get missed, and I can tell you that I do know a little bit about these things because for 20 years I have walked through majority and minority districts, and I know how hard it is to get my message delivered. Of course, once they know who I am, they are a little bit more comfortable with answering a door and opening up the blinds and checking me out. But people will get missed. They won't respond for whatever the reason is. And when someone comes knocking at their door, they wonder who is it, what does that person want, is it someone to repo my car or, is it a bill collector? I've heard that all the time. So I can tell you firsthand that I'm an expert, and I had been an expert ongoing through the neighborhood talking with households and trying to get my message delivered. In my message that I tried to get delivered, I don't think it was too intrusive; certainly, it wasn't offensive. But when someone from the Census Bureau comes by and knocks on their door and demands information, I think that's a problem for some people and they will not respond and there will be a miscount.

So statistical sampling, I think, used properly and used in combination with hard data, I think is a fair way to go. That's why I offered that amendment. Thank you for cutting me the slack, Lieutenant Governor and I'll try and do a better job next time.

Senator DeBeaussiaert's first statement is as follows:

Well, clearly the record is available, and at some point, I expect will be dissected for those who were part of the committee process. As it relates to the testimony of the state demographer, for those who are interested, they may want to look and start looking at the exhibit that was presented which was titled: “Key Shortcomings of the Current Undercount Adjustment Methodology.” In fact, as that testimony was presented, I asked specifically, recognizing that he had problems with the current undercount adjustment methodology, whether in fact some adjustment mechanism could be put in place that would improve the process. I think that the record will reflect that he answered that, yes, it could in fact improve that process and that he did have problems with the current undercount adjustment methodology. I think that is part of the record. People can look that issue up for themselves.

Also as it relates to the question of what the United States Supreme Court ruled and as it relates to the issue of whether the old methodology must be used or whether these newer methodologies can be implemented, the ruling of the court did not reach any constitutional findings. They looked at the statute, and they said that based on the statute,

these new methodologies could not be used for the specific question of the apportionment of the seats of Congress among the states. I think that ruling also suggested that the new methodology could be used within that sample or within that context to divide those districts. In fact, it suggested that in many cases that additional methodology may be required to implement other acts that are in fact also the law of the land.

So I would invite everyone to look at the testimony and at the record. If you do, I think you will find that the Leland amendment is an appropriate one. I ask for your support.

Senator DeBeaussiaert's second statement is as follows:

Every ten years the Legislature has to come to grips with this, and it's a difficult issue always. It seems to me our objective should always be to adopt the legislation that will result in fair and full and equal representation.

I heard yesterday and listened carefully as the chairman of the committee said we should put in place a system that left no one behind, one that fully counted every person. But, unfortunately, the bills in this package do just the opposite. They return us to a day when government would officially require the use of a system that it knows undercounts people in this state and across this country, especially minority members of this state. There was a time previously when we did deliberately undercount residents when certain people only counted as 3/5 of a person. We all regret that, and we now know that the 14th Amendment repealed that. Over the history of this country, we have moved toward the efforts to fully count every person, and we made progress through the 1940s and 1950s.

Every year the undercount of citizens across this country dropped, until 1980 when we reached a level of about 1.2 percent undercount. Unfortunately, when we reached the 1990s, the 1990 census jumped significantly to 1.8 percent. For the first time in the history of the census that undercount increased, and following that, of course, there was a great outcry and great review of the data. We found that in Michigan some 66,000 people were not counted—.7 percent of the state population. In Detroit the undercount was 2.2 percent; in Grand Rapids, 1,636 children were missed; in Lansing, 1,202. Those 1990 results have been widely reviewed nationally and analyzed. The Government Accounting Office, a nonpartisan office, review found that "the American public has grown too diverse and dynamic to be accurately counted solely by the traditional head count approach and that fundamental change must be implemented for a successful census in the year 2000."

But, I'd also point out that a Michigan resident who was appointed by then-President Bush to conduct that 1990 census also believes that the old methods have peaked in their efficiency, and to fully and fairly account for the remainder will require some new methods of measurement.

This legislation proposed by the Majority really pits them against the vast experience and testimony of the scientific community. We have come together, as was indicated by Senator Leland in testimony before the Congress, calling for these measurement changes which would better count all the citizens of this country. As I indicated, the demographer had some questions about the methodology in his testimony before the committee, but he acknowledged the shortcomings of the current undercount of the old method. I don't necessarily agree with his analysis of the undercount adjustments that are in place, but it's clear to point out that while he did have questions about that methodology, he also acknowledged that the current method undercounted citizens and that perhaps some change could lead to improvement in the count.

So, knowing that all these old methods have led to serious undercounts, especially of minorities, and cementing that flawed system in place now in perpetuity, I think it certainly is suspect as some sort of a deliberate attempt to codify a system that could be questioned that discriminates against minorities. For the first time in Michigan, these bills would ban the use of official census data in the redistricting of legislative, congressional, county commission, and Court of Appeals districts. They not only ban the use of official census data, but they would include provisions for the conducting of a separate census in the state or at the county level. I think that raises some interesting questions regarding the Michigan Constitution, Article 4, but also raises questions about duplication and the costs of those other censuses that might be conducted if they believe that the federal data is inconclusive or rather inadequate.

But I can understand, having looked at some of these very serious flaws that are in the bill in terms of the content; to understand why these bills were rushed out of committee because I think they cannot stand the light of public scrutiny. The package of bills, as was suggested by the Minority Leader here, were quickly rushed through a process, and it seems to me that given the sensitivity of this issue, if we're talking about locking into place a flawed system that has historically undercounted minorities, given that sensitivity, we should allow at least an opportunity, an adequate opportunity, for public comment on this important legislation from individuals and groups.

Instead the process has been rushed. Most bills don't make their way from committee being introduced on a Thursday and reported from committee the following Wednesday. A legislative analysis was only available the day of the hearing, and the substitute bill was available at that time. There wasn't a lot of opportunity for people to respond. I asked at that hearing for a week delay so that we could bring other interested parties forward to testify, other experts. That postponement request was denied on a party-line vote.

I was interested to hear the comments about outrage to some groups because when I returned to my office after the committee meeting, I received a copy of a letter that was sent to the chair of the committee from the executive director of the National Association for the Advancement of Colored People in Detroit, the Detroit branch, dated October 20,

which says: "Dear Senator Schuette: Thank you for inviting our participation. We support statistical sampling versus enumeration, but we request fair notice to participate. We, the Detroit branch NAACP, invite you to host a hearing in Detroit regarding reapportionment. It appears you have no commitment to fairness. Why this rush? You must know that Detroit and many other urban centers have grave concerns over which way census data is collected and used. If you are committed to fairness versus expedience and accuracy versus acrimony, then we urge you to slow this process down, at least long enough to allow for diverse input. Mr. Senator, you called me on Monday and sent me a fax communicate on Tuesday, all to invite the NAACP to bring testimony on Wednesday. You also state that you expect passage on Wednesday, today, so what do you expect from testimony? What difference will it make? Again, we urge you to host a hearing here in our great city, Michigan's largest population center. Come and hear the perspective of many of the experts, when in all fairness ought to have an opportunity to help shape such an important piece of public policy. Please do not continue to feed into what appears to be an anti-Detroit sentiment. I invite you or your representative to contact me if you need additional directions. Sincerely, Heaster L. Wheeler, Executive Director." That letter again was to the chair of the committee, to the Senator who is the sponsor of this legislation.

It's obvious that this bill has serious implications. It's obvious that the parties who feel that this bill will directly impact them feel that they did not have the opportunity to testify. I would like to comment on one reason that was suggested as to the need to move this bill quickly: That we only have something like 12 session days left. I'd only point out that that is an artificial limitation that we have created here. There's no constitutional crisis if we need more than 12 days. It's hard to envision the citizens of Michigan welling up with concern that on October 28, their full-time Legislature can only find 12 more days to do business.

This is an important issue. We could and should have had more thoughtful deliberation in this process. I also know that in the end there's no substitute for votes. This process will move forward, and I know where the votes are. We in the minority don't have the votes to stop or slow down this process. We know that from our perspective that the bills are flawed, that the process was flawed, and we can only hope that as this process moves forward, an independent and less partisan forum can be found where the bills can be reviewed. These bills certainly do cry out for that kind of review that they have not fairly received in this chamber.

Senator DeBeaussaert moved that he be permitted to submit, in writing, his reasons for voting "no" for inclusion in a subsequent Journal.

The motion prevailed.

Senators Schuette, Emmons, Sikkema, McCotter and Vaughn asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Schuette's first statement is as follows:

First, to the amendment. I would urge that we reject the V. Smith amendment for some reasons I will elaborate in a moment. Most specifically because what we have done in these bills, Senate Bill No. 810 and the other ones, is put into law and codify the history of decision-making of Michigan courts and federal court so as to protect the rights of minorities, so there is no dilution, and to make sure that we're abiding by the law of the land—both federal courts, the United States Supreme Court, and our own Michigan Supreme Court.

The Apol Standards really are legal words named after a statistician, a person who is actively involved in this, of making sure we didn't bust up counties, that neighborhoods wouldn't be broken up. That's really what these Apol Standards are like and, frankly, what we have been abiding by in this state, adopted by courts and this Legislature. For those reasons, I would reject the V. Smith amendment.

Let's talk about really what this whole issue before the Senate is today in these series of bills. Really what we're embarking upon today is an effort to make sure in every way we can that we cleanse this process of redistricting from politics; that no matter who might be in charge in 2001 and 2002, no matter what, there'll be no rigging of the game; that there won't be gerrymandering by either party; that we make sure that we cleanse this as best we can from partisanship and gamesmanship; rather, make sure that a fundamental tenet of American democracy and Michigan democracy is making sure that we have standards and rules that either party must meet; that they are abided by in the future. I think that's so vitally important for this body and the House as well.

Another reason to put these standards and bars into law now is so that in this era of term limits, where in the future there may be people coming and going who may not have had some of the experience as others have had in this whole reapportionment process, that we put rules that have been established and adopted by courts and past legislatures that will be important to fairness. Fairness really is the axiom in the world we are hoping to put into place today.

Now it is very important to know that in Senate Bill No. 810 and these other bills we are imprinting. We are inserting in our statute, smack dab, the Voting Rights Act of 1973 to protect the rights of minorities so we don't dilute minority representation. It is important we understand this. Section 2 of the Voting Rights Act, we are putting in our legislation,

says: “No voting qualification or prerequisite to voting or standard practice or procedure shall be imposed or applied by any state or political subdivision in a manner that results in the denial or abridgement of the right of any citizen of the United States to vote on account of race or color in contravention of the guarantees set forth in this act.” The point here is we’re making sure that we have the federal prescriptions put in the statute here in Michigan to protect rights of minorities. Whether it’s African-Americans in Detroit, Hispanics, or wherever it might be in any part of Michigan, we want those federal protections. I think that’s important.

We put in place these Apol Standards, which frankly, is again so we don’t bust up communities and we don’t break up or fracture neighborhoods. It’s how we have redistricting today. We want to make sure that those issues of compactness and not having gerrymandering to try to benefit one party or the other, we’re trying to rid ourselves of that.

Also what we are trying to do is have hard actual counts. We don’t want anybody left behind. We don’t want anybody frozen out. We want to count everyone. There’s an article in the Lansing State Journal yesterday about Maribelle Garcia. I want Maribelle Garcia and her daughter counted in Michigan and other people across the state counted in every accurate way.

What we have also done is put into these statutes United States Supreme Court decisions. Two cases: The Scott case and the Growe case that say the court of first jurisdiction, the first review of any redistricting case should be the state Supreme Court of Michigan and other high courts within the states. So we are putting into place that United States Supreme Court decision so we’d follow it here in our state.

Now other states across the country are doing what we are doing in Michigan, trying to establish fair, accurate, and tough nonpartisan guidelines. I think it’s important we know that in Alaska, Arizona, Colorado, and Kansas similar bills have been put into place. Also other states are engaging this process: Georgia, Indiana, Maryland, Minnesota, Nevada, New Jersey, Oklahoma, and Tennessee. So other states are trying to implement some standards and rules in terms of making sure we have hard actual counts.

You’ll hear a discussion today about this issue of hard counts versus wild guesses. Accurate precision instead of “Oh, what’s the guesstimate of how many people we may have missed?” I don’t want to minimize the issue of undercounting. It is essential that we put all of our resources, both money and people, in having accurate counts from the outset of this process of the census; making sure that in heavily populated areas of Michigan that we have community groups and committees to count in urban areas, where sometimes folks have been missed. We don’t want that to happen. Or in sparsely populated rural areas that we make every effort to count those people who live in communities where the population is sparse or people live few and far between. The point is let’s have an accurate count so no one is missed in Michigan; that everybody is counted because everyone is part of this process. So let us have hard counts instead of guesses.

We had hearings, the Committee on Reapportionment, with the state demographer, who established very precisely how this sampling process, frankly, can exasperate the undercount—widen this crater of not counting people. So let us, instead of saying, well, let’s try to guess who we might have missed, seems to me that the focus ought to be let’s count everyone. That’s our purpose today.

I look forward to this discussion of this important issue today. I would urge rejection of the V. Smith amendment, and may I add that we adopt this bill.

Senator Schuette’s second statement is as follows:

On the Smith amendment, a couple of things. First, with respect to process. I spoke with both the Democratic Leader and the Democratic Floor Leader within minutes after these bills were introduced on the 14th of October. We had 112 notices that went out concerning the hearing upcoming on October 20. On October 15, the day after the bills were introduced, the issue of this legislation was put into the news media and covered. We had a hearing on October 20. We had the state demographer testify. We had an attorney, Pete Ellsworth, testify, who has great expertise in redistricting matters. We had Mark Brewer testify, who has, frankly, just a splendid academic record, an attorney, and of prestigious universities, who is exceptionally well-versed on these issues, giving a different viewpoint. So we had no other people who wished to testify at that time. I had also made calls personally to the executive director of the NAACP, Mr. Heaster Wheeler, Bill Beckham of New Detroit, Charles Anderson of the Detroit Urban League, and Mayor Archer, trying to communicate the open opportunity for all points of view on this issue to come testify. So it’s important that that be placed on the record.

Now, with respect to the Smith amendment. What this amendment does, frankly, is try to politicize Standards. We have as one of the huge criteria, and higher than the Apol Standards, the Voting Rights Act making sure that there’s no dilution and no retrogression in any district. The Smith amendment puts in a number of things. It doesn’t include townships, and frankly, it’s an incumbent protection device. The point about this is not to maintain districts. The point on this is to count everybody accurately and then have districts that keep intact rights of minorities, that don’t dilute minority representation, and make sure that with issues of the Apol Standards of compactness and all of that, we don’t bust up communities.

So the point is that this is not about having safe seats, which the Smith amendment speaks to, which is not correct. This is not about politics in terms of political fairness. It’s not about having more Democrat or Republican or

Republican or Democrat. It's about fairness standards and abiding by very specific Supreme Court decisions of the United States and in Michigan, and abiding by, you know, a pattern of history of having hard enumerated counts.

So we should not have an amendment that speaks to politics, that eliminates townships, or frankly, tries to maintain existing seats because it's not about preserving seats. Rather, it's about making sure that everyone has a voice to be heard in fair representation. I'd urge rejection of the Smith amendment.

Senator Schuette's third statement is as follows:

Speaking to the Leland amendment, I would urge its rejection because what the Leland amendment would do is say let's not have a hard count; let's not try to be accurate; let's not try to be precise; let's not put all our efforts of counting everyone; let's not attempt to make sure we're enumerating everyone and not have people have frozen out. And what the Leland amendment said was let's just roll the dice and guess. That's not right. That's not good enough.

The point here ought to be let's count everyone, and let us not put into place a method that says, well, we're not going to get enough people anyway, so let's not try, and let's have some abstract approach of wild guesses determine the course of redistricting and reapportionment across our state. That's not right. Let's have a hard accurate count not wild guesses.

Now with respect to his comments about Mr. Nicholson, I have not seen or read the memo. The only thing I'd say is that Nicholson's probably right that if he did sampling, that would be a radical new approach. That's pretty radical, never been done before, and ought not to be a new standard to replace what we've done over federal courts, the U.S. Supreme Court, and Michigan courts. From the standpoint of the very specific issue of sampling, I would commend the reading of everyone here—exhibit 1—which was entered into the record at the Senate Committee on Reapportionment testimony by Mr. Kenneth Darga, the state demographer who talked about the problems with sampling. And if there is an undercount in the census, in a block, or a neighborhood, if you try to extrapolate and hypothecate and guesstimate who might have been missed, that doesn't solve the problem. There's still an undercount. The difference would widen and get bigger and not be helped. Is that a system making sure we've not frozen anybody out, that we've left no one behind? No. It just glosses over the problem and doesn't solve it. Our efforts ought to be to count everyone in Michigan, not having wild guesses soothed our conscience.

In terms of this discussion, the "Key Shortcomings of Undercount Adjustment Methodology" statements by Mr. Darga to the Senate Committee on Reapportionment are available to everyone and should be made part of this record as well because it talks about the problems of undercounting when sometimes in urban areas, people are mobile, they move, and may be renters instead of land people who live there. There might be some folks who, frankly, have some trepidation about coming at the door knocking saying they're from the government. That can happen in rural areas as well. Someone may come to your door wanting to ask you questions about where you live. Some people don't like to fill out the form. I can understand that. But the point is let's make every effort—communicate and talk about the need to have everybody counted. Let's just not gloss over it in a wild way.

So I would reject the Leland amendment and make sure we have an effort here of counting everyone instead of guessing about who might live in a block.

Senator Schuette's fourth statement is as follows:

A couple of points. First, with respect on the Leland amendment, Senator Leland talked about this issue of sampling. I need to clear up for the record that the state demographer, Mr. Darga, was very precise and chose his words in a precise fashion. He clearly stated to the committee that sampling doesn't work. Sampling doesn't cure the problem. Sampling doesn't fill the void of an undercount; rather, it would make the void bigger. It would have greater undercount and actually could contribute to depopulation of a district. It doesn't solve the problem. What the state demographer did do in his analysis about a census is say there are items that contribute to an undercount, whether it's in some areas, homelessness, some areas it might be mobility, moving on to a different job, a different community, maybe renters than not owning the property—those issues come into place. He talked about the problems of a census and then encouraged us to have resources directed to counting everybody. I needed to clear that up.

Then, with respect to my friend, the distinguished Senator Virgil Smith, with respect to the United States Supreme Court decision, Department of Commerce v. United States House of Representatives, that holding clearly states that the law of the land is hard enumerated count. That is the congressional decision, the act of Congress, requiring a hard enumerated count and prohibiting sampling. And beyond that, very specific, holding any other dicta, what may or may not occur, frankly, is not at all the ruling or holding of the Supreme Court. The Court is very clear that sampling may not be used. That's the rule of law.

Senator Schuette's fifth statement is as follows:

A number of items here. First in terms of the process. This was, frankly, a wide open process. Three people came to testify. We had plenty of time. There were no quick gavels here. This is not reminiscent of 1983 when a bill was discharged in the middle of the night after there was a recall by the Democratic Senate. We didn't do that. This was well in advance talked about, three people testified, and no quick gavels. Frankly, from this process, we achieved some

changes in the bills and inserted the words of precise mathematical equality of districts, of population in each district. And, may I say, the Democratic Party chairman, a skilled attorney, faced off with Pete Ellsworth, who is a Republican attorney. So, frankly, it was head-to-head, and it was not as if anyone was unaware about these issues.

This issue of statistically sampling versus a hard count, this issue of wild guesses versus let's count everybody is not new. Everybody is aware of these issues. We had a process that invited everybody to participate, as I know will occur in the House as well. So the process here, frankly, was straightforward. This really is an issue, this bill and the other ones, about having hard accurate counts, not wild guesses. Let's make sure we count everybody instead of, gee, who might have we forgotten, and what's the mathematical computation and evaluation to try to achieve some result that, frankly, doesn't solve the problem.

I'd encourage passage of this bill. What we have done is put into place and codified in statute voting rights protections; put into place Michigan Supreme Court decisions; put into place the rules of the United States Supreme Court. So we codified the rule of land, not to have politics come into play in 2001, no matter what happens in the elections of the year 2000.

Senator Schuette's sixth statement is as follows:

With respect to my comments on final passage of Senate Bill No. 810, we should adopt this legislation because I've said in the past it codifies existing court decisions in Michigan and federal laws and Supreme Court rulings. I have to tell you that the Supreme Court of the United States prohibits sampling to be used. It very clearly said "hard, actual, numerated counts." That was the intent and laws of Congress. And the theory behind this is let's not have two sets of books. If you've got a restaurant or business, and you have two sets of books that you want to cook, one on the one side, one on the other—that's not how we do democracy. Democracy ought to be hard actual counts, not statistical guesswork as to who lives where. That's the focus behind it.

Second, in terms of the process here, it's been two weeks since these bills have been introduced. There's been plenty of time for people to submit documents, items, letters, treatises, or opinions. I'm not seeing much. We had three exhibits in the Committee on Reapportionment. Exhibit 1 that I made reference to earlier. Exhibit 2 is from the U.S. Census Monitoring Board that says "Unkept promise: statistical adjustment fails to eliminate local undercounts." That's Exhibit 2. Exhibit 3 from the U.S. Census Monitoring Board, one of the headnotes says "Statistical adjustment alone has no hope of correcting large undercounts in African-American, Native American, Asian, and Latino neighborhoods in Michigan."

The point is statistics don't solve the problem. I do also want to mention that, yes, I was, frankly, happy and pleased, and I'm glad that I contacted key leaders in the African-American community from the National Association for the Advancement of Colored People, Mr. Heaster Wheeler, inviting his group to come, Bill Beckham from New Detroit, Charles Anderson from the Detroit Urban League, and Mayor Archer, letting them know in advance that I would welcome their views in every way, not that they would necessarily mirror mine or I theirs, but welcomed them to this process. And I would certainly do it again.

Senator Emmons' statement is as follows:

I'm a very practical person, and I'd like to address the issue of enumeration versus statistical sampling. If you were listening closely to what the demographer was trying to get across the day he was before the committee, was enumeration, actually going out and counting people, is a survey. You're surveying people, and you're actually writing them down. When you do statistical sampling, it starts out with a survey, except this time you survey a small number of people and extrapolate that into a large number of people. So if you have trouble with accepting the actual enumeration, the survey, you are going to have the same difficulties in a survey for statistical sampling—the same problem! But when you do, then using them as a sample to extrapolate, you do all sorts of weird things that do not represent real people.

So the problem is, as I see it, we need to do exactly what the Census Bureau is doing right now. They have complete count committees, and they are targeting areas that they believe they had trouble in before in getting an actual count. They are trying to get people from that actual community to do the kind of outreach that's necessary when you've got people who are reluctant to be counted. But when you try to do a statistical side and pretend that you have real people, you are in deep trouble. The demographer pointed out that using that method, the same people had the same problem with being counted because they weren't surveyed. So we believe that the Supreme Court was accurate and correct and that we should do it the same way that they do for Congress that's in the Constitution. We should not pretend the statistics can give us a better count than actually counting people. So I am completely opposed to the amendment that would put statistical sampling in place, and I asked that it be rejected.

Senator Sikkema's first statement is as follows:

What this amendment does is that it strikes the Apol Standards from this legislation. Frankly, I am surprised both by the attack and the criticism of the Apol Standards and the suggestion that it invites litigation. The fact of the matter is the courts have not only upheld these Standards, it was the courts that created them for the first time in the 1982

redistricting and then again in the 1992 redistricting. I must remind the members, including the sponsor of the amendment, that at no time in both of those occasions did justices nominated by any one of the political parties have a majority. In fact, the Apol Standards, when they were first created in 1982, it was a 3-3-1 split on the Michigan Supreme Court. They might be more aptly described as the Levin Standards.

But given that, I think it is awfully difficult to make a credible partisan attack upon Standards that were created by a bipartisan court, in the first place, and used again in the early '90s by another bipartisan court.

Senator Sikkema's second statement is as follows:

Well, members, let's think about this a minute. First of all the United States Supreme Court has ruled without any ambiguity whatsoever that you may not and shall not use sampling to apportion the 435 congressional districts among the states.

This amendment now suggests that even though you can't use sampling to apportion the congressional seats, you may use it to actually draw their maps. If sampling is not good enough and is not accurate enough and is it not fair enough to decide how many congressional seats each state gets, why would you possibly want to use it or why would it possibly then be fair to actually draw the maps? And the reason it's not fair and the reason it's wrong is that any time that you allow the manipulation of a set of numbers, it's an invitation to mischief. It's a invitation to Republican mischief. It's an invitation to Democratic mischief. It's an invitation to liberal mischief. It's an invitation to conservative mischief. It's an invitation to mischief from the Midwest, mischief from the South, mischief from the Northeast, mischief from the West, and mischief from any geographical area within any particular state.

One of the problems with sampling is that you're trading real people for virtual people. You're diluting the strength of people who are actually counted and made the effort, by the way, to be counted and increasing the strength of people who are not counted.

Ladies and gentlemen, when it comes to the census, do the count and increase our efforts to make sure that every citizen in this country and in Michigan gets counted. You know, one of the problems with allowing sampling for the first time when it comes to either apportioning congressional seats or apportioning state Senate and state Representative seats is that you send the message that the actual count is no longer important. And you really lessen efforts to ensure that everybody is counted next April when we do the census. You know, this year their saying "Well, let's just count 90 percent of the people, and we'll do sampling for 10 percent." Once you allow that to happen, the next time we do it ten years from now they'll say, "Well, let's just count 80 percent of the people and sample for 20 percent." That is the wrong direction to take here.

The bottom line is we should not rely on any process that invites mischief and manipulation, and frankly, that's what sampling allows.

Senator Sikkema's third statement is as follows:

Some previous speakers have referred to the United States Supreme Court decision and have made the assertion that the court said that you could use sampling to draw the maps. I have a copy of the court decision here. I would challenge any person in this chamber to point out where in this decision they said you could use sampling to draw the maps for congressional districts. If you can find it and point it out to me, then I stand corrected. I suspect that you can't find it because I can't find it. It's not in here. The court ruled on one issue and one issue alone. That was, could you use sampling to apportion the 435 districts among the states? They said, no, you can't.

All we're suggesting here with the legislation in front of us, and hopefully, you will reject the amendment, is that we think sampling is a bad idea. The immediate previous speaker said the current sampling available is bad, but maybe we could find a good one. Well, maybe we can in ten years, two years, three years. That is a pretty flimsy reason to adopt the Leland amendment which would use a flawed sampling method to draw the maps. I hope we reject this amendment.

Senator Sikkema's fourth statement is as follows:

Various speakers from the other side of the aisle, including my good friend from the 2nd Senatorial District, keep wanting to insist that somehow in the Supreme Court opinion that said, "Do not use sampling to apportion congressional districts," they somehow invited the use of sampling to draw the congressional maps. Ladies and gentlemen, there's no such language in this decision. The Senator from the 2nd District quoted the following from the decision: "Except for the determination of population for apportionment purposes, the secretary," referring to the Secretary of Commerce, "may where he deems appropriate authorize the use of statistical method called sampling in carrying out the provisions of this title." That's what the Senator said and quoted from the decision. And what he didn't do is read the next paragraph: "This provision allowing the secretary to authorize the use of sampling procedures in gathering supplemental, nonapportionment census information regarding population, unemployment, housing, and other matters collected in conjunction with the census." Ladies and gentlemen, there is absolutely no language, direct or indirect, that invites the idea that you can use sampling to draw maps for Congress, Senate, House, or any other district. In fact, frankly, it is silly and ludicrous on its face to suggest that the Supreme Court decision that said "don't

use sampling to apportion congressional seats” would somehow turn its own decision on its head and then invite sampling to draw the maps. That’s just counterintuitive, and it doesn’t make sense.

Senator McCotter’s first statement is as follows:

First, I will resist the temptation to ask that Senator Leland’s remarks be used as my “no” vote explanation.

I would just like to say that we all want the same thing here. We want the best count we can possibly have in the drawing of the lines and in the census. But I think what it boils down to is quite simply that best guesses do not work. We need an actual enumeration. Representative democracy is too important and too fragile to be allowed to be affected by guesswork.

I’ve heard a lot about minority undercounts. My wife is a minority; she’s a Hispanic. She grew up in Detroit. I am not unsympathetic to the concerns that you have, but in the end, we have to outweigh expediency with our experience and with actual numbers.

I would say as the Census Bureau has problems with the count that many members of the minority party are concerned about, I just simply remind the body that the Census Bureau is an administrative agency wholly under the control of the executive branch controlled by President Clinton. So if they are concerned the Census Bureau will not adequately count people, they should express those concerns to Vice President Gore and President Clinton.

Senator McCotter’s second statement is as follows:

A technical correction to a remark made by the Senator from the 11th District who said that this was the first time that the Legislature has banned the use of United States census data. Well, in reading the bill, that might be a factually accurate statement. But this is the first time the Legislature has ever been faced with the United States Census Bureau offering two separate sets of data. Actual enumeration, which is the hard count, and the radical new scheme of sampling, which is not. What we’ve endeavored to do in this bill as it says right in the bill, as I have had the opportunity and the desire to read it is that in order to continue the prior practice and not to change or alter the historic method by which congressional districts are determined, the district boundaries shall be determined by using population data from the United States Bureau of the Census identical to those from the actual enumeration conducted by the United States Bureau of the Census. In short, what we have done is to reaffirm the precedent we have always followed in the state of Michigan of using an actual enumeration from the Census Bureau.

Now again, I would just say to the minority party, if they have a problem with two different sets of number from the Census Bureau, they should take it up with the person responsible for the oversight of the Census Bureau, Vice President Gore and President Clinton.

Senator McCotter’s third statement is as follows:

I appreciate the distinguished member’s ecumenical spirit, but I would like to echo my remarks which I previously made. This is an argument about means, not about ends. What we have here are people trying to do the right thing and disagreeing on the way to do it.

I vote for this bill in good conscience, very much confirmed in my own heart that what we are doing is fair and just and right. I would just ask for reciprocity on that issue.

Senator Vaughn’s statement is as follows:

I had tried to sit quietly in my seat, but with the preponderance of discussion, never in this term have so many been involved. That suggests something very unusual is happening today, happening with fear and with determination. I don’t need your vote, not one vote from you; and that has been established throughout the years.

But I’m trying to help you save yourself. If I can help you save yourself, that’s a real contribution in terms of where you should be. I had a political science teacher at Hillsdale College who said that at Oberlin you should not take people where they are but where they should be.

I challenge this body today. You are almost unanimous in your opposition to something a few gallant people from this side are trying to save you from your own destruction. My role is to try to help you with the Majority Leader and the people. I hope you will listen, for a change. Fairness, regret, never in the history has so much been poured into so little as your demonstration here today.

As a person who enjoys a few votes, 90 percent, I am trying to help you, but you are determined to destroy yourself. Please, you still have a chance to help yourself, and if you save yourself, you will be doing this state a service. Fairness, regret, all of that, I have not talked on this floor because you really see it from a different perspective. You’re amazed to hear what you’re hearing. But there is still time for you to change your mind and change your soul. My mission is to help you. Nobody wants my neighborhood, nobody wants my district, but I have a voice in trying to help you. You enjoy all the fruits of the country and this state, and yet, you do not recognize that. This is not appraised to you if you interpret that as not at all.

I wanted to say, please, really be fair because you are not kidding anybody. Please, you have a few seconds left on this vote. I urge you to vote against this bill, I urge you. I have one vote in the whole process to do that and make this a better place for all of us. I am simply amazed at the things I hear and listen to. Mr. President and members, the next

vote, I plead with you not to destroy this state. The way you're going, you're destroying it. My mission is to try to help to save it.

Please let's help correct the vision, the direction in which we're heading on this vote. I want to share this with you, more to disheartened good people all over the state of Michigan than any point that I know of. The arrogance of power, as the author said, and you are demonstrating that. I plead with you. My plead is that you will vote "no," and let's try to work together to try to change the direction of our state, and particularly the direction in which we are headed.

Thank you very much for taking your time, and I've tried to not take time because time is precious and time is very important to all of us.

The following bill was read a third time:

Senate Bill No. 811, entitled

A bill to confer original jurisdiction on the supreme court to hear and decide cases on congressional redistricting; and to allow the supreme court to review and order congressional redistricting plans.

The question being on the passage of the bill,

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

Roll Call No. 548

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

Excused—1

Cherry

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 812, entitled

A bill to amend 1966 PA 261, entitled "An act to provide for the apportionment of county boards of commissioners; to prescribe the size of the board; to provide for appeals; to prescribe the manner of election of the members of the county board of commissioners; to provide for compensation of members; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 4 and 8 (MCL 46.404 and 46.408).

The question being on the passage of the bill,
Senator V. Smith offered the following amendment:

1. Amend page 3, line 8, by striking out all of subdivisions (b) through (h) and inserting:

“(B) ~~(h)~~ Districts shall not be drawn to effect ~~partisan political advantage~~ COMPACTNESS, CONTIGUITY, PRESERVATION OF THE INTEGRITY OF COUNTY AND MUNICIPAL BOUNDARIES, MAINTENANCE OF THE CORES OF EXISTING DISTRICTS, PRESERVATION OF CULTURAL, SOCIAL, AND ECONOMIC COMMUNITIES OF INTEREST, AND POLITICAL AND RACIAL FAIRNESS.” and relettering the remaining subdivision.

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. 549

Yeas—14

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

Nays—23

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

Excused—1

Cherry

Not Voting—0

In The Chair: President

Senators DeBeaussaert and Leland offered the following amendment:

1. Amend page 1, line 5, by striking out all of subdivision (a) and inserting:

“(a) All districts shall be single-member districts and ~~as nearly of equal population as is practicable~~ HAVE A POPULATION OF PRECISE MATHEMATICAL EQUALITY. DISTRICT BOUNDARIES MAY BE DETERMINED BY USING POPULATION COUNTS DERIVED FROM STATISTICAL SAMPLING TO ADD OR SUBTRACT POPULATION BY INFERENCE. The latest official published figures of the United States official census shall be used in this determination, except that in cases requiring division of official census units to meet the population standard, an actual population count may be used to make ~~such~~ THE division. Other governmental census figures of total population may be used if taken subsequent to the last decennial United States census and the United States census figures are not adequate for the purposes of this act. The secretary of state shall furnish the latest ~~official published~~ UNITED STATES OFFICIAL CENSUS figures to the county apportionment commissions ~~forthwith upon this act taking effect~~, and within 15 days after publication of ~~subsequent United States official census~~ THE figures. A contract may be entered into with the United States census bureau OR ANY OTHER GOVERNMENTAL UNIT to make any special census if the latest United States decennial census figures are not adequate FOR THIS ACT.”.

The question being on the adoption of the amendment,

Senator DeBeaussaert 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. 550

Yeas—14

Byrum
DeBeaussaert
Dingell
Emerson

Hart
Koivisto
Leland
Miller

Murphy
Peters
Smith, A.

Smith, V.
Vaughn
Young

Nays—23

Bennett
Bullard
DeGrow
Dunaskiss
Emmons
Gast

Goschka
Gougeon
Hammerstrom
Hoffman
Jaye
Johnson

McCotter
McManus
North
Rogers
Schuette
Schwarz

Shugars
Sikkema
Steil
Stille
Van Regenmorter

Excused—1

Cherry

Not Voting—0

In The Chair: President

Protest

Senator Gougeon, under his constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senator DeBeaussaert to Senate Bill No. 812.

Senator Schuette moved that the statement he made during the discussion of the amendment be printed in the Journal.

The motion prevailed.

Senator Gougeon moved that the statement made by Senator Schuette be printed as his reasons for voting “no.”

The motion prevailed.

Senator Schuette’s statement, in which Senator Gougeon concurred, is as follows:

I rise in objection and encourage rejection of the DeBeaussaert amendment.

What this does is try to insert the guess work, the estimations of sampling, instead of a hard census number for county redistricting plans. As I mentioned on the previous date, we cannot afford to have guestimates, wild guesses about where you draw lines in the 83 counties of Michigan. They need to be based on hard accurate data. That’s why we had the testimony of the state demographer, who talked about the fallacies of sampling. I would refer this body to exhibits 1, 2, and 3 from the hearing of the Committee on Reapportionment that talked about the widening that sampling would do to undercounts and how that, frankly, could depopulate urban areas and disenfranchise minority groups.

What we want to do in this bill and stamped all over it, imprinted on it, smack dab in the statute, are voting rights protections, so we would not have any dilution or retrogression of minority districts and to try to keep communities intact in every way we can. That’s the point here, so we don’t fracture neighborhoods. We’re putting in standards and bars with accurate data that must be met to depoliticize this process. Sampling doesn’t cure the problem. Frankly, it

exacerbates it. I would urge that we reject the DeBeaussaert amendment for the fallacies and inaccuracies of sampling. Let's put efforts closest to home in every locality and community to count everyone so we leave no one behind.

Senator Jaye offered the following amendment:

1. Amend page 1, line 5, after "and" by striking out the balance of the sentence and inserting "DRAWN TO ACHIEVE PRECISE MATHEMATICAL EQUALITY OF POPULATION IN EACH DISTRICT."

The question being on the adoption of the amendment,

Senator Jaye 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. 551

Yeas—15

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

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—1

Cherry

Not Voting—0

In The Chair: President

Senator Jaye offered the following amendments:

1. Amend page 1, line 1, after "Sec. 4." by inserting "(1) EVERY MICHIGAN RESIDENT'S VOTE IS EQUALLY IMPORTANT. EXTREME SHIFTS IN POPULATION WILL CAUSE A SITUATION OF UNEQUAL INFLUENCE IN THE STATE LAWS AND UNEQUAL SERVICES FROM THEIR STATE LEGISLATORS. MICHIGAN CITIZENS FROM DISTRICTS THAT HAVE A MUCH GREATER AMOUNT OF POPULATION WILL HAVE TO WAIT LONGER FOR CONSTITUENT SERVICES FROM LEGISLATORS SINCE INDIVIDUAL LEGISLATORS HAVE THE SAME CONSTITUENT STAFFING, PHONE, PRINTING, AND MAILING RESOURCES. LARGE POPULATION DISTRICT RESIDENTS WILL HAVE THEIR VOTING AND LEGISLATIVE OVERSIGHT INFLUENCE DILUTED COMPARED TO RESIDENTS OF LEGISLATIVE DISTRICTS WITH SMALLER POPULATION. DUE TO POPULATION SHIFTS AND DEVIATIONS OF THE INITIAL LEGISLATIVE DISTRICT LINES SOME MICHIGAN LEGISLATIVE DISTRICTS HAD LESS THAN HALF THE POPULATION OF OTHER LEGISLATIVE DISTRICTS. THEREFORE THE MICHIGAN LEGISLATURE ADOPTS A POLICY THAT DIRECTS THAT AREAS WHICH EXPERIENCED THE HIGHEST POPULATION GAIN BE PLACED IN THE LOWEST 10% OF THE POPULATION DEVIATION SO THESE DISTRICTS WILL GROW TO THE MIDDLE. AREAS WHICH EXPERIENCE THE HIGHEST POPULATION DECLINES BE PLACED IN THE HIGHEST 10% OF POPULATION DEVIATION SO THAT THESE DISTRICTS WILL SHRINK TO THE MIDDLE.

(2)".

2. Amend page 4, following line 11, by inserting:

“(J) IDENTIFY CONTIGUOUS CENSUS TRACTS AS AREAS OF EXTREME POPULATION GROWTH AND DECLINE AS REPORTED BY THE 2000 CENSUS. DRAW LEGISLATIVE AND COMMISSIONER DISTRICTS IN THE TOP 10% OF RAPID GROWTH CONTIGUOUS CENSUS DISTRICTS AT THE 10% LOWER END OF THE POPULATION DEVIATION AND THE TOP 10% RAPID DECLINE CONTIGUOUS CENSUS DISTRICTS AT THE 10% UPPER END OF POPULATION DEVIATION.”.

The amendments were not adopted, a majority of the members serving not 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. 552

Yeas—22

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

Nays—15

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

Excused—1

Cherry

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Protests

Senator A. Smith, under her constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill No. 812 and moved that she be permitted to submit, in writing, her reasons for voting “no” for inclusion in a subsequent Journal.

The motion prevailed

Senators V. Smith, Jaye, DeBeaussaert and Leland, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 812 and moved that the statements they made during the discussion of Senate Bill No. 810 be printed as their reasons for voting “no.”

The motion prevailed.

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

My amendment would strike the Apol criteria. Senate Bill No. 810 imports the Apol criteria from the state legislative redistricting into the congressional redistricting. These criteria stress the preservation of county, city, and township lines. The list of criteria is neither accurate nor fair to Democrats. The Apol criteria do not reflect the criteria historically recognized by federal courts in Michigan's congressional redistricting. These nonprioritized factors were articulated in the case of Good v. Austin, 800 S. Supp. 557, 563-66 and n. 6 (1992). The factors are compactness, contiguity, preservation of the integrity of county and municipal boundaries, maintenance of the cores of existing districts, preservation of cultural, social and economic communities of interest, and political and racial fairness. The Apol criteria are biased against Democrats in general and will result in the severe dilution of African-American voting strength in particular, and thus, does not promote political and racial fairness.

Redistricting criteria which limit the ability to split jurisdictions are detrimental to the construction of plans which are fair to Democratic candidates. Limiting the splitting of jurisdictions is designed to pack as many Democrats, and particularly, African-American and other minority voters, into as few districts as possible. Thus, creating supermajority Democratic districts, packing these districts with as many Democratic and minority voters as possible, leading to the creation of many more Republican districts than if Democratic votes could be distributed evenly. While these supermajority Democratic districts would reliably elect Democratic and minority representatives to the Congress and the Legislature, these districts could be constructed with far fewer Democratic voters so as not to pack Democratic voters in a district.

Let me make it clear. The Voting Rights Act prohibits packing, and if the Apol Standards are adopted for congressional redistricting, it will allow packing to occur, and thus, lead to a violation of the Voting Rights Act. The U.S. Supreme Court has held in the Burns v. Richardson case and in Fortson v. Dorsey that the apportionment plans will constitute invidious discrimination when it is shown that designingly or otherwise the apportionment would operate to minimize or cancel out the voting strength of racial or political elements of the voting population. Adoption of this bill and the rest of the bills in this package will undoubtedly lead to costly and acrimonious litigation.

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

I thought Senator Schuette made my argument. He kept talking about hearings. I don't know where the hearings were; we only had one hearing. We only had five days' notice when that bill was introduced until the time that the actual hearing took place. So I don't know what he is talking about when he's making reference to hearings.

I also thought that he help make my argument, and I do appreciate the language Senator Schuette has included under the voting rights into this particular legislation. But if he was sincere in wanting to see the voting rights language have applicability, then he would adopt that Smith amendment because in effect the language that he has had drafted into the bill itself would take away from the voting rights statute by making the elements of not breaking county lines, village lines, city lines, and compactness to be considered in a criteria in a higher priority than the language that would affect the racial gerrymandering of the districts, which is prohibited by the Voting Rights Act. Mr. President, I will reserve my comments in terms of the passage of the bill until the point when we get to passage.

Senator V. Smith's third statement is as follows:

My remarks regarding passage will be short. One of the things that I wanted to point out in terms of the process is that on this particular piece of legislation and on all five bills within this package, we felt that we did not have adequate time to have all of the representatives whom we would have liked to have had to appear in front of the committee when the reapportionment process was debated.

When we got to committee, we saw the Republican lawyer there who had handled reapportionment in the past on behalf of the Republican Party. We saw statisticians there who were there to give support for the arguments that were being advanced by the members of the Republican Party. We would have wanted to have had the same happen on the Democratic side of the issue. The time frame in which these bills were introduced on the 14th, and then taken up in front of committee on the 20th, did not give us adequate opportunity. I did ask the chairperson of the committee to delay the hearing on the reapportionment bills for one week. That request was denied. We were not able to get our attorneys there to properly put before the committee issues related to the reapportionment process from a Democratic perspective before the committee. We were not able to get statisticians there to also buttress our argument. We were able to get the chairperson of our party there. He responded on very short notice. I thought he did a good job with the time frame that he had been allowed.

I'd also like to say that as much as the good sponsor of these bills has reiterated, I respect him greatly as an individual and as a Senator. But as he speaks to the nonpartisan nature of the bills that have been put in front of this body, what he fails to say is that these are probably the most partisan bills that this body will face as opposing Democratic and Republican positions, this is a very political process. This is the process which will govern how lines will be redrawn not only for the congressional districts, but for the legislative districts, for the Court of Appeals districts, and for the county commissioner districts. This is a very political process. This is a process in which both parties will attempt to get their best positions put forward. In our estimation, the Republican majority is doing what

we probably would do if we were in control. That is, trying to lock in their positions through statutory changes in the law and to give guidance and direction to the courts as they have to make learned decisions on the drafting of the reapportionment process.

Regarding Mr. Apol. Mr. Apol was a Republican. Even though in 1982, in the redistricting process, we understood that the court had a 3-3 split with one Independent. On many occasions in that court, Justice Levin, who was the Independent, did side with his Republican counterparts in decisions that were placed in front of that body. We felt that at the time that reapportionment was done in 1982, the selection of Mr. Apol was clearly a Republican who laid out standards that were to the advantage of the Republican Party in both the 1980 reapportionment process and in the 1990 reapportionment process. So even though the other side of the aisle felt it was fair and deliberative, we felt that it did still have the indication of a partisan political process. It placed standards within those reapportionment bills which gave some advantage to the Republicans on behalf of reapportionment, as that process evolved within this state.

I would also like to speak to the fact that the good Senator from the 35th District made reference to the state of Arizona. How these bills are reflective of the Arizona Legislature and that the same standards that were placed in the Arizona legislation was indeed legislation that is reflective of what my counterparts on the other side of the aisle are attempting to do here. Those standards and that information was challenged by the United States Department of Justice. They sent a letter to the civil rights division within the state of Arizona, asking for clarification and asking many questions in terms of the partisan nature of the standards that were placed within those bills in the Arizona Legislature. Indeed, it was a political process in Arizona.

So we think that partisan politics is driving this issue. We think that both parties are attempting to get their best position put forward in these particular bills. That is what is going on here today. We are trying to document our position. We are trying to make sure that since in this state, which is at this point, we have a Republican Legislature, a Republican House, a Republican Governor, and a Republican-controlled Supreme Court, we document and prepare our position for the upcoming battle that will occur within the federal courts to try to make sure that the reapportionment process indeed reflects a process which is inclusive of all citizens in this state; which is inclusive of both parties being able to have reapportioned lines that give them a fair ability to be elected and be representative within the legislative bodies not only in the county commission, but in the halls of the state legislature and in the United States Congress.

Senator V. Smith's fourth statement is as follows:

Mr. President, just a quick response to the good Senator from the 31st District. I do have the opinion that was rendered by the United States Supreme Court in the Department of Commerce v. House of Representatives, which is a slip opinion. I would again refute the good Senator's interpretation of that United States Supreme Court decision. In that decision, the United States Supreme Court again delineated the fact that in terms of the hard count for each of the 428 congressional districts, it had to be based on the census, and those numbers had to be equally apportioned among each of the congressional districts. But, and I quote, the Court did say, "Except for the determination of population for purposes of congressional apportionment, the secretary shall if he considers it feasible, authorized the use of statistical sampling in carrying out the provisions of this title." And that language is also included, which in our interpretation, means that in our reading of the language of that congressional decision, does gives support that statistical sampling could be used outside of the populations for outside the determination of population for purposes of congressional apportionment which could, indeed, be used in terms of the drafting of the geographical lines contained within those particular districts by the 50 individual states.

Senator Jaye's first statement is as follows:

This amendment would require that county commissioner districts have the same population. The current law in the bill that we have before us, Senate Bill No. 812, if you take a look at it on page 1, line 5, it says, "All county commissioner districts shall be single-member districts and as nearly of equal population as practicable." That is crossed out—"as nearly of equal population"—and instead is inserting a 10 percent population difference between the smallest and largest county commissioner districts would be allowed.

I remember listening very closely to the debate on both sides on the issue, and the Senator from the 35th District says that he wants to make sure that the rules of this legislation don't allow any rigging of the game. The Senator from the 35th District says he doesn't want to allow partisanship, Republican or Democratic, considerations to be a rule. The Senator says he wants standards and rules that both parties must meet. The other Senator from the 31st District said that these rules should not allow any process that invites mischief.

Well, by allowing a 10 percent deviation, we are inviting mischief. We are rigging the game, and we are allowing Republicans and Democrats to put each other at a superior position, county by county. I'll give you an example: In Macomb County, the Democratic Party has got the majority of seats, so with the 10 percent deviation, they could make the Warren, the Roseville, the East Pointe districts, and county commissioner districts as small as possible and make the rapid growth, the more Republican county commissioner districts, as large as possible. What that would do is maybe squeeze in another two or three county commissioner seats for the Democrats in Macomb County and cheat the

Republicans in Macomb County out of a seat or two. Conversely, in Kent County, which is controlled by the Republicans, could have the Democrat seats in Grand Rapids at the largest end of the population deviation for county commissioners and make the out-county districts for Republicans as small as possible, artificially increasing the number of Republican county commissioner districts in Kent County and artificially decreasing the Democratic ones in Grand Rapids.

What this amendment does is it truly does establish rules so that no rigging of the game can occur, so no partisanship can occur, and so that one vote is treated the same whether you're in a city or on a farm or in a suburban areas. The current law is the same population for county commissioner districts as it is for Congress.

I refer your attention again to the U.S. Supreme Court ruling that says the extent that a citizen's right to vote is debased, he is much less a citizen. The fact that an individual lives here or there is not a legitimate reason for overweighting or diluting the advocacy of their vote. A citizen, a qualified voter, is no more or no less so because he lives in the city or on the farm. This is a clear and strong command of our Constitution's equal protection clause. This is an essential part of the concept that is a government of laws, not of men. This is the heart of what Lincoln's vision is of government "of the people, by the people, and for the people." The equal protection clause demands no less than substantial equal legislative representation for all citizens of all places and all races.

Simply stated, an individual's right to vote for their state legislators, in this case county commissioners, is unconstitutional impaired when its weight is in substantial fashion diluted when compared with the votes of citizens living in other parts of the state or other parts of the county. This amendment keeps the hard count that's already been decided. This amendment restores the language of a vote that is the same whether you're in a city, a suburb, or rural section of the county; whether you're in a Republican district or a Democrat district. I request that we vote for the one person-one vote amendment and would request a record roll call vote.

Senator Jaye's second statement is as follows:

The Michigan State Supreme Court did not say that we have to have a population variance; they said up to.

Current law in the 1970s, 1980s and this the final decade of this century there has been the same amount of population in each of the county commissioner districts, in each of the 83 counties in the state of Michigan. This amendment would put in place the same rules that have existed before for the counties and the same rules that continue for Congress—where one person-one vote, the most fundamental principle in democracy, is guaranteed whether you happen to live in an area that is dominated by the Democratic Party or the Republican Party.

Senator Jaye's third statement is as follows:

If we lost the battle to have the Constitutional principle of one person-one vote, then if there ever must be a deviation, I would suggest that the only deviation should be to recognize that some communities are rapid growth in population and some communities are rapidly declining in population.

This amendment would say that the areas that experience the highest population gain be placed at the lowest population variance, so that they would grow to the middle as the decade proceeded, and those areas with the largest population decline would be placed at the highest end of deviation and shrink to the middle. By allowing this difference in population, it becomes more and more of a dilution of the vote of the people in a rapid growth area.

Back in the 1990 census, it was shown that there were two house districts in Detroit that could fit into one house district in Macomb County or one house district in Oakland County, and still have 5,000 people left over. It literally was a situation where 46 Detroiters had the voting power of 100 suburbanites. So, if you want to try to get to a recognition that there are changes over a decade and that each person then should be able to have an equal influence in the policy because their commissioner in this case only has one vote, then let's agree that we do it scientifically, based on a hard count, based by census, by putting the rapid growth communities at the low end of the variation to grow to the middle and the declining communities at the high end to shrink to the middle. I request your support of this amendment.

Senator DeBeaussiaert's first statement is as follows:

Well, clearly the record is available, and at some point, I expect will be dissected for those who were part of the committee process. As it relates to the testimony of the state demographer, for those who are interested, they may want to look and start looking at the exhibit that was presented which was titled: "Key Shortcomings of the Current Undercount Adjustment Methodology." In fact, as that testimony was presented, I asked specifically, recognizing that he had problems with the current undercount adjustment methodology, whether in fact some adjustment mechanism could be put in place that would improve the process. I think that the record will reflect that he answered that, yes, it could in fact improve that process and that he did have problems with the current undercount adjustment methodology. I think that is part of the record. People can look that issue up for themselves.

Also as it relates to the question of what the United States Supreme Court ruled and as it relates to the issue of whether the old methodology must be used or whether these newer methodologies can be implemented, the ruling of the court did not reach any constitutional findings. They looked at the statute, and they said that based on the statute,

these new methodologies could not be used for the specific question of the apportionment of the seats of Congress among the states. I think that ruling also suggested that the new methodology could be used within that sample or within that context to divide those districts. In fact, it suggested that in many cases that additional methodology may be required to implement other acts that are in fact also the law of the land.

So I would invite everyone to look at the testimony and at the record. If you do, I think you will find that the Leland amendment is an appropriate one. I ask for your support.

Senator DeBeaussiaert's second statement is as follows:

Every ten years the Legislature has to come to grips with this, and it's a difficult issue always. It seems to me our objective should always be to adopt the legislation that will result in fair and full and equal representation.

I heard yesterday and listened carefully as the chairman of the committee said we should put in place a system that left no one behind, one that fully counted every person. But, unfortunately, the bills in this package do just the opposite. They return us to a day when government would officially require the use of a system that it knows undercounts people in this state and across this country, especially minority members of this state. There was a time previously when we did deliberately undercount residents when certain people only counted as 3/5 of a person. We all regret that, and we now know that the 14th Amendment repealed that. Over the history of this country, we have moved toward the efforts to fully count every person, and we made progress through the 1940s and 1950s.

Every year the undercount of citizens across this country dropped, until 1980 when we reached a level of about 1.2 percent undercount. Unfortunately, when we reached the 1990s, the 1990 census jumped significantly to 1.8 percent. For the first time in the history of the census that undercount increased, and following that, of course, there was a great outcry and great review of the data. We found that in Michigan some 66,000 people were not counted—.7 percent of the state population. In Detroit the undercount was 2.2 percent; in Grand Rapids, 1,636 children were missed; in Lansing, 1,202. Those 1990 results have been widely reviewed nationally and analyzed. The Government Accounting Office, a nonpartisan office, review found that "the American public has grown too diverse and dynamic to be accurately counted solely by the traditional head count approach and that fundamental change must be implemented for a successful census in the year 2000."

But, I'd also point out that a Michigan resident who was appointed by then-President Bush to conduct that 1990 census also believes that the old methods have peaked in their efficiency, and to fully and fairly account for the remainder will require some new methods of measurement.

This legislation proposed by the Majority really pits them against the vast experience and testimony of the scientific community. We have come together, as was indicated by Senator Leland in testimony before the Congress, calling for these measurement changes which would better count all the citizens of this country. As I indicated, the demographer had some questions about the methodology in his testimony before the committee, but he acknowledged the shortcomings of the current undercount of the old method. I don't necessarily agree with his analysis of the undercount adjustments that are in place, but it's clear to point out that while he did have questions about that methodology, he also acknowledged that the current method undercounted citizens and that perhaps some change could lead to improvement in the count.

So, knowing that all these old methods have led to serious undercounts, especially of minorities, and cementing that flawed system in place now in perpetuity, I think it certainly is suspect as some sort of a deliberate attempt to codify a system that could be questioned that discriminates against minorities. For the first time in Michigan, these bills would ban the use of official census data in the redistricting of legislative, congressional, county commission, and Court of Appeals districts. They not only ban the use of official census data, but they would include provisions for the conducting of a separate census in the state or at the county level. I think that raises some interesting questions regarding the Michigan Constitution, Article 4, but also raises questions about duplication and the costs of those other censuses that might be conducted if they believe that the federal data is inconclusive or rather inadequate.

But I can understand, having looked at some of these very serious flaws that are in the bill in terms of the content; to understand why these bills were rushed out of committee because I think they cannot stand the light of public scrutiny. The package of bills, as was suggested by the Minority Leader here, were quickly rushed through a process, and it seems to me that given the sensitivity of this issue, if we're talking about locking into place a flawed system that has historically undercounted minorities, given that sensitivity, we should allow at least an opportunity, an adequate opportunity, for public comment on this important legislation from individuals and groups.

Instead the process has been rushed. Most bills don't make their way from committee being introduced on a Thursday and reported from committee the following Wednesday. A legislative analysis was only available the day of the hearing, and the substitute bill was available at that time. There wasn't a lot of opportunity for people to respond. I asked at that hearing for a week delay so that we could bring other interested parties forward to testify, other experts. That postponement request was denied on a party-line vote.

I was interested to hear the comments about outrage to some groups because when I returned to my office after the committee meeting, I received a copy of a letter that was sent to the chair of the committee from the executive director of the National Association for the Advancement of Colored People in Detroit, the Detroit branch, dated October 20,

which says: "Dear Senator Schuette: Thank you for inviting our participation. We support statistical sampling versus enumeration, but we request fair notice to participate. We, the Detroit branch NAACP, invite you to host a hearing in Detroit regarding reapportionment. It appears you have no commitment to fairness. Why this rush? You must know that Detroit and many other urban centers have grave concerns over which way census data is collected and used. If you are committed to fairness versus expedience and accuracy versus acrimony, then we urge you to slow this process down, at least long enough to allow for diverse input. Mr. Senator, you called me on Monday and sent me a fax communicate on Tuesday, all to invite the NAACP to bring testimony on Wednesday. You also state that you expect passage on Wednesday, today, so what do you expect from testimony? What difference will it make? Again, we urge you to host a hearing here in our great city, Michigan's largest population center. Come and hear the perspective of many of the experts, when in all fairness ought to have an opportunity to help shape such an important piece of public policy. Please do not continue to feed into what appears to be an anti-Detroit sentiment. I invite you or your representative to contact me if you need additional directions. Sincerely, Heaster L. Wheeler, Executive Director." That letter again was to the chair of the committee, to the Senator who is the sponsor of this legislation.

It's obvious that this bill has serious implications. It's obvious that the parties who feel that this bill will directly impact them feel that they did not have the opportunity to testify. I would like to comment on one reason that was suggested as to the need to move this bill quickly: That we only have something like 12 session days left. I'd only point out that that is an artificial limitation that we have created here. There's no constitutional crisis if we need more than 12 days. It's hard to envision the citizens of Michigan welling up with concern that on October 28, their full-time Legislature can only find 12 more days to do business.

This is an important issue. We could and should have had more thoughtful deliberation in this process. I also know that in the end there's no substitute for votes. This process will move forward, and I know where the votes are. We in the minority don't have the votes to stop or slow down this process. We know that from our perspective that the bills are flawed, that the process was flawed, and we can only hope that as this process moves forward, an independent and less partisan forum can be found where the bills can be reviewed. These bills certainly do cry out for that kind of review that they have not fairly received in this chamber.

Senator Leland's first statement is as follows:

My amendment simply allows the use of statistical sampling rather than limiting redistricting to only the use of enumerated count. The ban on sampling will lead to the use of less accurate population data. No one disputes the last few censuses have seriously undercounted the population. While the undercount occurred throughout the country and among all groups, about three times more African-Americans, Hispanic-Americans, Asian-Americans, and rural Americans were missed in the national average. In Detroit alone, the undercount was 28,000 people.

The civil rights community has united in its support for using statistical sampling to ensure all Americans are counted, and they are not alone. Twenty-five major newspapers across the country have editorialized in support of statistical sampling. Because minority populations lean more towards the Democratic Party than the Republican Party, the Republicans believe that using sampling methods to bring about a more accurate count on the nation's population will harm their political interests. In a memo from the Republican National Committee, from Jim Nicholson to all state party chairs, he states the following, and I quote from his memo: "The Clinton administration is implementing a radical new way of taking the new census that will effectively add nearly 4.5 million Democrats to the nation's population. This is the political outcome of a controversial executive decision to use a complex mathematical formula to estimate and adjust the 2000 census. Using this process, Democrats gained a critical advantage in the next redistricting that will undermine GOP efforts to elect Republicans to both federal and state offices. It is vital that Republicans be united in opposing an adjusted census."

This legislation raises serious concerns regarding racial discrimination because it is undisputed that census data obtained through usual traditional county methods are racially bias. The sampling ban may violate the Voting Rights Act because it undercounts minorities. The ban on sampling violates the census act. In a case just this year, the United States Supreme Court held in Department of Commerce v. House of Representatives that while the federal census act prohibits the use of statistical sampling to apportion congressional districts among the states, the act does allow for statistical sampling of congressional districts within our state. The Secretary of Commerce has declared that sampling procedures are feasible within states.

The following remarks are from the American Statistical Association, the ASA, which is a professional association of 18,000 members made up of teachers of statistics, statisticians from business, industry, and government. According to the ASA, I quote: "Sampling is often a better and more accurate method of gaining such knowledge that is inadvertently an incomplete attempt to serve all members of a population. Therefore, in principle, statistical sampling applied to the census has the potential to increase the quality and accuracy of the count and to reduce the cost. The appropriate use of sampling can improve a count of a population. The basic idea underlying this conclusion is that some parts of the population will be easier to count and some will be more difficult. After an effort has been made to reach all households, some number of households will not have been reached. Little is known about these households. Well-designed sampling to obtain information about them can reduce what would otherwise be a differential undercount between the easier to count and harder to count groups in the population."

Statistical sampling has been endorsed by many nonpartisan experts as well as Barbara Bryant, a Republican who directed the census in 1990. Sampling is a critical tool for reducing uncertainty, therefore, I hope the members will support my amendment.

Senator Leland's second statement is as follows:

I think we should have had an interpreter there because it seems that what the demographer said at the committee meeting has different interpretations from the members who were present. I thought what I heard the state demographer say was let's count everyone. I thought what I heard the state demographer say was that sampling is good. Let's fix the methodology. I thought what I heard him say was let's make the sample better. I thought I also heard the state demographer say that there were problems with the hard count. He acknowledged, I thought I heard him say, that he acknowledged the problems with the hard count, and it appeared to me that what he was saying, and maybe it was in a cryptic way, was that let's use both. There's credibility with the hard, enumerated account, and there's credibility with statistical sampling. That's what I thought I heard the demographer say. Let's fix it; let's make it better. Statistical sampling makes it better. It counts everyone. No one gets left out.

Senator Leland's third statement is as follows:

Getting on the process issue with this discussion. I guess my constituents, myself, particularly my colleges from Detroit, felt that once again we have been humiliated by what is going on here.

We know that you folks are, at least on our side of the aisle, but we know who's in charge. We know what time it is, and we know you got the votes. But we're still members of this body, and this is suppose to be a kinder and gentler body. This did not have to get rushed out through here as expeditiously as it did. You could have honored our request and heard some people from Detroit come up and testify, particularly Mr. Wheeler from NAACP—given us a little more deference. This is the second time this body has done this to my constituency, and I just hope that it is the last time.

A couple more comments on the bill. The chairman, my good friend from the 35th District, in his remarks said that this process for these bills was supposed to be fair and accurate. The chairman, and my good friend from the 35th District, said that during the committee—and he said that today—it was supposed to be a fair and accurate process, that he did not want to dilute any minority representation, and as we all know, my district is made up largely of minority representation. He wanted to make sure that the rights of minorities were protected and that everyone was important to be counted. Well, I don't think that his discussion in his argument really was about any of those things. I think what it really was about was not policy, but was about politics as clearly stated in this Republican National Committee memo that I am going to share with the good Senator. I will leave it on my desk, and you can pick it up for your review.

As the chairman of the RNC stated, statistical sampling will affect the GOP outcome in the year 2000. Statistical sampling will affect the GOP outcome in the year 2000. So I think, listen, we know what time it is, but let's be fair about this. Let's just call this what it is. This is politics; this isn't policy here.

Now you talk about how a sampling is riddled with problems and how it's not fair. The ASA would differ with you—the statistical association. Twenty-five newspapers around the country editorialized on statistical sampling and they felt that—and these, by the way, aren't exactly as one of my Republican colleagues said, "pinko newspapers"—the newspapers across the country, 25 of them suggested that statistical sampling gets closer to the truth. I'll leave that on my desk for some of you if you want to review what some of the major newspapers across the country from LA to New York said about sampling.

People do get missed, and I can tell you that I do know a little bit about these things because for 20 years I have walked through majority and minority districts, and I know how hard it is to get my message delivered. Of course, once they know who I am, they are a little bit more comfortable with answering a door and opening up the blinds and checking me out. But people will get missed. They won't respond for whatever the reason is. And when someone comes knocking at their door, they wonder who is it, what does that person want, is it someone to repo my car, or is it a bill collector? I've heard that all the time. So I can tell you firsthand that I'm an expert, and I had been an expert ongoing through the neighborhood talking with households and trying to get my message delivered. In my message that I tried to get delivered, I don't think it was too intrusive; certainly, it wasn't offensive. But when someone from the Census Bureau comes by and knocks on their door and demands information, I think that's a problem for some people and they will not respond and there will be a miscount.

So statistical sampling, I think, used properly and used in combination with hard data, I think is a fair way to go. That's why I offered that amendment. Thank you for cutting me the slack, Lieutenant Governor and I'll try and do a better job next time.

Senators Schuette, Emmons, McCotter, Sikkema and DeBeaussiaert asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Schuette's first statement is as follows:

First, to the amendment. I would urge that we reject the V. Smith amendment for some reasons I will elaborate in a moment. Most specifically because what we have done in these bills, Senate Bill No. 810 and the other ones, is put into law and codify the history of decision-making of Michigan courts and federal court so as to protect the rights of minorities, so there is no dilution, and to make sure that we're abiding by the law of the land—both federal courts, the United States Supreme Court, and our own Michigan Supreme Court.

The Apol Standards really are legal words named after a statistician, a person who is actively involved in this, of making sure we didn't bust up counties, that neighborhoods wouldn't be broken up. That's really what these Apol Standards are like and, frankly, what we have been abiding by in this state, adopted by courts and this Legislature. For those reasons, I would reject the V. Smith amendment.

Let's talk about really what this whole issue before the Senate is today in these series of bills. Really what we're embarking upon today is an effort to make sure in every way we can that we cleanse this process of redistricting from politics; that no matter who might be in charge in 2001 and 2002, no matter what, there'll be no rigging of the game; that there won't be gerrymandering by either party; that we make sure that we cleanse this as best we can from partisanship and gamesmanship; rather, make sure that a fundamental tenet of American democracy and Michigan democracy is making sure that we have standards and rules that either party must meet; that they are abided by in the future. I think that's so vitally important for this body and the House as well.

Another reason to put these standards and bars into law now is so that in this era of term limits, where in the future there may be people coming and going who may not have had some of the experience as others have had in this whole reapportionment process, that we put rules that have been established and adopted by courts and past legislatures that will be important to fairness. Fairness really is the axiom in the world we are hoping to put into place today.

Now it is very important to know that in Senate Bill No. 810 and these other bills we are imprinting. We are inserting in our statute, smack dab, the Voting Rights Act of 1973 to protect the rights of minorities so we don't dilute minority representation. It is important we understand this. Section 2 of the Voting Rights Act, we are putting in our legislation, says: "No voting qualification or prerequisite to voting or standard practice or procedure shall be imposed or applied by any state or political subdivision in a manner that results in the denial or abridgement of the right of any citizen of the United States to vote on account of race or color in contravention of the guarantees set forth in this act." The point here is we're making sure that we have the federal prescriptions put in the statute here in Michigan to protect rights of minorities. Whether it's African-Americans in Detroit, Hispanics, or wherever it might be in any part of Michigan, we want those federal protections. I think that's important.

We put in place these Apol Standards, which frankly, is again so we don't bust up communities and we don't break up or fracture neighborhoods. It's how we have redistricting today. We want to make sure that those issues of compactness and not having gerrymandering to try to benefit one party or the other, we're trying to rid ourselves of that.

Also what we are trying to do is have hard actual counts. We don't want anybody left behind. We don't want anybody frozen out. We want to count everyone. There's an article in the Lansing State Journal yesterday about Maribelle Garcia. I want Maribelle Garcia and her daughter counted in Michigan and other people across the state counted in every accurate way.

What we have also done is put into these statutes United States Supreme Court decisions. Two cases: The Scott case and the Grove case that say the court of first jurisdiction, the first review of any redistricting case should be the state Supreme Court of Michigan and other high courts within the states. So we are putting into place that United States Supreme Court decision so we'd follow it here in our state.

Now other states across the country are doing what we are doing in Michigan, trying to establish fair, accurate, and tough nonpartisan guidelines. I think it's important we know that in Alaska, Arizona, Colorado, and Kansas similar bills have been put into place. Also other states are engaging this process: Georgia, Indiana, Maryland, Minnesota, Nevada, New Jersey, Oklahoma, and Tennessee. So other states are trying to implement some standards and rules in terms of making sure we have hard actual counts.

You'll hear a discussion today about this issue of hard counts versus wild guesses. Accurate precision instead of "Oh, what's the guesstimate of how many people we may have missed?" I don't want to minimize the issue of undercounting. It is essential that we put all of our resources, both money and people, in having accurate counts from the outset of this process of the census; making sure that in heavily populated areas of Michigan that we have community groups and committees to count in urban areas, where sometimes folks have been missed. We don't want that to happen. Or in sparsely populated rural areas that we make every effort to count those people who live in communities where the population is sparse or people live few and far between. The point is let's have an accurate count so no one is missed in Michigan; that everybody is counted because everyone is part of this process. So let us have hard counts instead of guesses.

We had hearings, the Committee on Reapportionment, with the state demographer, who established very precisely how this sampling process, frankly, can exasperate the undercount—widen this crater of not counting people. So let us, instead of saying, well, let's try to guess who we might have missed, seems to me that the focus ought to be let's count everyone. That's our purpose today.

I look forward to this discussion of this important issue today. I would urge rejection of the V. Smith amendment, and may I add that we adopt this bill.

Senator Schuette's second statement is as follows:

On the Smith amendment, a couple of things. First, with respect to process. I spoke with both the Democratic Leader and the Democratic Floor Leader within minutes after these bills were introduced on the 14th of October. We had 112 notices that went out concerning the hearing upcoming on October 20. On October 15, the day after the bills were introduced, the issue of this legislation was put into the news media and covered. We had a hearing on October 20. We had the state demographer testify. We had an attorney, Pete Ellsworth, testify, who has great expertise in redistricting matters. We had Mark Brewer testify, who has, frankly, just a splendid academic record, an attorney, and of prestigious universities, who is exceptionally well-versed on these issues, giving a different viewpoint. So we had no other people who wished to testify at that time. I had also made calls personally to the executive director of the NAACP, Mr. Heaster Wheeler, Bill Beckham of New Detroit, Charles Anderson of the Detroit Urban League, and Mayor Archer, trying to communicate the open opportunity for all points of view on this issue to come testify. So it's important that that be placed on the record.

Now, with respect to the Smith amendment. What this amendment does, frankly, is try to politicize Standards. We have as one of the huge criteria, and higher than the Apol Standards, the Voting Rights Act making sure that there's no dilution and no retrogression in any district. The Smith amendment puts in a number of things. It doesn't include townships, and frankly, it's an incumbent protection device. The point about this is not to maintain districts. The point on this is to count everybody accurately and then have districts that keep intact rights of minorities, that don't dilute minority representation, and make sure that with issues of the Apol Standards of compactness and all of that, we don't bust up communities.

So the point is that this is not about having safe seats, which the Smith amendment speaks to, which is not correct. This is not about politics in terms of political fairness. It's not about having more Democrat or Republican or Republican or Democrat. It's about fairness standards and abiding by very specific Supreme Court decisions of the United States and in Michigan, and abiding by, you know, a pattern of history of having hard enumerated counts.

So we should not have an amendment that speaks to politics, that eliminates townships, or frankly, tries to maintain existing seats because it's not about preserving seats. Rather, it's about making sure that everyone has a voice to be heard in fair representation. I'd urge rejection of the Smith amendment.

Senator Schuette's third statement is as follows:

Speaking to the Leland amendment, I would urge its rejection because what the Leland amendment would do is say let's not have a hard count; let's not try to be accurate; let's not try to be precise; let's not put all our efforts of counting everyone; let's not attempt to make sure we're enumerating everyone and not have people have frozen out. And what the Leland amendment said was let's just roll the dice and guess. That's not right. That's not good enough.

The point here ought to be let's count everyone, and let us not put into place a method that says, well, we're not going to get enough people anyway, so let's not try, and let's have some abstract approach of wild guesses determine the course of redistricting and reapportionment across our state. That's not right. Let's have a hard accurate count not wild guesses.

Now with respect to his comments about Mr. Nicholson, I have not seen or read the memo. The only thing I'd say is that Nicholson's probably right that if he did sampling, that would be a radical new approach. That's pretty radical, never been done before, and ought not to be a new standard to replace what we've done over federal courts, the U.S. Supreme Court, and Michigan courts. From the standpoint of the very specific issue of sampling, I would commend the reading of everyone here—exhibit 1—which was entered into the record at the Senate Committee on Reapportionment testimony by Mr. Kenneth Darga, the state demographer who talked about the problems with sampling. And if there is an undercount in the census, in a block, or a neighborhood, if you try to extrapolate and hypothesize and guesstimate who might have been missed, that doesn't solve the problem. There's still an undercount. The difference would widen and get bigger and not be helped. Is that a system making sure we've not frozen anybody out, that we've left no one behind? No. It just glosses over the problem and doesn't solve it. Our efforts ought to be to count everyone in Michigan, not having wild guesses soothed our conscience.

In terms of this discussion, the "Key Shortcomings of Undercount Adjustment Methodology" statements by Mr. Darga to the Senate Committee on Reapportionment are available to everyone and should be made part of this record as well because it talks about the problems of undercounting when sometimes in urban areas, people are mobile, they move, and may be renters instead of land people who live there. There might be some folks who, frankly, have some trepidation about coming at the door knocking saying they're from the government. That can happen in rural areas as well. Someone may come to your door wanting to ask you questions about where you live. Some people don't like to fill out the form. I can understand that. But the point is let's make every effort—communicate and talk about the need to have everybody counted. Let's just not gloss over it in a wild way.

So I would reject the Leland amendment and make sure we have an effort here of counting everyone instead of guessing about who might live in a block.

Senator Schuette's fourth statement is as follows:

A couple of points. First, with respect on the Leland amendment, Senator Leland talked about this issue of sampling. I need to clear up for the record that the state demographer, Mr. Darga, was very precise and chose his words in a precise fashion. He clearly stated to the committee that sampling doesn't work. Sampling doesn't cure the problem. Sampling doesn't fill the void of an undercount; rather, it would make the void bigger. It would have greater undercount and actually could contribute to depopulation of a district. It doesn't solve the problem. What the state demographer did do in his analysis about a census is say there are items that contribute to an undercount, whether it's in some areas, homelessness, some areas it might be mobility, moving on to a different job, a different community, maybe renters than not owning the property—those issues come into place. He talked about the problems of a census and then encouraged us to have resources directed to counting everybody. I needed to clear that up.

Then, with respect to my friend, the distinguished Senator Virgil Smith, with respect to the United States Supreme Court decision, Department of Commerce v. United States House of Representatives, that holding clearly states that the law of the land is hard enumerated count. That is the congressional decision, the act of Congress, requiring a hard enumerated count and prohibiting sampling. And beyond that, very specific, holding any other dicta, what may or may not occur, frankly, is not at all the ruling or holding of the Supreme Court. The Court is very clear that sampling may not be used. That's the rule of law.

Senator Schuette's fifth statement is as follows:

A number of items here. First in terms of the process. This was, frankly, a wide open process. Three people came to testify. We had plenty of time. There were no quick gavels here. This is not reminiscent of 1983 when a bill was discharged in the middle of the night after there was a recall by the Democratic Senate. We didn't do that. This was well in advance talked about, three people testified, and no quick gavels. Frankly, from this process, we achieved some changes in the bills and inserted the words of precise mathematical equality of districts, of population in each district. And, may I say, the Democratic Party chairman, a skilled attorney, faced off with Pete Elsworth, who is a Republican attorney. So, frankly, it was head-to-head, and it was not as if anyone was unaware about these issues.

This issue of statistically sampling versus a hard count, this issue of wild guesses versus let's count everybody is not new. Everybody is aware of these issues. We had a process that invited everybody to participate, as I know will occur in the House as well. So the process here, frankly, was straightforward. This really is an issue, this bill and the other ones, about having hard accurate counts, not wild guesses. Let's make sure we count everybody instead of Gee, who might have we forgotten, and what's the mathematical computation and evaluation to try to achieve some result that, frankly, doesn't solve the problem.

I'd encourage passage of this bill. What we have done is put into place and codified in statute voting rights protections; put into place Michigan Supreme Court decisions; put into place the rules of the United States Supreme Court. So we codified the rule of law, not to have politics come into play in 2001, no matter what happens in the elections of the year 2000.

Senator Schuette's sixth statement is as follows:

With respect to my comments on final passage of Senate Bill No. 810, we should adopt this legislation because I've said in the past it codifies existing court decisions in Michigan and federal laws and Supreme Court rulings. I have to tell you that the Supreme Court of the United States prohibits sampling to be used. It very clearly said "hard, actual, numerated counts." That was the intent and laws of Congress. And the theory behind this is let's not have two sets of books. If you've got a restaurant or business, and you have two sets of books that you want to cook, one on the one side, one on the other—that's not how we do democracy. Democracy ought to be hard actual counts, not statistical guesswork as to who lives where. That's the focus behind it.

Second, in terms of the process here, it's been two weeks since these bills have been introduced. There's been plenty of time for people to submit documents, items, letters, treatises, or opinions. I'm not seeing much. We had three exhibits in the Committee on Reapportionment. Exhibit 1 that I made reference to earlier. Exhibit 2 is from the U.S. Census Monitoring Board that says "Unkept promise: statistical adjustment fails to eliminate local undercounts." That's Exhibit 2. Exhibit 3 from the U.S. Census Monitoring Board, one of the headnotes says "Statistical adjustment alone has no hope of correcting large undercounts in African-American, Native American, Asian, and Latino neighborhoods in Michigan."

The point is statistics don't solve the problem. I do also want to mention that, yes, I was, frankly, happy and pleased, and I'm glad that I contacted key leaders in the African-American community from the National Association for the Advancement of Colored People, Mr. Heaster Wheeler, inviting his group to come, Bill Beckham from New Detroit, Charles Anderson from the Detroit Urban League, and Mayor Archer, letting them know in advance that I would welcome their views in every way, not that they would necessarily mirror mine or I theirs, but welcomed them to this process. And I would certainly do it again.

Senator Schuette's seventh statement is as follows:

I rise in objection to the Jaye amendment and urge its rejection.

What we've done in Senate Bill No. 812, with the leadership of Senator Hoffman, is to make sure that we are codifying and putting into statute the rulings of a Michigan Supreme Court decision of 1982 that said the deviation in Michigan for county commission lines and set this standard of up to some 11.5 percent. What we've done is narrowed that to a 10 percent deviation. So, we are well within the rules of conduct and the statutory guidelines of the Michigan Supreme Court. And I have to say when you are talking about county commission lines, we want to make sure that we have some sensitivity to communities and neighborhoods that aren't easily done when you get smaller and smaller units. What we're trying to do is have respect to local communities and neighborhoods and regional interests, and at the same time, adhering to the very specific and strict standards of the Michigan Supreme Court. I would urge rejection of the Jaye amendment and for adoption of the bill without the Jaye amendment.

Senator Schuette's eighth statement is as follows:

I strongly urge rejection of this amendment because we cannot be party to anything that dilutes the representation or the rights of minorities in any district in this state. We can't have guesswork in sampling of how many people we have, nor can we have guesswork as to where people might live. We need to have a census that is accurate, and then when lines are drawn in the future, they be done with precision, in a precise way with precision all the time.

We can't be part of anything that might be constitutionally suspect. I won't be a party to that. We had language in this bill from the Voting Rights Act's provision that protects the rights of minorities. There will be no dilution of that in these bills, and we need to reject this amendment.

Senator Emmons' first statement is as follows:

I'm a very practical person, and I'd like to address the issue of enumeration versus statistical sampling. If you were listening closely to what the demographer was trying to get across the day he was before the committee, was enumeration, actually going out and counting people, is a survey. You're surveying people, and you're actually writing them down. When you do statistical sampling, it starts out with a survey, except this time you survey a small number of people and extrapolate that into a large number of people. So if you have trouble with accepting the actual enumeration, the survey, you are going to have the same difficulties in a survey for statistical sampling—the same problem! But when you do, then using them as a sample to extrapolate, you do all sorts of weird things that do not represent real people.

So the problem is, as I see it, we need to do exactly what the Census Bureau is doing right now. They have complete count committees, and they are targeting areas that they believe they had trouble in before in getting an actual count. They are trying to get people from that actual community to do the kind of outreach that's necessary when you've got people who are reluctant to be counted. But when you try to do a statistical side and pretend that you have real people, you are in deep trouble. The demographer pointed out that using that method, the same people had the same problem with being counted because they weren't surveyed. So we believe that the Supreme Court was accurate and correct and that we should do it the same way that they do for Congress that's in the Constitution. We should not pretend the statistics can give us a better count than actually counting people. So I am completely opposed to the amendment that would put statistical sampling in place, and I asked that it be rejected.

Senator Emmons' second statement is as follows:

I want to support this bill very heavily. I was in local government. I've drawn local district lines, but I know the difficulty when you have a small township broken up into pieces and the difficulty that it gives to that local unit of government. And one of the things that did come out 1982 was a recognition that you should absolutely try to honor boundaries. It saves money for ten years down the road as you run every election and do your business as a township or any other small municipality. I have seen townships as small as 600-700 people divided into a number of different districts. That's nonsense. That is absolute nonsense. It is detrimental to the people in that area because they have representatives who never come to see them because they're so small it doesn't make any difference. We have in my district, right now, a small county of less than 40,000 people that is in three congressional districts. Believe me, that is not useful for the people in that district, and it gets even worse as you get into smaller municipalities. This is good legislation for citizens, so that they actually have a person who pays attention to them and actually represents them. It does not fragment and make irrelevant any citizen. So I strongly support this legislation for these districts.

Senator McCotter's first statement is as follows:

First, I will resist the temptation to ask that Senator Leland's remarks be used as my "no" vote explanation.

I would just like to say that we all want the same thing here. We want the best count we can possibly have in the drawing of the lines and in the census. But I think what it boils down to is quite simply that best guesses do not work. We need an actual enumeration. Representative democracy is too important and too fragile to be allowed to be affected by guesswork.

I've heard a lot about minority undercounts. My wife is a minority; she's a Hispanic. She grew up in Detroit. I am not unsympathetic to the concerns that you have, but in the end, we have to outweigh expediency with our experience and with actual numbers.

I would say as the Census Bureau has problems with the count that many members of the minority party are concerned about, I just simply remind the body that the Census Bureau is an administrative agency wholly under the control of the executive branch controlled by President Clinton. So if they are concerned the Census Bureau will not adequately count people, they should express those concerns to Vice President Gore and President Clinton.

Senator McCotter's second statement is as follows:

A technical correction to a remark made by the Senator from the 11th District who said that this was the first time that the Legislature has banned the use of United States census data. Well, in reading the bill, that might be a factually accurate statement. But this is the first time the Legislature has ever been faced with the United States Census Bureau offering two separate sets of data. Actual enumeration, which is the hard count, and the radical new scheme of sampling, which is not. What we've endeavored to do in this bill as it says right in the bill, as I have had the opportunity and the desire to read it is that in order to continue the prior practice and not to change or alter the historic method by which congressional districts are determined, the district boundaries shall be determined by using population data from the United States Bureau of the Census identical to those from the actual enumeration conducted by the United States Bureau of the Census. In short, what we have done is to reaffirm the precedent we have always followed in the state of Michigan of using an actual enumeration from the Census Bureau.

Now again, I would just say to the minority party, if they have a problem with two different sets of number from the Census Bureau, they should take it up with the person responsible for the oversight of the Census Bureau, Vice President Gore and President Clinton.

Senator McCotter's third statement is as follows:

I appreciate the distinguished member's ecumenical spirit, but I would like to echo my remarks which I previously made. This is an argument about means, not about ends. What we have here are people trying to do the right thing and disagreeing on the way to do it.

I vote for this bill in good conscience, very much confirmed in my own heart that what we are doing is fair and just and right. I would just ask for reciprocity on that issue.

Senator Sikkema's first statement is as follows:

What this amendment does is that it strikes the Apol Standards from this legislation. Frankly, I am surprised both by the attack and the criticism of the Apol Standards and the suggestion that it invites litigation. The fact of the matter is the courts have not only upheld these Standards, it was the courts that created them for the first time in the 1982 redistricting and then again in the 1992 redistricting. I must remind the members, including the sponsor of the amendment, that at no time in both of those occasions did justices nominated by any one of the political parties have a majority. In fact, the Apol Standards, when they were first created in 1982, it was a 3-3-1 split on the Michigan Supreme Court. They might be more aptly described as the Levin Standards.

But given that, I think it is awfully difficult to make a credible partisan attack upon Standards that were created by a bipartisan court, in the first place, and used again in the early '90s by another bipartisan court.

Senator Sikkema's second statement is as follows:

Well, members, let's think about this a minute. First of all the United States Supreme Court has ruled without any ambiguity whatsoever that you may not and shall not use sampling to apportion the 435 congressional districts among the states.

This amendment now suggests that even though you can't use sampling to apportion the congressional seats, you may use it to actually draw their maps. If sampling is not good enough and is not accurate enough and is it not fair enough to decide how many congressional seats each state gets, why would you possibly want to use it or why would it possibly then be fair to actually draw the maps? And the reason it's not fair and the reason it's wrong is that any time that you allow the manipulation of a set of numbers, it's an invitation to mischief. It's an invitation to Republican mischief. It's an invitation to Democratic mischief. It's an invitation to liberal mischief. It's an invitation to conservative mischief. It's an invitation to mischief from the Midwest, mischief from the South, mischief from the northeast, mischief from the West, and mischief from any geographical area within any particular state.

One of the problems with sampling is that you're trading real people for virtual people. You're diluting the strength of people who are actually counted and made the effort, by the way, to be counted and increasing the strength of people who are not counted.

Ladies and gentlemen, when it comes to the census, do the count and increase our efforts to make sure that every citizen in this country and in Michigan gets counted. You know, one of the problems with allowing sampling for the first time when it comes to either apportioning congressional seats or apportioning state Senate and state

Representative seats is that you send the message that the actual count is no longer important. And you really lessen efforts to ensure that everybody is counted next April when we do the census. You know, this year their saying "Well, let's just count 90 percent of the people, and we'll do sampling for 10 percent." Once you allow that to happen, the next time we do it ten years from now they'll say, "Well, let's just count 80 percent of the people and sample for 20 percent." That is the wrong direction to take here.

The bottom line is we should not rely on any process that invites mischief and manipulation, and frankly, that's what sampling allows.

Senator Sikkema's third statement is as follows:

Some previous speakers have referred to the United States Supreme Court decision and have made the assertion that the court said that you could use sampling to draw the maps. I have a copy of the court decision here. I would challenge any person in this chamber to point out where in this decision they said you could use sampling to draw the maps for congressional districts. If you can find it and point it out to me, then I stand corrected. I suspect that you can't find it because I can't find it. It's not in here. The court ruled on one issue and one issue alone. That was, could you use sampling to apportion the 435 districts among the states? They said, no, you can't.

All we're suggesting here with the legislation in front of us, and hopefully, you will reject the amendment, is that we think sampling is a bad idea. The immediate previous speaker said the current sampling available is bad, but maybe we could find a good one. Well, maybe we can in ten years, two years, three years. That is a pretty flimsy reason to adopt the Leland amendment which would use a flawed sampling method to draw the maps. I hope we reject this amendment.

Senator Sikkema's fourth statement is as follows:

Various speakers from the other side of the aisle, including my good friend from the 2nd Senatorial District, keep wanting to insist that somehow in the Supreme Court opinion that said, "Do not use sampling to apportion congressional districts," they somehow invited the use of sampling to draw the congressional maps. Ladies and gentlemen, there's no such language in this decision. The Senator from the 2nd District quoted the following from the decision: "Except for the determination of population for apportionment purposes, the secretary," referring to the Secretary of Commerce, "may where he deems appropriate authorize the use of statistical method called sampling in carrying out the provisions of this title." That's what the Senator said and quoted from the decision. And what he didn't do is read the next paragraph: "This provision allowing the secretary to authorize the use of sampling procedures in gathering supplemental, nonapportionment census information regarding population, unemployment, housing, and other matters collected in conjunction with the census." Ladies and gentlemen, there is absolutely no language, direct or indirect, that invites the idea that you can use sampling to draw maps for Congress, Senate, House, or any other district. In fact, frankly, it is silly and ludicrous on its face to suggest that the Supreme Court decision that said "don't use sampling to apportion congressional seats" would somehow turn its own decision on its head and then invite sampling to draw the maps. That's just counterintuitive, and it doesn't make sense.

Senator DeBeaussiaert's first statement is as follows:

Well, clearly the record is available, and at some point, I expect will be dissected for those who were part of the committee process. As it relates to the testimony of the state demographer, for those who are interested, they may want to look and start looking at the exhibit that was presented which was titled: "Key Shortcomings of the Current Undercount Adjustment Methodology." In fact, as that testimony was presented, I asked specifically, recognizing that he had problems with the current undercount methodology, whether in fact some adjustment mechanism could be put in place that would improve the process. I think that the record will reflect that he answered that, yes, it could in fact improve that process and that he did have problems with the current undercount adjustment methodology. I think that is part of the record. People can look that issue up for themselves.

Also as it relates to the question of what the United States Supreme Court ruled as it relates to the issue of whether the old methodology must be used or whether these newer methodologies can be implemented, the ruling of the court did not reach any constitutional findings. They looked at the statute, and they said that based on the statute, these new methodologies could not be used for the specific question of the apportionment of the seats of Congress among the states. I think that ruling also suggested that the new methodology could be used within that sample or within that context to divide those districts. In fact, it suggested that in many cases that additional methodology may be required to implement other acts that are in fact also the law of the land.

So I would invite everyone to look at the testimony and at the record. If you do, I think you will find that the Leland amendment is an appropriate one. I ask for your support.

Senator DeBeaussiaert's second statement is as follows:

Every ten years the Legislature has to come to grips with this, and it's a difficult issue always. It seems to me our objective should always be to adopt the legislation that will result in fair and full and equal representation.

I heard yesterday and listened carefully as the chairman of the committee said we should put in place a system that left no one behind, one that fully counted every person. But, unfortunately, the bills in this package do just the opposite. They return us to a day when government would officially require the use of a system that it knows undercounts people in this state and across this country, especially minority members of this state. There was a time previously when we did deliberately undercount residents when certain people only counted as 3/5 of a person. We all regret that, and we now know that the 14th Amendment repealed that. Over the history of this country, we have moved toward the efforts to fully count every person, and we made progress through the 1940s and 1950s.

Every year the undercount of citizens across this country dropped, until 1980 when we reached a level of about 1.2 percent undercount. Unfortunately, when we reached the 1990s, the 1990 census jumped significantly to 1.8 percent. For the first time in the history of the census that undercount increased, and following that, of course, there was a great outcry and great review of the data. We found that in Michigan some 66,000 people were not counted—.7 percent of the state population. In Detroit the undercount was 2.2 percent; in Grand Rapids, 1,636 children were missed; in Lansing, 1,202. Those 1990 results have been widely reviewed nationally and analyzed. The Government Accounting Office, a nonpartisan office, review found that "the American public has grown too diverse and dynamic to be accurately counted solely by the traditional head count approach and that fundamental change must be implemented for a successful census in the year 2000."

But, I'd also point out that a Michigan resident who was appointed by then-President Bush to conduct that 1990 census also believes that the old methods have peaked in their efficiency, and to fully and fairly account for the remainder will require some new methods of measurement.

This legislation proposed by the Majority really pits them against the vast experience and testimony of the scientific community. We have come together, as was indicated by Senator Leland in testimony before the Congress, calling for these measurement changes which would better count all the citizens of this country. As I indicated, the demographer had some questions about the methodology in his testimony before the committee, but he acknowledged the shortcomings of the current undercount of the old method. I don't necessarily agree with his analysis of the undercount adjustments that are in place, but it's clear to point out that while he did have questions about that methodology, he also acknowledged that the current method undercounted citizens and that perhaps some change could lead to improvement in the count.

So, knowing that all these old methods have led to serious undercounts, especially of minorities, and cementing that flawed system in place now in perpetuity, I think it certainly is suspect as some sort of a deliberate attempt to codify a system that could be questioned that discriminates against minorities. For the first time in Michigan, these bills would ban the use of official census data in the redistricting of legislative, congressional, county commission and Court of Appeals districts. They not only ban the use of official census data, but they would include provisions for the conducting of a separate census in the state or at the county level. I think that raises some interesting questions regarding the Michigan Constitution, Article 4, but also raises questions about duplication and the costs of those other censuses that might be conducted if they believe that the federal data is inconclusive or rather inadequate. But I can understand, having looked at some of these very serious flaws that are in the bill in terms of the content; to understand why these bills were rushed out of committee because I think they cannot stand the light of public scrutiny. The package of bills, as was suggested by the Minority Leader here, were quickly rushed through a process, and it seems to me that given the sensitivity of this issue, if we're talking about locking into place a flawed system that has historically undercounted minorities, given that sensitivity, we should allow at least an opportunity, an adequate opportunity, for public comment on this important legislation from individuals and groups.

Instead the process has been rushed. Most bills don't make their way from committee being introduced on a Thursday and reported from committee the following Wednesday. A legislative analysis was only available the day of the hearing, and the substitute bill was available at that time. There wasn't a lot of opportunity for people to respond. I asked at that hearing for a week delay so that we could bring other interested parties forward to testify, other experts. That postponement request was denied on a party line-vote.

I was interested to hear the comments about outrage to some groups because when I returned to my office after the committee meeting, I received a copy of a letter that was sent to the chair of the committee from the executive director of the National Association for the Advancement of Colored People in Detroit, the Detroit branch, dated October 20, which says: "Dear Senator Schuette: Thank you for inviting our participation. We support statistical sampling versus enumeration, but we request fair notice to participate. We, the Detroit branch NAACP, invite you to host a hearing in Detroit regarding reapportionment. It appears you have no commitment to fairness. Why this rush? You must know that Detroit and many other urban centers have grave concerns over which way census data is collected and used. If you are committed to fairness versus expedience and accuracy versus acrimony, then we urge you to slow this process down, at least long enough to allow for diverse input. Mr. Senator, you called me on Monday and sent me a fax communicate on Tuesday, all to invite the NAACP to bring testimony on Wednesday. You also state that you expect passage on Wednesday, today, so what do you expect from testimony? What difference will it make? Again, we urge you to host a hearing here in our great city, Michigan's largest population center. Come and hear the perspective of many of the experts, when in all fairness ought to have an opportunity to help shape such an important piece of public policy. Please do not continue to feed into what appears to be an anti-Detroit sentiment. I invite you or your

representative to contact me if you need additional directions. Sincerely, Heaster L. Wheeler, Executive Director.” That letter again was to the chair of the committee, to the Senator who is the sponsor of this legislation.

It’s obvious that this bill has serious implications. It’s obvious that the parties who feel that this bill will directly impact them feel that they did not have the opportunity to testify. I would like to comment on one reason that was suggested as to the need to move this bill quickly: That we only have something like 12 session days left. I’d only point out that that is an artificial limitation that we have created here. There’s no constitutional crisis if we need more than 12 days. It’s hard to envision the citizens of Michigan welling up with concern that on October 28, their full-time Legislature can only find 12 more days to do business.

This is an important issue. We could and should have had more thoughtful deliberation in this process. I also know that in the end there’s no substitute for votes. This process will move forward, and I know where the votes are. We in the minority don’t have the votes to stop or slow down this process. We know that from our perspective that the bills are flawed, that the process was flawed, and we can only hope that as this process moves forward, an independent and less partisan forum can be found where the bills can be reviewed. These bills certainly do cry out for that kind of review that they have not fairly received in this chamber.

Senator DeBeaussiaert’s third statement is as follows:

This issue was not debated at length on the previous bill. It basically accomplishes two things. First, I’d like to congratulate my colleagues on the other side of the aisle who, yesterday, came to realize in the substitute that they adopted that the principle of one person-one vote is best preserved by requiring each congressional district to be mathematically equal in population. When they adopted the substitute for Senate Bill No. 810 yesterday, they incorporated that requirement for equal population in each congressional district.

Obviously, recognizing that under Article 1, Section 2 of the U.S. Constitution, the U.S. Supreme Court has followed the principle of one person-one vote. In the case of Kilpatrick v. Preisler and White v. Weiser, the Court required exact mathematical equality of population among congressional districts and rejected variances based on asserted interests in preserving political boundaries and even compactness.

You must also be aware that in Michigan we followed those principles. In 1992, in fact, the federally drawn plan for Michigan had 15 districts with exact populations of 580,956 and one district with one additional person in place. So, if exact mathematical equality is required in order to adhere to the principle of one person-one vote in Senate Bill No. 810 for the congressional delegation, it seems to me that we should apply that same standard as it relates to the other levels included in this package, and this bill in particular as it relates to the county level.

So, in order to ensure that the requirements of the U.S. Constitution and the Voting Rights Act are followed by the Legislature, providing for exact mathematical equality as the population standard in both congressional as well as the legislative and county districts, I offer this amendment and would ask for your support. I would also point out that, in addition, the amendment would allow for the use of the new methodology, new modern methodologies, to account for the undercount that exists using the old methods of the past that have worked to the disadvantage of minorities across this state.

The following bill was read a third time:

Senate Bill No. 813, entitled

A bill to amend 1961 PA 236, entitled “Revised judicature act of 1961,” by amending section 302 (MCL 600.302), as amended by 1993 PA 190.

The question being on the passage of the bill,

Senator Leland offered the following amendment:

1. Amend page 2, line 13, by striking out all of subsections (2) and (3) and inserting:

“(2) ANY CHANGE IN THE JUDICIAL DISTRICT’S BOUNDARIES SHALL BE DETERMINED BY USING THE POPULATION DATA FROM THE UNITED STATES BUREAU OF THE CENSUS USED FOR THE APPORTIONMENT OF THE REPRESENTATIVES OF THE UNITED STATES HOUSE OF REPRESENTATIVES IN THE UNITED STATES DECENNIAL CENSUS. JUDICIAL DISTRICT BOUNDARIES MAY BE DETERMINED BY USING POPULATION COUNTS DERIVED FROM STATISTICAL SAMPLING TO ADD OR SUBTRACT POPULATION BY INFERENCE. OTHER GOVERNMENTAL CENSUS FIGURES OF TOTAL POPULATION MAY BE USED IF TAKEN SUBSEQUENT TO THE LAST DECENNIAL UNITED STATES CENSUS AND THE UNITED STATES CENSUS FIGURES ARE NOT ADEQUATE FOR THE PURPOSES OF THIS ACT. A CONTRACT MAY BE ENTERED INTO WITH THE UNITED STATES CENSUS BUREAU OR ANY OTHER GOVERNMENTAL UNIT TO MAKE ANY SPECIAL CENSUS IF THE LATEST UNITED STATES DECENNIAL CENSUS FIGURES ARE NOT ADEQUATE FOR THE PURPOSES OF THIS ACT.”.

The amendment was not adopted, a majority of the members serving not voting therefor.

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. 553**Yeas—14**

Byrum
DeBeaussaert
Dingell
Emerson

Hart
Koivisto
Leland
Miller

Murphy
Peters
Smith, A.

Smith, V.
Vaughn
Young

Nays—23

Bennett
Bullard
DeGrow
Dunaskiss
Emmons
Gast

Goschka
Gougeon
Hammerstrom
Hoffman
Jaye
Johnson

McCotter
McManus
North
Rogers
Schuette
Schwarz

Shugars
Sikkema
Steil
Stille
Van Regenmorter

Excused—1

Cherry

Not Voting—0

In The Chair: President

Protests

Senators Sikkema and Schuette, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senator Leland to Senate Bill No. 813 and moved that the statements they made during the discussion of the Senate Bill No. 810 and the amendments be printed as their reasons for voting “no.”

The motion prevailed.

Senator Sikkema’s first statement is as follows:

What this amendment does is that it strikes the Apol Standards from this legislation. Frankly, I am surprised both by the attack and the criticism of the Apol Standards and the suggestion that it invites litigation. The fact of the matter is the courts have not only upheld these Standards, it was the courts that created them for the first time in the 1982 redistricting and then again in the 1992 redistricting. I must remind the members, including the sponsor of the amendment, that at no time in both of those occasions did justices nominated by any one of the political parties have a majority. In fact, the Apol Standards, when they were first created in 1982, it was a 3-3-1 split on the Michigan Supreme Court. They might be more aptly described as the Levin Standards.

But given that, I think it is awfully difficult to make a credible partisan attack upon Standards that were created by a bipartisan court, in the first place, and used again in the early ’90s by another bipartisan court.

Senator Sikkema’s second statement is as follows:

Well, members, let’s think about this a minute. First of all the United States Supreme Court has ruled without any ambiguity whatsoever that you may not and shall not use sampling to apportion the 435 congressional districts among the states.

This amendment now suggests that even though you can’t use sampling to apportion the congressional seats, you may use it to actually draw their maps. If sampling is not good enough and is not accurate enough and is it not fair enough to decide how many congressional seats each state gets, why would you possibly want to use it or why would it possibly then be fair to actually draw the maps? And the reason it’s not fair and the reason it’s wrong is that any time that you allow the manipulation of a set of numbers, it’s an invitation to mischief. It’s an invitation to Republican mischief. It’s an invitation to Democratic mischief. It’s an invitation to liberal mischief. It’s an invitation to

conservative mischief. It's an invitation to mischief from the Midwest, mischief from the South, mischief from the northeast, mischief from the West, and mischief from any geographical area within any particular state.

One of the problems with sampling is that you're trading real people for virtual people. You're diluting the strength of people who are actually counted and made the effort, by the way, to be counted and increasing the strength of people who are not counted.

Ladies and gentlemen, when it comes to the census, do the count and increase our efforts to make sure that every citizen in this country and in Michigan gets counted. You know, one of the problems with allowing sampling for the first time when it comes to either apportioning congressional seats or apportioning state Senate and state Representative seats is that you send the message that the actual count is no longer important. And you really lessen efforts to ensure that everybody is counted next April when we do the census. You know, this year their saying "Well, let's just count 90 percent of the people, and we'll do sampling for 10 percent." Once you allow that to happen, the next time we do it ten years from now they'll say, "Well, let's just count 80 percent of the people and sample for 20 percent." That is the wrong direction to take here.

The bottom line is we should not rely on any process that invites mischief and manipulation, and frankly, that's what sampling allows.

Senator Sikkema's third statement is as follows:

Some previous speakers have referred to the United States Supreme Court decision and have made the assertion that the court said that you could use sampling to draw the maps. I have a copy of the court decision here. I would challenge any person in this chamber to point out where in this decision they said you could use sampling to draw the maps for congressional districts. If you can find it and point it out to me, then I stand corrected. I suspect that you can't find it because I can't find it. It's not in here. The court ruled on one issue and one issue alone. That was, could you use sampling to apportion the 435 districts among the states? They said, no, you can't.

All we're suggesting here with the legislation in front of us, and hopefully, you will reject the amendment, is that we think sampling is a bad idea. The immediate previous speaker said the current sampling available is bad, but maybe we could find a good one. Well, maybe we can in ten years, two years, three years. That is a pretty flimsy reason to adopt the Leland amendment which would use a flawed sampling method to draw the maps. I hope we reject this amendment.

Senator Sikkema's fourth statement is as follows:

Various speakers from the other side of the aisle, including my good friend from the 2nd Senatorial District, keep wanting to insist that somehow in the Supreme Court opinion that said, "Do not use sampling to apportion congressional districts," they somehow invited the use of sampling to draw the congressional maps. Ladies and gentlemen, there's no such language in this decision. The Senator from the 2nd District quoted the following from the decision: "Except for the determination of population for apportionment purposes, the secretary," referring to the Secretary of Commerce, "may where he deems appropriate authorize the use of statistical method called sampling in carrying out the provisions of this title." That's what the Senator said and quoted from the decision. And what he didn't do is read the next paragraph: "This provision allowing the secretary to authorize the use of sampling procedures in gathering supplemental, nonapportionment census information regarding population, unemployment, housing, and other matters collected in conjunction with the census." Ladies and gentlemen, there is absolutely no language, direct or indirect, that invites the idea that you can use sampling to draw maps for Congress, Senate, House, or any other district. In fact, frankly, it is silly and ludicrous on its face to suggest that the Supreme Court decision that said "don't use sampling to apportion congressional seats" would somehow turn its own decision on its head and then invite sampling to draw the maps. That's just counterintuitive, and it doesn't make sense.

Senator Schuette's first statement is as follows:

First, to the amendment. I would urge that we reject the V. Smith amendment for some reasons I will elaborate in a moment. Most specifically because what we have done in these bills, Senate Bill No. 810 and the other ones, is put into law and codify the history of decision-making of Michigan courts and federal court so as to protect the rights of minorities, so there is no dilution, and to make sure that we're abiding by the law of the land—both federal courts, the United States Supreme Court, and our own Michigan Supreme Court.

The Apol Standards really are legal words named after a statistician, a person who is actively involved in this, of making sure we didn't bust up counties, that neighborhoods wouldn't be broken up. That's really what these Apol Standards are like and, frankly, what we have been abiding by in this state, adopted by courts and this Legislature. For those reasons, I would reject the V. Smith amendment.

Let's talk about really what this whole issue before the Senate is today in these series of bills. Really what we're embarking upon today is an effort to make sure in every way we can that we cleanse this process of redistricting from politics; that no matter who might be in charge in 2001 and 2002, no matter what, there'll be no rigging of the game; that there won't be gerrymandering by either party; that we make sure that we cleanse this as best we can from

partisanship and gamesmanship; rather, make sure that a fundamental tenet of American democracy and Michigan democracy is making sure that we have standards and rules that either party must meet; that they are abided by in the future. I think that's so vitally important for this body and the House as well.

Another reason to put these standards and bars into law now is so that in this era of term limits, where in the future there may be people coming and going who may not have had some of the experience as others have had in this whole reapportionment process, that we put rules that have been established and adopted by courts and past legislatures that will be important to fairness. Fairness really is the axiom in the world we are hoping to put into place today.

Now it is very important to know that in Senate Bill No. 810 and these other bills we are imprinting. We are inserting in our statute, smack dab, the Voting Rights Act of 1973 to protect the rights of minorities so we don't dilute minority representation. It is important we understand this. Section 2 of the Voting Rights Act, we are putting in our legislation, says: "No voting qualification or prerequisite to voting or standard practice or procedure shall be imposed or applied by any state or political subdivision in a manner that results in the denial or abridgement of the right of any citizen of the United States to vote on account of race or color in contravention of the guarantees set forth in this act." The point here is we're making sure that we have the federal prescriptions put in the statute here in Michigan to protect rights of minorities. Whether it's African-Americans in Detroit, Hispanics, or wherever it might be in any part of Michigan, we want those federal protections. I think that's important.

We put in place these Apol Standards, which frankly, is again so we don't bust up communities and we don't break up or fracture neighborhoods. It's how we have redistricting today. We want to make sure that those issues of compactness and not having gerrymandering to try to benefit one party or the other, we're trying to rid ourselves of that.

Also what we are trying to do is have hard actual counts. We don't want anybody left behind. We don't want anybody frozen out. We want to count everyone. There's an article in the Lansing State Journal yesterday about Maribelle Garcia. I want Maribelle Garcia and her daughter counted in Michigan and other people across the state counted in every accurate way.

What we have also done is put into these statutes United States Supreme Court decisions. Two cases: The Scott case and the Grove case that say the court of first jurisdiction, the first review of any redistricting case should be the state Supreme Court of Michigan and other high courts within the states. So we are putting into place that United States Supreme Court decision so we'd follow it here in our state.

Now other states across the country are doing what we are doing in Michigan, trying to establish fair, accurate, and tough nonpartisan guidelines. I think it's important we know that in Alaska, Arizona, Colorado, and Kansas similar bills have been put into place. Also other states are engaging this process: Georgia, Indiana, Maryland, Minnesota, Nevada, New Jersey, Oklahoma, and Tennessee. So other states are trying to implement some standards and rules in terms of making sure we have hard actual counts.

You'll hear a discussion today about this issue of hard counts versus wild guesses. Accurate precision instead of "Oh, what's the guesstimate of how many people we may have missed?" I don't want to minimize the issue of undercounting. It is essential that we put all of our resources, both money and people, in having accurate counts from the outset of this process of the census; making sure that in heavily populated areas of Michigan that we have community groups and committees to count in urban areas, where sometimes folks have been missed. We don't want that to happen. Or in sparsely populated rural areas that we make every effort to count those people who live in communities where the population is sparse or people live few and far between. The point is let's have an accurate count so no one is missed in Michigan; that everybody is counted because everyone is part of this process. So let us have hard counts instead of guesses.

We had hearings, the Committee on Reapportionment, with the state demographer, who established very precisely how this sampling process, frankly, can exasperate the undercount—widen this crater of not counting people. So let us, instead of saying, well, let's try to guess who we might have missed, seems to me that the focus ought to be let's count everyone. That's our purpose today.

I look forward to this discussion of this important issue today. I would urge rejection of the V. Smith amendment, and may I add that we adopt this bill.

Senator Schuette's second statement is as follows:

On the Smith amendment, a couple of things. First, with respect to process. I spoke with both the Democratic Leader and the Democratic Floor Leader within minutes after these bills were introduced on the 14th of October. We had 112 notices that went out concerning the hearing upcoming on October 20. On October 15, the day after the bills were introduced, the issue of this legislation was put into the news media and covered. We had a hearing on October 20. We had the state demographer testify. We had an attorney, Pete Ellsworth, testify, who has great expertise in redistricting matters. We had Mark Brewer testify, who has, frankly, just a splendid academic record, an attorney, and of prestigious universities, who is exceptionally well-versed on these issues, giving a different viewpoint. So we had no other people who wished to testify at that time. I had also made calls personally to the executive director of the NAACP, Mr. Heaster Wheeler, Bill Beckham of New Detroit, Charles Anderson of the Detroit Urban League, and Mayor Archer, trying to communicate the open opportunity for all points of view on this issue to come testify. So it's important that that be placed on the record.

Now, with respect to the Smith amendment. What this amendment does, frankly, is try to politicize Standards. We have as one of the huge criteria, and higher than the Apol Standards, the Voting Rights Act making sure that there's no dilution and no retrogression in any district. The Smith amendment puts in a number of things. It doesn't include townships, and frankly, it's an incumbent protection device. The point about this is not to maintain districts. The point on this is to count everybody accurately and then have districts that keep intact rights of minorities, that don't dilute minority representation, and make sure that with issues of the Apol Standards of compactness and all of that, we don't bust up communities.

So the point is that this is not about having safe seats, which the Smith amendment speaks to, which is not correct. This is not about politics in terms of political fairness. It's not about having more Democrat or Republican or Republican or Democrat. It's about fairness standards and abiding by very specific Supreme Court decisions of the United States and in Michigan, and abiding by, you know, a pattern of history of having hard enumerated counts.

So we should not have an amendment that speaks to politics, that eliminates townships, or frankly, tries to maintain existing seats because it's not about preserving seats. Rather, it's about making sure that everyone has a voice to be heard in fair representation. I'd urge rejection of the Smith amendment.

Senator Schuette's third statement is as follows:

Speaking to the Leland amendment, I would urge its rejection because what the Leland amendment would do is say let's not have a hard count; let's not try to be accurate; let's not try to be precise; let's not put all our efforts of counting everyone; let's not attempt to make sure we're enumerating everyone and not have people have frozen out. And what the Leland amendment said was let's just roll the dice and guess. That's not right. That's not good enough.

The point here ought to be let's count everyone, and let us not put into place a method that says, well, we're not going to get enough people anyway, so let's not try, and let's have some abstract approach of wild guesses determine the course of redistricting and reapportionment across our state. That's not right. Let's have a hard accurate count not wild guesses.

Now with respect to his comments about Mr. Nicholson, I have not seen or read the memo. The only thing I'd say is that Nicholson's probably right that if he did sampling, that would be a radical new approach. That's pretty radical, never been done before, and ought not to be a new standard to replace what we've done over federal courts, the U.S. Supreme Court, and Michigan courts. From the standpoint of the very specific issue of sampling, I would commend the reading of everyone here—exhibit 1—which was entered into the record at the Senate Committee on Reapportionment testimony by Mr. Kenneth Darga, the state demographer who talked about the problems with sampling. And if there is an undercount in the census, in a block, or a neighborhood, if you try to extrapolate and hypothecate and guesstimate who might have been missed, that doesn't solve the problem. There's still an undercount. The difference would widen and get bigger and not be helped. Is that a system making sure we've not frozen anybody out, that we've left no one behind? No. It just glosses over the problem and doesn't solve it. Our efforts ought to be to count everyone in Michigan, not having wild guesses soothed our conscience.

In terms of this discussion, the "Key Shortcomings of Undercount Adjustment Methodology" statements by Mr. Darga to the Senate Committee on Reapportionment are available to everyone and should be made part of this record as well because it talks about the problems of undercounting when sometimes in urban areas, people are mobile, they move, and may be renters instead of land people who live there. There might be some folks who, frankly, have some trepidation about coming at the door knocking saying they're from the government. That can happen in rural areas as well. Someone may come to your door wanting to ask you questions about where you live. Some people don't like to fill out the form. I can understand that. But the point is let's make every effort—communicate and talk about the need to have everybody counted. Let's just not gloss over it in a wild way.

So I would reject the Leland amendment and make sure we have an effort here of counting everyone instead of guessing about who might live in a block.

Senator Schuette's fourth statement is as follows:

A couple of points. First, with respect on the Leland amendment, Senator Leland talked about this issue of sampling. I need to clear up for the record that the state demographer, Mr. Darga, was very precise and chose his words in a precise fashion. He clearly stated to the committee that sampling doesn't work. Sampling doesn't cure the problem. Sampling doesn't fill the void of an undercount; rather, it would make the void bigger. It would have greater undercount and actually could contribute to depopulation of a district. It doesn't solve the problem. What the state demographer did do in his analysis about a census is say there are items that contribute to an undercount, whether it's in some areas, homelessness, some areas it might be mobility, moving on to a different job, a different community, maybe renters than not owning the property—those issues come into place. He talked about the problems of a census and then encouraged us to have resources directed to counting everybody. I needed to clear that up.

Then, with respect to my friend, the distinguished Senator Virgil Smith, with respect to the United States Supreme Court decision, Department of Commerce v. United States House of Representatives, that holding clearly states that the law of the land is hard enumerated count. That is the congressional decision, the act of Congress, requiring a hard

enumerated count and prohibiting sampling. And beyond that, very specific, holding any other dicta, what may or may not occur, frankly, is not at all the ruling or holding of the Supreme Court. The Court is very clear that sampling may not be used. That's the rule of law.

Senator Schuette's fifth statement is as follows:

A number of items here. First in terms of the process. This was, frankly, a wide open process. Three people came to testify. We had plenty of time. There were no quick gavels here. This is not reminiscent of 1983 when a bill was discharged in the middle of the night after there was a recall by the Democratic Senate. We didn't do that. This was well in advance talked about, three people testified, and no quick gavels. Frankly, from this process, we achieved some changes in the bills and inserted the words of precise mathematical equality of districts, of population in each district. And, may I say, the Democratic Party chairman, a skilled attorney, faced off with Pete Elsworth, who is a Republican attorney. So, frankly, it was head-to-head, and it was not as if anyone was unaware about these issues.

This issue of statistically sampling versus a hard count, this issue of wild guesses versus let's count everybody is not new. Everybody is aware of these issues. We had a process that invited everybody to participate, as I know will occur in the House as well. So the process here, frankly, was straightforward. This really is an issue, this bill and the other ones, about having hard accurate counts, not wild guesses. Let's make sure we count everybody instead of Gee, who might have we forgotten, and what's the mathematical computation and evaluation to try to achieve some result that, frankly, doesn't solve the problem.

I'd encourage passage of this bill. What we have done is put into place and codified in statute voting rights protections; put into place Michigan Supreme Court decisions; put into place the rules of the United States Supreme Court. So we codified the rule of law, not to have politics come into play in 2001, no matter what happens in the elections of the year 2000.

Senator Schuette's sixth statement is as follows:

With respect to my comments on final passage of Senate Bill No. 810, we should adopt this legislation because I've said in the past it codifies existing court decisions in Michigan and federal laws and Supreme Court rulings. I have to tell you that the Supreme Court of the United States prohibits sampling to be used. It very clearly said "hard, actual, numerated counts." That was the intent and laws of Congress. And the theory behind this is let's not have two sets of books. If you've got a restaurant or business, and you have two sets of books that you want to cook, one on the one side, one on the other—that's not how we do democracy. Democracy ought to be hard actual counts, not statistical guesswork as to who lives where. That's the focus behind it.

Second, in terms of the process here, it's been two weeks since these bills have been introduced. There's been plenty of time for people to submit documents, items, letters, treatises, or opinions. I'm not seeing much. We had three exhibits in the Committee on Reapportionment. Exhibit 1 that I made reference to earlier. Exhibit 2 is from the U.S. Census Monitoring Board that says "Unkept promise: statistical adjustment fails to eliminate local undercounts." That's Exhibit 2. Exhibit 3 from the U.S. Census Monitoring Board, one of the headnotes says "Statistical adjustment alone has no hope of correcting large undercounts in African-American, Native American, Asian, and Latino neighborhoods in Michigan."

The point is statistics don't solve the problem. I do also want to mention that, yes, I was, frankly, happy and pleased, and I'm glad that I contacted key leaders in the African-American community from the National Association for the Advancement of Colored People, Mr. Heaster Wheeler, inviting his group to come, Bill Beckham from New Detroit, Charles Anderson from the Detroit Urban League, and Mayor Archer, letting them know in advance that I would welcome their views in every way, not that they would necessarily mirror mine or I theirs, but welcomed them to this process. And I would certainly do it again.

Senator Schuette's seventh statement is as follows:

I wish to rise in objection to the Leland amendment.

This is a fundamental issue we are going to debate in this chamber, so I am not worried about the time. I think we need to make our arguments and be thoughtful and deliberate in everything we do on this very important legislation.

With respect to the Leland amendment, basically, what he is trying to say is let's have guesswork in how you determine the lines of courts, which interpret every statute, and that's not what this should be. We ought to have hard, precise, and accurate measurements in where you draw these Court of Appeals districts.

The leadership of Senator Sikkema was necessary in making sure that we have hard statistical data and that we have voting rights protection in this statute as well. It is absolutely essential that we protect the rights of minorities and protect the rights and interest of all citizens. As I have said before in Senate Bill Nos. 810, 811, 812, and now in 813, guesswork is not right for Michigan. Hard accurate numbers are what we ought to strive for in every aspect, whether it's the Court of Appeals in our state of Michigan, state legislative district lines, or congressional lines on the federal level. If there is an undercount, sampling won't work and makes the problem worse. I urge rejection of the Leland amendment and adoption of the Senate Bill No. 813.

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

The motion prevailed.

Senator Leland's first statement is as follows:

My amendment simply allows the use of statistical sampling rather than limiting redistricting to only the use of enumerated count. The ban on sampling will lead to the use of less accurate population data. No one disputes the last few censuses have seriously undercounted the population. While the undercount occurred throughout the country and among all groups, about three times more African-Americans, Hispanic-Americans, Asian-Americans, and rural Americans were missed in the national average. In Detroit alone, the undercount was 28,000 people.

The civil rights community has united in its support for using statistical sampling to ensure all Americans are counted, and they are not alone. Twenty-five major newspapers across the country have editorialized in support of statistical sampling. Because minority populations lean more towards the Democratic Party than the Republican Party, the Republicans believe that using sampling methods to bring about a more accurate count on the nation's population will harm their political interests. In a memo from the Republican National Committee, from Jim Nicholson to all state party chairs, he states the following, and I quote from his memo: "The Clinton administration is implementing a radical new way of taking the new census that will effectively add nearly 4.5 million Democrats to the nation's population. This is the political outcome of a controversial executive decision to use a complex mathematical formula to estimate and adjust the 2000 census. Using this process, Democrats gained a critical advantage in the next redistricting that will undermine GOP efforts to elect Republican to both federal and state offices. It is vital that Republicans be united in opposing an adjusted census."

This legislation raises serious concerns regarding racial discrimination because it is undisputed that census data obtained through usual traditional county methods are racially bias. The sampling ban may violate the Voting Rights Act because it undercounts minorities. The ban on sampling violates the census act. In a case just this year, the United States Supreme Court held in Department of Commerce v. House of Representatives that while the federal census act prohibits the use of statistical sampling to apportion congressional districts among the states, the act does allow for statistical sampling of congressional districts within our state. The Secretary of Commerce has declared that sampling procedures are feasible within states.

The following remarks are from the American Statistical Association, the ASA, which is a professional association of 18,000 members made up of teachers of statistics, statisticians from business, industry, and government. According to the ASA, I quote: "Sampling is often a better and more accurate method of gaining such knowledge that is inadvertently an incomplete attempt to serve all members of a population. Therefore, in principle, statistical sampling applied to the census has the potential to increase the quality and accuracy of the count and to reduce the cost. The appropriate use of sampling can improve a count of a population. The basic idea underlying this conclusion is that some parts of the population will be easier to count and some will be more difficult. After an effort has been made to reach all households, some number of households will not have been reached. Little is known about these households. Well-designed sampling to obtain information about them can reduce what would otherwise be a differential undercount between the easier to count and harder to count groups in the population."

Statistical sampling has been endorsed by many non partisan experts as well as Barbara Bryant, a Republican who directed the census in 1990. Sampling is a critical tool for reducing uncertainty, therefore, I hope the members will support my amendment.

Senator Leland's second statement is as follows:

I think we should have had an interpreter there because it seems that what the demographer said at the committee meeting has different interpretations from the members who were present. I thought what I heard the state demographer say was let's count everyone. I thought what I heard the state demographer say was that sampling is good. Let's fix the methodology. I thought what I heard him say was let's make the sample better. I thought I also heard the state demographer say that there were problems with the hard count. He acknowledged, I thought I heard him say, that he acknowledged the problems with the hard count, and it appeared to me that what he was saying, and maybe it was in a cryptic way, was that let's use both. There's credibility with the hard, enumerated account, and there's credibility with statistical sampling. That's what I thought I heard the demographer say. Let's fix it; let's make it better. Statistical sampling makes it better. It counts everyone. No one gets left out.

Senator Leland's third statement is as follows:

I guess I will have to repeat a couple of the arguments that I made earlier in regards to census sampling. There will be an undercount. There is no question about that. I said in my previous remarks that in Detroit 28,000 people were missed; at least 28,000 people were missed; probably more because I remember canvassing some of those neighborhoods and going into some of those census tracts, trying to canvas the community and looking for people. They just weren't there.

The chairman again suggested that this was supposed to be a democratic process, a fair process. Everybody's going to get counted. Minority rights aren't going to be violated. Well, if we don't use statistical sampling, you're going to violate minority rights. People are just not going to be counted. It's as simple as that.

I hope that you'll support my amendment. I think it is an important amendment. I urge my colleagues to support the Leland amendment.

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. 554

Yeas—23

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

Nays—14

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

Excused—1

Cherry

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Protests

Senators Leland, V. Smith and DeBeaussaert, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 813 and moved that the statements they made during the discussion of the bill and Senate Bill No. 810 be printed as their reasons for voting "no."

The motion prevailed.

Senator Leland's first statement is as follows:

My amendment simply allows the use of statistical sampling rather than limiting redistricting to only the use of enumerated count. The ban on sampling will lead to the use of less accurate population data. No one disputes the last few censuses have seriously undercounted the population. While the undercount occurred throughout the country and among all groups, about three times more African-Americans, Hispanic-Americans, Asian-Americans, and rural Americans were missed in the national average. In Detroit alone, the undercount was 28,000 people.

The civil rights community has united in its support for using statistical sampling to ensure all Americans are counted, and they are not alone. Twenty-five major newspapers across the country have editorialized in support of statistical sampling. Because minority populations lean more towards the Democratic Party than the Republican Party, the Republicans believe that using sampling methods to bring about a more accurate count on the nation's population will harm their political interests. In a memo from the Republican National Committee, from Jim Nicholson to all state party chairs, he states the following, and I quote from his memo: "The Clinton administration is implementing a radical new way of taking the new census that will effectively add nearly 4.5 million Democrats to the nation's population. This is the political outcome of a controversial executive decision to use a complex mathematical formula to estimate and adjust the 2000 census. Using this process, Democrats gained a critical advantage in the next redistricting that will undermine GOP efforts to elect Republican to both federal and state offices. It is vital that Republicans be united in opposing an adjusted census."

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Statistical sampling has been endorsed by many non partisan experts as well as Barbara Bryant, a Republican who directed the census in 1990. Sampling is a critical tool for reducing uncertainty, therefore, I hope the members will support my amendment.

Senator Leland's second statement is as follows:

I think we should have had an interpreter there because it seems that what the demographer said at the committee meeting has different interpretations from the members who were present. I thought what I heard the state demographer say was let's count everyone. I thought what I heard the state demographer say was that sampling is good. Let's fix the methodology. I thought what I heard him say was let's make the sample better. I thought I also heard the state demographer say that there were problems with the hard count. He acknowledged, I thought I heard him say, that he acknowledged the problems with the hard count, and it appeared to me that what he was saying, and maybe it was in a cryptic way, was that let's use both. There's credibility with the hard, enumerated account, and there's credibility with statistical sampling. That's what I thought I heard the demographer say. Let's fix it; let's make it better. Statistical sampling makes it better. It counts everyone. No one gets left out.

Senator Leland's third statement is as follows:

Getting on the process issue with this discussion. I guess my constituents, myself, particularly my colleges from Detroit, felt that once again we have been humiliated by what is going on here.

We know that you folks are, at least on our side of the aisle, but we know who's in charge. We know what time it is, and we know you got the votes. But we're still members of this body, and this is suppose to be a kinder and gentler body. This did not have to get rushed out through here as expeditiously as it did. You could have honored our request and heard some people from Detroit come up and testify, particularly Mr. Wheeler from NAACP—given us a little more deference. This is the second time this body has done this to my constituency, and I just hope that it is the last time.

A couple more comments on the bill. The chairman, my good friend from the 35th District, in his remarks said that this process for these bills was supposed to be fair and accurate. The chairman, and my good friend from the 35th District, said that during the committee—and he said that today—it was supposed to be a fair and accurate process, that he did not want to dilute any minority representation, and as we all know, my district is made up largely of minority representation. He wanted to make sure that the rights of minorities were protected and that everyone was important to be counted. Well, I don't think that his discussion in his argument really was about any of those things. I think what it really was about was not policy, but was about politics as clearly stated in this Republican National Committee memo that I am going to share with the good Senator. I will leave it on my desk, and you can pick it up for your review.

As the chairman of the RNC stated, statistical sampling will affect the GOP outcome in the year 2000. Statistical sampling will affect the GOP outcome in the year 2000. So I think, listen, we know what time it is, but let's be fair about this. Let's just call this what it is. This is politics; this isn't policy here.

Now you talk about how a sampling is riddled with problems and how it's not fair. The ASA would differ with you—the statistical association. Twenty-five newspapers around the country editorialized on statistical sampling and they felt that—and these, by the way, aren't exactly as one of my Republican colleagues said, “pinko newspapers”—the newspapers across the country, 25 of them suggested that statistical sampling gets closer to the truth. I'll leave that on my desk for some of you if you want to review what some of the major newspapers across the country from LA to New York said about sampling.

People do get missed, and I can tell you that I do know a little bit about these things because for 20 years I have walked through majority and minority districts, and I know how hard it is to get my message delivered. Of course, once they know who I am, they are a little bit more comfortable with answering a door and opening up the blinds and checking me out. But people will get missed. They won't respond for whatever the reason is. And when someone comes knocking at their door, they wonder who is it, what does that person want, is it someone to repo my car or, is it a bill collector? I've heard that all the time. So I can tell you firsthand that I'm an expert, and I had been an expert ongoing through the neighborhood talking with households and trying to get my message delivered. In my message that I tried to get delivered, I don't think it was too intrusive; certainly, it wasn't offensive. But when someone from the Census Bureau comes by and knocks on their door and demands information, I think that's a problem for some people and they will not respond and there will be a miscount.

So statistical sampling, I think, used properly and used in combination with hard data, I think is a fair way to go. That's why I offered that amendment. Thank you for cutting me the slack, Lieutenant Governor and I'll try and do a better job next time.

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

My amendment would strike the Apol criteria. Senate Bill No. 810 imports the Apol criteria from the state legislative redistricting into the congressional redistricting. These criteria stress the preservation of county, city, and township lines. The list of criteria is neither accurate nor fair to Democrats. The Apol criteria do not reflect the criteria historically recognized by federal courts in Michigan's congressional redistricting. These nonprioritized factors were articulated in the case of Good v. Austin, 800 S. Supp. 557, 563-66 and n. 6 (1992). The factors are compactness, contiguity, preservation of the integrity of county and municipal boundaries, maintenance of the cores of existing districts, preservation of cultural, social and economic communities of interest, and political and racial fairness. The Apol criteria are biased against Democrats in general and will result in the severe dilution of African-American voting strength in particular, and thus, does not promote political and racial fairness.

Redistricting criteria which limit the ability to split jurisdictions are detrimental to the construction of plans which are fair to Democratic candidates. Limiting the splitting of jurisdictions is designed to pack as many Democrats, and particularly, African-American and other minority voters, into as few districts as possible. Thus, creating supermajority Democratic districts, packing these districts with as many Democratic and minority voters as possible, leading to the creation of many more Republican districts than if Democratic votes could be distributed evenly. While these supermajority Democratic districts would reliably elect Democratic and minority representatives to the Congress and the Legislature, these districts could be constructed with far fewer Democratic voters so as not to pack Democratic voters in a district.

Let me make it clear. The Voting Rights Act prohibits packing, and if the Apol Standards are adopted for congressional redistricting, it will allow packing to occur, and thus, lead to a violation of the Voting Rights Act. The U.S. Supreme Court has held in the Burns v. Richardson case and in Fortson v. Dorsey that the apportionment plans will constitute invidious discrimination when it is shown that designingly or otherwise the apportionment would operate to minimize or cancel out the voting strength of racial or political elements of the voting population. Adoption of this bill and the rest of the bills in this package will undoubtedly lead to costly and acrimonious litigation.

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

I thought Senator Schuette made my argument. He kept talking about hearings. I don't know where the hearings were; we only had one hearing. We only had five days' notice when that bill was introduced until the time that the actual hearing took place. So I don't know what he is talking about when he's making reference to hearings.

I also thought that he help make my argument, and I do appreciate the language Senator Schuette has included under the voting rights into this particular legislation. But if he was sincere in wanting to see the voting rights language have applicability, then he would adopt that Smith amendment because in effect the language that he has had drafted into the bill itself would take away from the voting rights statute by making the elements of not breaking county lines, village lines, city lines, and compactness to be considered in a criteria in a higher priority than the language that would affect the racial gerrymandering of the districts, which is prohibited by the Voting Rights Act. Mr. President, I will reserve my comments in terms of the passage of the bill until the point when we get to passage.

Senator V. Smith's third statement is as follows:

Mr. President, I would like to say to the good Senator from the 31st District that his quote of the United States Supreme Court would have been complete if he would have let the body know that the United States Supreme Court, in making a determination on congressional redistricting, did indeed insist on one man-one vote on the count that had to be used and the numbers that had to be included in every congressional district in 428 congressional districts. But they all had to be the same, and that is correct. But what he did not care to tell the rest of this body is that same United States Supreme Court in that same decision also said that sampling could be used in the drawing of the lines for those same congressional districts.

So I wanted to make sure that I clarified that point and put all of the opinion of the United States Supreme Court before this body since it was cited by my distinguished colleague.

I will save addressing my arguments for the passage of this bill, and I would appreciate if the body would support the Leland amendment.

Senator V. Smith's fourth statement is as follows:

My remarks regarding passage will be short. One of the things that I wanted to point out in terms of the process is that on this particular piece of legislation and on all five bills within this package, we felt that we did not have adequate time to have all of the representatives whom we would have liked to have had to appear in front of the committee when the reapportionment process was debated.

When we got to committee, we saw the Republican lawyer there who had handled reapportionment in the past on behalf of the Republican Party. We saw statisticians there who were there to give support for the arguments that were being advanced by the members of the Republican Party. We would have wanted to have had the same happen on the Democratic side of the issue. The time frame in which these bills were introduced on the 14th, and then taken up in front of committee on the 20th, did not give us adequate opportunity. I did ask the chairperson of the committee to delay the hearing on the reapportionment bills for one week. That request was denied. We were not able to get our attorneys there to properly put before the committee issues related to the reapportionment process from a Democratic perspective before the committee. We were not able to get statisticians there to also buttress our argument. We were able to get the chairperson of our party there. He responded on very short notice. I thought he did a good job with the time frame that he had been allowed.

I'd also like to say that as much as the good sponsor of these bills has reiterated, I respect him greatly as an individual and as a Senator. But as he speaks to the nonpartisan nature of the bills that have been put in front of this body, what he fails to say is that these are probably the most partisan bills that this body will face as opposing Democratic and Republican positions, this is a very political process. This is the process which will govern how lines will be redrawn not only for the congressional districts, but for the legislative districts, for the Court of Appeals districts, and for the county commissioner districts. This is a very political process. This is a process in which both parties will attempt to get their best positions put forward. In our estimation, the Republican majority is doing what we probably would do if we were in control. That is, trying to lock in their positions through statutory changes in the law and to give guidance and direction to the courts as they have to make learned decisions on the drafting of the reapportionment process.

Regarding Mr. Apol. Mr. Apol was a Republican. Even though in 1982, in the redistricting process, we understood that the court had a 3-3 split with one Independent. On many occasions in that court, Justice Levin, who was the Independent, did side with his Republican counterparts in decisions that were placed in front of that body. We felt that at the time that reapportionment was done in 1982, the selection of Mr. Apol was clearly a Republican who laid out standards that were to the advantage of the Republican Party in both the 1980 reapportionment process and in the 1990 reapportionment process. So even though the other side of the aisle felt it was fair and deliberative, we felt that it did still have the indication of a partisan political process. It placed standards within those reapportionment bills which gave some advantage to the Republicans on behalf of reapportionment, as that process evolved within this state.

I would also like to speak to the fact that the good Senator from the 35th District made reference to the state of Arizona. How these bills are reflective of the Arizona Legislature and that the same standards that were placed in the Arizona legislation was indeed legislation that is reflective of what my counterparts on the other side of the aisle are attempting to do here. Those standards and that information was challenged by the United States Department of Justice. They sent a letter to the civil rights division within the state of Arizona, asking for clarification and asking many questions in terms of the partisan nature of the standards that were placed within those bills in the Arizona Legislature. Indeed, it was a political process in Arizona.

So we think that partisan politics is driving this issue. We think that both parties are attempting to get their best position put forward in these particular bills. That is what is going on here today. We are trying to document our position. We are trying to make sure that since in this state, which is at this point, we have a Republican Legislature, a Republican House, a Republican Governor, and a Republican-controlled Supreme Court, we document and prepare our position for the upcoming battle that will occur within the federal courts to try to make sure that the reapportionment process indeed reflects a process which is inclusive of all citizens in this state; which is inclusive of

both parties being able to have reapportioned lines that give them a fair ability to be elected and be representative within the legislative bodies not only in the county commission, but in the halls of the state legislature and in the United States Congress.

Senator V. Smith's fifth statement is as follows:

Mr. President, just a quick response to the good Senator from the 31st District. I do have the opinion that was rendered by the United States Supreme Court in the Department of Commerce v. House of Representatives, which is a slip opinion. I would again refute the good Senator's interpretation of that United States Supreme Court decision. In that decision, the United States Supreme Court again delineated the fact that in terms of the hard count for each of the 428 congressional districts, it had to be based on the census, and those numbers had to be equally apportioned among each of the congressional districts. But, and I quote, the Court did say, "Except for the determination of population for purposes of congressional apportionment, the secretary shall if he considers it feasible, authorized the use of statistical sampling in carrying out the provisions of this title." And that language is also included, which in our interpretation, means that in our reading of the language of that congressional decision, does give support that statistical sampling could be used outside of the populations for outside the determination of population for purposes of congressional apportionment which could, indeed, be used in terms of the drafting of the geographical lines contained within those particular districts by the 50 individual states.

Senator V. Smith's sixth statement is as follows:

I rise to support the Leland amendment. We encourage statistical sampling because we know that people are being missed in the count being conducted by the United States census. One of the things that we continue to see is in the undercount, and I have heard members from the other side make reference to that undercount, in that when that undercount does take place, it throws off the democratic basis upon which this country was founded.

I understand that it is hard to get people to step up and be counted. The nature of this systems does not always lend to stepping up and being counted. We've seen many instances in this body where you could be punished on any number of bases if you step up and be counted. So, we understand why people don't want to step up. We do understand that primarily that occurs in minority communities throughout this country for any number of reasons from the immigration laws, to the welfare laws, to the mental health laws, and to other laws which affect minorities in a more predominate fashion. That's why we support the statistical sampling. We want the democratic processes that emanate off of reapportionment to be reflective of all of the people in the United States. We thought that's what democracy was about.

Senator V. Smith's seventh statement is as follows:

I was a little chagrined. I really didn't think that the Senator from the 29th District wanted to attack every local unit of government, every city, township, and village in this state by calling their efforts to have an adequate count made in their districts in aiding the United States census and all of the efforts that are going on in those local units of governments, in such a partisan fashion. I was just really shocked that she took that broadsided every local unit of government in this state in terms of the count that is being made by the United States census and trying to make sure that every American is counted and adequately represented in that annual decennial count.

Senator DeBeaussaert's first statement is as follows:

Well, clearly the record is available, and at some point, I expect will be dissected for those who were part of the committee process. As it relates to the testimony of the state demographer, for those who are interested, they may want to look and start looking at the exhibit that was presented which was titled: "Key Shortcomings of the Current Undercount Adjustment Methodology." In fact, as that testimony was presented, I asked specifically, recognizing that he had problems with the current undercount adjustment methodology, whether in fact some adjustment mechanism could be put in place that would improve the process. I think that the record will reflect that he answered that, yes, it could in fact improve that process and that he did have problems with the current undercount adjustment methodology. I think that is part of the record. People can look that issue up for themselves.

Also as it relates to the question of what the United States Supreme Court ruled as it relates to the issue of whether the old methodology must be used or whether these newer methodologies can be implemented, the ruling of the court did not reach any constitutional findings. They looked at the statute, and they said that based on the statute, these new methodologies could not be used for the specific question of the apportionment of the seats of Congress among the states. I think that ruling also suggested that the new methodology could be used within that sample or within that context to divide those districts. In fact, it suggested that in many cases that additional methodology may be required to implement other acts that are in fact also the law of the land.

So I would invite everyone to look at the testimony and at the record. If you do, I think you will find that the Leland amendment is an appropriate one. I ask for your support.

Senator DeBeaussiaert's second statement is as follows:

Every ten years the Legislature has to come to grips with this, and it's a difficult issue always. It seems to me our objective should always be to adopt the legislation that will result in fair and full and equal representation.

I heard yesterday and listened carefully as the chairman of the committee said we should put in place a system that left no one behind, one that fully counted every person. But, unfortunately, the bills in this package do just the opposite. They return us to a day when government would officially require the use of a system that it knows undercounts people in this state and across this country, especially minority members of this state. There was a time previously when we did deliberately undercount residents when certain people only counted as 3/5 of a person. We all regret that, and we now know that the 14th Amendment repealed that. Over the history of this country, we have moved toward the efforts to fully count every person, and we made progress through the 1940s and 1950s.

Every year the undercount of citizens across this country dropped, until 1980 when we reached a level of about 1.2 percent undercount. Unfortunately, when we reached the 1990s, the 1990 census jumped significantly to 1.8 percent. For the first time in the history of the census that undercount increased, and following that, of course, there was a great outcry and great review of the data. We found that in Michigan some 66,000 people were not counted—.7 percent of the state population. In Detroit the undercount was 2.2 percent; in Grand Rapids, 1,636 children were missed; in Lansing, 1,202. Those 1990 results have been widely reviewed nationally and analyzed. The Government Accounting Office, a nonpartisan office, review found that "the American public has grown too diverse and dynamic to be accurately counted solely by the traditional head count approach and that fundamental change must be implemented for a successful census in the year 2000."

But, I'd also point out that a Michigan resident who was appointed by then-President Bush to conduct that 1990 census also believes that the old methods have peaked in their efficiency, and to fully and fairly account for the remainder will require some new methods of measurement.

This legislation proposed by the Majority really pits them against the vast experience and testimony of the scientific community. We have come together, as was indicated by Senator Leland in testimony before the Congress, calling for these measurement changes which would better count all the citizens of this country. As I indicated, the demographer had some questions about the methodology in his testimony before the committee, but he acknowledged the shortcomings of the current undercount of the old method. I don't necessarily agree with his analysis of the undercount adjustments that are in place, but it's clear to point out that while he did have questions about that methodology, he also acknowledged that the current method undercounted citizens and that perhaps some change could lead to improvement in the count.

So, knowing that all these old methods have led to serious undercounts, especially of minorities, and cementing that flawed system in place now in perpetuity, I think it certainly is suspect as some sort of a deliberate attempt to codify a system that could be questioned that discriminates against minorities. For the first time in Michigan, these bills would ban the use of official census data in the redistricting of legislative, congressional, county commission and Court of Appeals districts. They not only ban the use of official census data, but they would include provisions for the conducting of a separate census in the state or at the county level. I think that raises some interesting questions regarding the Michigan Constitution, Article 4, but also raises questions about duplication and the costs of those other censuses that might be conducted if they believe that the federal data is inconclusive or rather inadequate. But I can understand, having looked at some of these very serious flaws that are in the bill in terms of the content; to understand why these bills were rushed out of committee because I think they cannot stand the light of public scrutiny. The package of bills, as was suggested by the Minority Leader here, were quickly rushed through a process, and it seems to me that given the sensitivity of this issue, if we're talking about locking into place a flawed system that has historically undercounted minorities, given that sensitivity, we should allow at least an opportunity, an adequate opportunity, for public comment on this important legislation from individuals and groups.

Instead the process has been rushed. Most bills don't make their way from committee being introduced on a Thursday and reported from committee the following Wednesday. A legislative analysis was only available the day of the hearing, and the substitute bill was available at that time. There wasn't a lot of opportunity for people to respond. I asked at that hearing for a week delay so that we could bring other interested parties forward to testify, other experts. That postponement request was denied on a party line-vote.

I was interested to hear the comments about outrage to some groups because when I returned to my office after the committee meeting, I received a copy of a letter that was sent to the chair of the committee from the executive director of the National Association for the Advancement of Colored People in Detroit, the Detroit branch, dated October 20, which says: "Dear Senator Schuette: Thank you for inviting our participation. We support statistical sampling versus enumeration, but we request fair notice to participate. We, the Detroit branch NAACP, invite you to host a hearing in Detroit regarding reapportionment. It appears you have no commitment to fairness. Why this rush? You must know that Detroit and many other urban centers have grave concerns over which way census data is collected and used. If you are committed to fairness versus expedience and accuracy versus acrimony, then we urge you to slow this process down, at least long enough to allow for diverse input. Mr. Senator, you called me on Monday and sent me a fax communicate on Tuesday, all to invite the NAACP to bring testimony on Wednesday. You also state that you expect passage on Wednesday, today, so what do you expect from testimony? What difference will it make? Again, we urge

you to host a hearing here in our great city, Michigan's largest population center. Come and hear the perspective of many of the experts, when in all fairness ought to have an opportunity to help shape such an important piece of public policy. Please do not continue to feed into what appears to be an anti-Detroit sentiment. I invite you or your representative to contact me if you need additional directions. Sincerely, Heaster L. Wheeler, Executive Director." That letter again was to the chair of the committee, to the Senator who is the sponsor of this legislation.

It's obvious that this bill has serious implications. It's obvious that the parties who feel that this bill will directly impact them feel that they did not have the opportunity to testify. I would like to comment on one reason that was suggested as to the need to move this bill quickly: That we only have something like 12 session days left. I'd only point out that that is an artificial limitation that we have created here. There's no constitutional crisis if we need more than 12 days. It's hard to envision the citizens of Michigan welling up with concern that on October 28, their full-time Legislature can only find 12 more days to do business.

This is an important issue. We could and should have had more thoughtful deliberation in this process. I also know that in the end there's no substitute for votes. This process will move forward, and I know where the votes are. We in the minority don't have the votes to stop or slow down this process. We know that from our perspective that the bills are flawed, that the process was flawed, and we can only hope that as this process moves forward, an independent and less partisan forum can be found where the bills can be reviewed. These bills certainly do cry out for that kind of review that they have not fairly received in this chamber.

Senator DeBeaussiaert's third statement is as follows:

I think that the use of the old methods of counting clearly undercount certain populations within the state. I don't think I've heard anyone dispute that here today or in any of the previous testimony that we have heard. And despite some disagreement among some of the members here over the use of modern statistical methods to improve that count, if you look at the statements that have been made across this country from people who are experts in this field, we have heard one expert who has been quoted time and time again. But let me then give you some other viewpoints.

"Physical enumeration or pure counting has been pushed well beyond the point at which it adds the overall accuracy of the census. Techniques of statistical estimation can be used in combination with the mail questionnaire and reduce scale of follow-up of nonrespondents to produce a better census at reduced costs." That was from the report of the Panel on Census Requirements in the Year 2000 and Beyond, Committee on National Statistics, National Academy of Sciences in 1995.

"Sampling households that failed to respond to questionnaires produces substantial cost savings and should improve final data quality." That was from the U.S. General Accounting Office in October 1995.

"Because sampling potentially can increase the accuracy of the count while reducing costs, the Census Bureau has responded to the congressional mandate by investigating the increased use of sampling. We endorse the use of sampling for these purposes. It is consistent with best statistical practice." That was from the report of the Blue Ribbon Panel on the Census, American Statistical Association, September 1996.

"The planned and tested statistical innovations in the census have the overwhelming support of members of the scientific community, who have carefully reviewed and considered them. If their use is severely limited or prohibited, the 2000 census planning process will be obstructed, and the result could be a failed census." That was from Douglas S. Massey, President of the Population Association of America, June 1996.

Quote: "Change is not the enemy of an accurate and useful census. Rather, not changing methods as the United States changes would inevitably result in a seriously degraded census." That was from Preparing for the 2000 Census, Interim Report II of the Panel to Evaluate Alternative Census Methodologies from the National Research Council in June 1997.

There is overwhelming support for the use of modern methods of counting to improve the failed undercounts that we have seen using the methods of the past. People can within this body disagree, but I think it's important to note that the overwhelming consensus in the scientific and the math community is that these new methods will provide a fair final count.

Senator A. Smith, under her constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill No. 813 and moved that she be permitted to submit, in writing, her reasons for voting "no" for inclusion in a subsequent Journal.

The motion prevailed.

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

The motion prevailed.

Senator Emmons' statement is as follows:

I guess I didn't make myself clear before, but the basis of both the actual enumeration and the sampling are a survey. They are both based on a survey. So, all of the things that you have to say about actual enumeration can be said ditto, ditto, ditto for the sampling because you haven't even tried to count real people. Now, you are taking a sample survey

and extrapolating that to be for all people. The demographer actually told you what happens when you do that, and he had examples of what happens in African-American communities. It gets worse, and you put people in areas where they shouldn't be.

If statistical sampling is so great, maybe we ought to do it for senatorial districts and pick out as a sample district Senate District No. 5. I don't think the Senator from that area would like that at all. So, I would suggest that doing it for judicial races is not a good idea either.

The following bill was read a third time:

Senate Bill No. 814, entitled

A bill to amend 1996 PA 463, entitled "An act to establish guidelines for the decennial adoption of redistricting plans for the senate and house of representatives; to provide original jurisdiction to the supreme court to review redistricting plans enacted by the legislature for compliance with those guidelines; and to provide a procedure for the supreme court to use to redistrict the senate and house of representatives under certain circumstances," by amending section 2 (MCL 4.262) and by adding section 1a.

The question being on the passage of the bill,

Senators V. Smith and DeBeaussiaert offered the following amendment:

1. Amend page 1, line 1, by striking out all of section 1A and inserting:

"Sec. 1. By November 1, 2001, and every 10 years thereafter, the legislature shall enact a redistricting plan for the senate and house of representatives. Except as otherwise required by federal law for legislative districts in this state, the redistricting plan shall be enacted using only the following guidelines:

(a) The senate districts shall consist of 38 single-member districts.

(b) The house of representatives districts shall consist of 110 single-member districts.

~~(c) Senate and house of representatives districts shall be areas of convenient territory contiguous by land. Areas that meet only at the points of adjoining corners are not contiguous.~~

~~(C) (d) Senate and house of representatives districts shall have a population not exceeding 105% and not less than 95% of the ideal district size for the senate or the house of representatives unless and until the United States supreme court establishes a different range of allowable population divergence for state legislative districts~~ OF PRECISE MATHEMATICAL EQUALITY.

~~(D) (e) Senate and house of representatives district lines shall BE DRAWN TO EFFECT COMPACTNESS, CONTIGUITY, PRESERVATION OF THE INTEGRITY OF COUNTY AND MUNICIPAL BOUNDARIES, MAINTENANCE OF THE CORES OF EXISTING DISTRICTS, PRESERVATION OF CULTURAL, SOCIAL, AND ECONOMIC COMMUNITIES OF INTEREST, AND POLITICAL AND RACIAL FAIRNESS. preserve county lines with the least cost to the principle of equality of population provided for in subdivision (d).~~

~~(f) If it is necessary to break county lines to stay within the range of allowable population divergence provided for in subdivision (d), the fewest whole cities or whole townships necessary shall be shifted. Between 2 cities or townships, both of which will bring the districts into compliance with subdivisions (d) and (h), the city or township with the lesser population shall be shifted.~~

~~(g) Within those counties to which there is apportioned more than 1 senate district or house of representatives district, district lines shall be drawn on city and township lines with the least cost to the principle of equality of population between election districts consistent with the maximum preservation of city and township lines and without exceeding the range of allowable divergence provided for in subdivision (d).~~

~~(h) If it is necessary to break city or township lines to stay within the range of allowable divergence provided for in subdivision (d), the number of people necessary to achieve population equality shall be shifted between the 2 districts affected by the shift, except that in lieu of absolute equality the lines may be drawn along the closest street or comparable boundary.~~

~~(i) Within a city or township to which there is apportioned more than 1 senate district or house of representatives district, district lines shall be drawn to achieve the maximum compactness possible within a population range of 98% to 102% of absolute equality between districts within that city or township.~~

~~(j) Compactness shall be determined by circumscribing each district within a circle of minimum radius and measuring the area, not part of the Great Lakes and not part of another state, inside the circle but not inside the district.~~

~~(k) If a discontinuous township island exists within an incorporated city or discontinuous portions of townships are split by an incorporated city, the splitting of the township shall not be considered a split if any of the following circumstances exist:~~

~~(i) The city must be split to stay within the range of allowable divergence provided for in subdivision (d) and it is practicable to keep the township together within 1 district.~~

~~(ii) A township island is contained within a whole city and a split of the city would be required to keep the township intact.~~

~~(iii) The discontinuous portion of a township cannot be included in the same district with another portion of the same township without creating a noncontiguous district.~~

(E) (H) Senate and house districts shall not violate SECTION 2 OF TITLE I OF THE VOTING RIGHTS ACT OF 1965, PUBLIC LAW 89-110, 42 U.S.C. 1973, OR the precedents established in Miller v Johnson, 115 S Ct 2475; 132 L Ed 2d 762 (1995); Bush v Vera, 116 S Ct 1941; 135 L Ed 2d 248 (1996); and, Shaw v Hunt, 116 S Ct 1894; 135 L Ed 2d 207 (1996).”.

The amendment was not adopted, a majority of the members serving not voting therefor.

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. 555

Yeas—14

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

Nays—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	

Excused—1

Cherry

Not Voting—0

In The Chair: President

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:

The distinguished Senator, Senator Smith, speaks to the Apol Standards. That’s the name of a person who really put into place something that we have abided by in 1982 and 1992. It says let’s not bust up communities, let’s not fracture lines of townships and counties, and let’s have things be as compact as practicable. That is what the Apol Standards are, and that is how they’ve been used in 1982, 1992, and reviewed by federal courts. The federal courts have approved and used these Apol Standards, and it has met constitutional approval. I think it’s important we understand that.

The Senator used the Good decision, the federal court decision in the case of Good, the plaintiff, and you should know that our bill, Senate Bill No. 814, really takes the framework of Good and puts it into statute. First, the constitutional criteria is you must have precise mathematical equality of population. We are taking that and then using the Standards that are so appropriate. We’re following Good with the requirements of the 1982 amendments to the Voting Rights Act, Section 2, making sure that we never dilute and no retrogression of minority rights. So we’re using those Standards in a very high way.

I think it’s important that in this bill, Senate Bill No. 814, we also clarify and codify the rights of the Michigan Supreme Court to be the court of first jurisdiction if there ever is any question. It goes to a higher authority, the third branch of government. We’re following United States Supreme Court decisions in the cases of Scott and Grow to vest first jurisdiction in the Michigan Supreme Court.

So what we're doing today is putting into law the Standards that we've been utilizing since 1982 and 1992. We adopted the Apol Standards in 1996, and we're putting them into place, making sure we have hard, enumerated counts and making sure that we have the Michigan Supreme Court as the court of first jurisdiction.

The Smith amendment also talks about preserving political seats. This isn't about maintaining existing seats. This is about fairness and making sure we have specific Standards. The Smith amendment would bust up townships, and it talks about political fairness. The Good decision doesn't speak to political fairness. It talks about the Standards which must be met.

Senator Leland offered the following amendment:

1. Amend page 1, line 1, after "1A." by striking out all of subsection (1) and inserting "(1) SENATE AND HOUSE OF REPRESENTATIVES DISTRICT BOUNDARIES SHALL BE DETERMINED BY USING THE POPULATION DATA FROM THE UNITED STATES BUREAU OF THE CENSUS USED FOR THE APPORTIONMENT OF THE REPRESENTATIVES OF THE UNITED STATES HOUSE OF REPRESENTATIVES IN THE UNITED STATES DECENNIAL CENSUS. DISTRICT BOUNDARIES MAY BE DETERMINED BY USING POPULATION COUNTS DERIVED FROM STATISTICAL SAMPLING TO ADD OR SUBTRACT POPULATION BY INFERENCE. OTHER GOVERNMENTAL CENSUS FIGURES OF TOTAL POPULATION MAY BE USED IF TAKEN SUBSEQUENT TO THE LAST DECENNIAL UNITED STATES CENSUS AND THE UNITED STATES CENSUS FIGURES ARE NOT ADEQUATE FOR THE PURPOSES OF THIS ACT. A CONTRACT MAY BE ENTERED INTO WITH THE UNITED STATES CENSUS BUREAU OR ANY OTHER GOVERNMENTAL UNIT TO MAKE ANY SPECIAL CENSUS IF THE LATEST UNITED STATES DECENNIAL CENSUS FIGURES ARE NOT ADEQUATE FOR THE PURPOSES OF THIS ACT."

The President pro tempore, Senator Schwarz, assumed the Chair.

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. 556

Yeas—13

Byrum
DeBeaussaert
Dingell
Emerson

Hart
Koivisto
Leland

Miller
Murphy
Peters

Smith, A.
Smith, V.
Young

Nays—23

Bennett
Bullard
DeGrow
Dunaskiss
Emmons
Gast

Goschka
Gougeon
Hammerstrom
Hoffman
Jaye
Johnson

McCotter
McManus
North
Rogers
Schuette
Schwarz

Shugars
Sikkema
Steil
Stille
Van Regenmorter

Excused—1

Cherry

Not Voting—1

Vaughn

In The Chair: Schwarz

Protest

Senator Emmons, under her constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senator Leland to Senate Bill No. 814 and moved that the statements she made during the discussion of Senate Bill Nos. 810 and 812 and the amendment be printed as her reasons for voting “no.”

The motion prevailed.

Senator Emmons’ first statement is as follows:

I’m a very practical person, and I’d like to address the issue of enumeration versus statistical sampling. If you were listening closely to what the demographer was trying to get across the day he was before the committee, was enumeration, actually going out and counting people, is a survey. You’re surveying people, and you’re actually writing them down. When you do statistical sampling, it starts out with a survey, except this time you survey a small number of people and extrapolate that into a large number of people. So if you have trouble with accepting the actual enumeration, the survey, you are going to have the same difficulties in a survey for statistical sampling—the same problem! But when you do, then using them as a sample to extrapolate, you do all sorts of weird things that do not represent real people.

So the problem is, as I see it, we need to do exactly what the Census Bureau is doing right now. They have complete count committees, and they are targeting areas that they believe they had trouble in before in getting an actual count. They are trying to get people from that actual community to do the kind of outreach that’s necessary when you’ve got people who are reluctant to be counted. But when you try to do a statistical side and pretend that you have real people, you are in deep trouble. The demographer pointed out that using that method, the same people had the same problem with being counted because they weren’t surveyed. So we believe that the Supreme Court was accurate and correct and that we should do it the same way that they do for Congress that’s in the Constitution. We should not pretend the statistics can give us a better count than actually counting people. So I am completely opposed to the amendment that would put statistical sampling in place, and I asked that it be rejected.

Senator Emmons’ second statement is as follows:

I want to support this bill very heavily. I was in local government. I’ve drawn local district lines, but I know the difficulty when you have a small township broken up into pieces and the difficulty that it gives to that local unit of government. And one of the things that did come out 1982 was a recognition that you should absolutely try to honor boundaries. It saves money for ten years down the road as you run every election and do your business as a township or any other small municipality. I have seen townships as small as 600-700 people divided into a number of different districts. That’s nonsense. That is absolute nonsense. It is detrimental to the people in that area because they have representatives who never come to see them because they’re so small it doesn’t make any difference. We have in my district, right now, a small county of less than 40,000 people that is in three congressional districts. Believe me, that is not useful for the people in that district, and it gets even worse as you get into smaller municipalities. This is good legislation for citizens, so that they actually have a person who pays attention to them and actually represents them. It does not fragment and make irrelevant any citizen. So I strongly support this legislation for these districts.

Senator Emmons’ third statement is as follows:

I guess I didn’t make myself clear before, but the basis of both the actual enumeration and the sampling are a survey. They are both based on a survey. So, all of the things that you have to say about actual enumeration can be said ditto, ditto, ditto for the sampling because you haven’t even tried to count real people. Now, you are taking a sample survey and extrapolating that to be for all people. The demographer actually told you what happens when you do that, and he had examples of what happens in African-American communities. It gets worse, and you put people in areas where they shouldn’t be.

If statistical sampling is so great, maybe we ought to do it for senatorial districts and pick out as a sample district Senate District No. 5. I don’t think the Senator from that area would like that at all. So, I would suggest that doing it for judicial races is not a good idea either.

Senator Jaye offered the following amendment:

1. Amend page 1, following “THE PEOPLE OF THE STATE OF MICHIGAN ENACT:” by inserting:

“Sec. 1. By November 1, 2001, and every 10 years thereafter, the legislature shall enact a redistricting plan for the senate and house of representatives. Except as otherwise required by federal law for legislative districts in this state, the redistricting plan shall be enacted using only the following guidelines:

(a) The senate districts shall consist of 38 single-member districts.

(b) The house of representatives districts shall consist of 110 single-member districts.

(c) Senate and house of representatives districts shall be areas of convenient territory contiguous by land. Areas that meet only at the points of adjoining corners are not contiguous.

(d) Senate and house of representatives districts shall have a population ~~not exceeding 105% and not less than 95% of the ideal district size for the senate or the house of representatives unless and until the United States supreme court establishes a different range of allowable population divergence for state legislative districts~~ OF PRECISE MATHEMATICAL EQUALITY.

(e) Senate and house of representatives district lines shall preserve county lines with the least cost to the principle of equality of population provided for in subdivision (d).

(f) If it is necessary to break county lines to stay within the range of allowable population divergence provided for in subdivision (d), the fewest whole cities or whole townships necessary shall be shifted. Between 2 cities or townships, both of which will bring the districts into compliance with subdivisions (d) and (h), the city or township with the lesser population shall be shifted.

(g) Within those counties to which there is apportioned more than 1 senate district or house of representatives district, district lines shall be drawn on city and township lines with the least cost to the principle of equality of population between election districts consistent with the maximum preservation of city and township lines and without exceeding the range of allowable divergence provided for in subdivision (d).

(h) If it is necessary to break city or township lines to stay within the range of allowable divergence provided for in subdivision (d), the number of people necessary to achieve population equality shall be shifted between the 2 districts affected by the shift, except that in lieu of absolute equality the lines may be drawn along the closest street or comparable boundary.

(i) Within a city or township to which there is apportioned more than 1 senate district or house of representatives district, district lines shall be drawn to achieve the maximum compactness possible within a population range of 98% to 102% of absolute equality between districts within that city or township.

(j) Compactness shall be determined by circumscribing each district within a circle of minimum radius and measuring the area, not part of the Great Lakes and not part of another state, inside the circle but not inside the district.

(k) If a discontinuous township island exists within an incorporated city or discontinuous portions of townships are split by an incorporated city, the splitting of the township shall not be considered a split if any of the following circumstances exist:

(i) The city must be split to stay within the range of allowable divergence provided for in subdivision (d) and it is practicable to keep the township together within 1 district.

(ii) A township island is contained within a whole city and a split of the city would be required to keep the township intact.

(iii) The discontinuous portion of a township cannot be included in the same district with another portion of the same township without creating a noncontiguous district.

(l) Senate and house districts shall not violate the precedents established in Miller v Johnson, 115 S Ct 2475; 132 L Ed 2d 762 (1995); Bush v Vera, 116 S Ct 1941; 135 L Ed 2d 248 (1996); and, Shaw v Hunt, 116 S Ct 1894; 135 L Ed 2d 207 (1996)."

The amendment was not adopted, a majority of the members serving not voting therefor.

Senator Jaye offered the following amendment:

1. Amend page 2, following line 20, by inserting:

"(3) POPULATION ETHNICITY, WHICH INCLUDES RACE, SEX, AND NATIONAL ORIGIN, SHALL NOT BE USED AS A GUIDELINE IN DETERMINING SENATE AND HOUSE OF REPRESENTATIVES DISTRICT BOUNDARIES."

The question being on the adoption of the amendment,

Senator Schuette 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. 557

Yeas—1

Jaye

Nays—34

Bennett
Bullard

Gougeon
Hammerstrom

Miller
Murphy

Sikkema
Smith, A.

Byrum
DeBeaussaert
DeGrow
Dunaskiss
Emmons
Gast
Goschka

Hart
Hoffman
Johnson
Koivisto
Leland
McCotter
McManus

North
Peters
Rogers
Schuette
Schwarz
Shugars

Smith, V.
Steil
Stille
Van Regenmorter
Vaughn
Young

Excused—1

Cherry

Not Voting—2

Dingell

Emerson

In The Chair: Schwarz

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. 558

Yeas—22

Bennett
Bullard
DeGrow
Dunaskiss
Emmons
Gast

Goschka
Gougeon
Hammerstrom
Hoffman
Johnson
McCotter

McManus
North
Rogers
Schuette
Schwarz

Shugars
Sikkema
Steil
Stille
Van Regenmorter

Nays—15

Byrum
DeBeaussaert
Dingell
Emerson

Hart
Jaye
Koivisto
Leland

Miller
Murphy
Peters
Smith, A.

Smith, V.
Vaughn
Young

Excused—1

Cherry

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

The President, Lieutenant Governor Posthumus, resumed the Chair.

Protests

Senators Leland, Jaye and DeBeaussiaert, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 814 and moved that the statements they made during the discussion of the amendments and Senate Bill No. 810 be printed as their reasons for voting “no.”

The motion prevailed.

Senator Leland’s first statement is as follows:

My amendment simply allows the use of statistical sampling rather than limiting redistricting to only the use of enumerated count. The ban on sampling will lead to the use of less accurate population data. No one disputes the last few censuses have seriously undercounted the population. While the undercount occurred throughout the country and among all groups, about three times more African-Americans, Hispanic-Americans, Asian-Americans, and rural Americans were missed in the national average. In Detroit alone, the undercount was 28,000 people.

The civil rights community has united in its support for using statistical sampling to ensure all Americans are counted, and they are not alone. Twenty-five major newspapers across the country have editorialized in support of statistical sampling. Because minority populations lean more towards the Democratic Party than the Republican Party, the Republicans believe that using sampling methods to bring about a more accurate count on the nation’s population will harm their political interests. In a memo from the Republican National Committee, from Jim Nicholson to all state party chairs, he states the following, and I quote from his memo: “The Clinton administration is implementing a radical new way of taking the new census that will effectively add nearly 4.5 million Democrats to the nation’s population. This is the political outcome of a controversial executive decision to use a complex mathematical formula to estimate and adjust the 2000 census. Using this process, Democrats gained a critical advantage in the next redistricting that will undermine GOP efforts to elect Republican to both federal and state offices. It is vital that Republicans be united in opposing an adjusted census.”

This legislation raises serious concerns regarding racial discrimination because it is undisputed that census data obtained through usual traditional county methods are racially bias. The sampling ban may violate the Voting Rights Act because it undercounts minorities. The ban on sampling violates the census act. In a case just this year, the United States Supreme Court held in Department of Commerce v. House of Representatives that while the federal census act prohibits the use of statistical sampling to apportion congressional districts among the states, the act does allow for statistical sampling of congressional districts within our state. The Secretary of Commerce has declared that sampling procedures are feasible within states.

The following remarks are from the American Statistical Association, the ASA, which is a professional association of 18,000 members made up of teachers of statistics, statisticians from business, industry, and government. According to the ASA, I quote: “Sampling is often a better and more accurate method of gaining such knowledge that is inadvertently an incomplete attempt to serve all members of a population. Therefore, in principle, statistical sampling applied to the census has the potential to increase the quality and accuracy of the count and to reduce the cost. The appropriate use of sampling can improve a count of a population. The basic idea underlying this conclusion is that some parts of the population will be easier to count and some will be more difficult. After an effort has been made to reach all households, some number of households will not have been reached. Little is known about these households. Well-designed sampling to obtain information about them can reduce what would otherwise be a differential undercount between the easier to count and harder to count groups in the population.”

Statistical sampling has been endorsed by many non partisan experts as well as Barbara Bryant, a Republican who directed the census in 1990. Sampling is a critical tool for reducing uncertainty, therefore, I hope the members will support my amendment.

Senator Leland’s second statement is as follows:

I think we should have had an interpreter there because it seems that what the demographer said at the committee meeting has different interpretations from the members who were present. I thought what I heard the state demographer say was let’s count everyone. I thought what I heard the state demographer say was that sampling is good. Let’s fix the methodology. I thought what I heard him say was let’s make the sample better. I thought I also heard the state demographer say that there were problems with the hard count. He acknowledged, I thought I heard him say, that he acknowledged the problems with the hard count, and it appeared to me that what he was saying, and maybe it was in a cryptic way, was that let’s use both. There’s credibility with the hard, enumerated account, and there’s credibility with statistical sampling. That’s what I thought I heard the demographer say. Let’s fix it; let’s make it better. Statistical sampling makes it better. It counts everyone. No one gets left out.

Senator Leland's third statement is as follows:

Getting on the process issue with this discussion. I guess my constituents, myself, particularly my colleges from Detroit, felt that once again we have been humiliated by what is going on here.

We know that you folks are, at least on our side of the aisle, but we know who's in charge. We know what time it is, and we know you got the votes. But we're still members of this body, and this is suppose to be a kinder and gentler body. This did not have to get rushed out through here as expeditiously as it did. You could have honored our request and heard some people from Detroit come up and testify, particularly Mr. Wheeler from NAACP—given us a little more deference. This is the second time this body has done this to my constituency, and I just hope that it is the last time.

A couple more comments on the bill. The chairman, my good friend from the 35th District, in his remarks said that this process for these bills was supposed to be fair and accurate. The chairman, and my good friend from the 35th District, said that during the committee—and he said that today—it was supposed to be a fair and accurate process, that he did not want to dilute any minority representation, and as we all know, my district is made up largely of minority representation. He wanted to make sure that the rights of minorities were protected and that everyone was important to be counted. Well, I don't think that his discussion in his argument really was about any of those things. I think what it really was about was not policy, but was about politics as clearly stated in this Republican National Committee memo that I am going to share with the good Senator. I will leave it on my desk, and you can pick it up for your review.

As the chairman of the RNC stated, statistical sampling will affect the GOP outcome in the year 2000. Statistical sampling will affect the GOP outcome in the year 2000. So I think, listen, we know what time it is, but let's be fair about this. Let's just call this what it is. This is politics; this isn't policy here.

Now you talk about how a sampling is riddled with problems and how it's not fair. The ASA would differ with you—the statistical association. Twenty-five newspapers around the country editorialized on statistical sampling and they felt that—and these, by the way, aren't exactly as one of my Republican colleagues said, “pinko newspapers”—the newspapers across the country, 25 of them suggested that statistical sampling gets closer to the truth. I'll leave that on my desk for some of you if you want to review what some of the major newspapers across the country from LA to New York said about sampling.

People do get missed, and I can tell you that I do know a little bit about these things because for 20 years I have walked through majority and minority districts, and I know how hard it is to get my message delivered. Of course, once they know who I am, they are a little bit more comfortable with answering a door and opening up the blinds and checking me out. But people will get missed. They won't respond for whatever the reason is. And when someone comes knocking at their door, they wonder who is it, what does that person want, is it someone to repo my car or, is it a bill collector? I've heard that all the time. So I can tell you firsthand that I'm an expert, and I had been an expert ongoing through the neighborhood talking with households and trying to get my message delivered. In my message that I tried to get delivered, I don't think it was too intrusive; certainly, it wasn't offensive. But when someone from the Census Bureau comes by and knocks on their door and demands information, I think that's a problem for some people and they will not respond and there will be a miscount.

So statistical sampling, I think, used properly and used in combination with hard data, I think is a fair way to go. That's why I offered that amendment. Thank you for cutting me the slack, Lieutenant Governor and I'll try and do a better job next time.

Senator Jaye's first statement is as follows:

This amendment is to have a zero deviation for state House and state Senate districts. We know more as legislators what it means to have an office that has more population or less population. As constitutional officers of the state of Michigan, as members of the state Senate, we have the same staff for constituent services and the same postal budget. We have the same printing budget. We have the same number of staff. By having this 10 percent deviation, that means that some communities and some individuals are going to have a diluted vote because when the board lights up, one vote counts the same. But those who have a smaller population difference have a larger input in the process.

Also if people call for help, they're wrapped up in red tape. People are trying to get a refund check back and trying to get some services for a senior mother. If you're from a rapid growth area, a large population area, those cases are delayed or sometimes not handled quick enough or aren't handled at all. And because some areas grow during the decade, suburban and rural areas, that disadvantage, the dilution of the vote and the dilution of services, becomes even more pronounced.

So, what this amendment does is that it says let's have the same standards for Congress as for state Representatives and for state Senators, so we won't have cases like we had in 1992 where one state House district in Detroit could fit in a House district in Macomb or Oakland and still have 5,000 people left over. The principle of one person-one vote should be respected, and I offer this amendment here in this bill that deals with the districts for state Representatives and state Senators.

Senator Jaye's second statement is as follows:

We took an oath of office in Article 1, Section 1 of the Michigan Constitution which says that all political powers are inherent in the people. Government is instituted for their equal benefits, security, and protection.

Article 1, Section 2, says no person shall be denied the equal protection laws nor any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color, or national origin. The Legislature shall implement this section by appropriate legislation.

The bill manager and one of the bill sponsors said that the language in this package of bills says that there will be no retrogression of minority districts and no reduction of minority districts.

That's unfair and it's unconstitutional. If communities like Detroit have a steep drop in population or flat relative to increases out-state, then there should be a reduction of state Houses or state Senate districts. It's unfair and un-American to think that people of the same race, ethnicity, or national origin think, talk, or vote the same way. It's wrong. Political lines are not as important; racial lines and class lines are not as important as neighborhood areas and demographics, school districts, post offices, telephone, cable, newspapers, civic, cultural and other businesses and civil organizations congregate based on demographics, economic concerns, and philosophies—common visions of the future.

There are areas, and this is one of them, where people are going to have a diluted ability to vote for the person of their choice if we are going to be giving an advantage of one class of individuals and not to another class of individuals.

Today we celebrated Polish-American Heritage Month. We've had heritage months for Blacks; we've had them for other nationalities. In my own office, in my own family, we've had a number from a variety of other nationalities and ethnic backgrounds. But we have a commonality under the Constitution, and these statutes are subordinate to the Constitution. Our rights as human beings, our rights as Americans and our rights as Michigan residents should be respected that there is a race-neutral, gender-neutral national origin and ethnicity-neutral approach to drawing districts both in the Senate and the House for the next ten years.

I believe as in the words of the sponsor and the bill manager that this bill does not have a race-neutral approach, that it does constitutional gerrymandering and that it will give an advantage to a certain class or classes of the population that the disadvantaged and the dilution of the voting influence voting rights of others. I would hope that we would adopt this amendment which parallels Article 1, Section 1, Article and 1, Section 2, the two first preeminent articles of the Constitution, which, by the way, is a contract. The people have all the power, and the people give up some power in a contract with us legislators to say these are the parameters—these are the boundaries from which you shall not stray. I hope you adopt this amendment.

Senator Jaye's third statement is as follows:

This amendment doesn't dilute any minority rights. It preserves and promotes and protects the rights of minorities and nonminorities. That's what the 14th Amendment, equal protection clause, of the United States Constitution guarantees. That's what Article 1, Section 1, and Article 1, Section 2 of the Michigan Constitution guarantees; it guarantees rights; that every person is equal for both their political and their civil and civic rights. The rights are guaranteed under this amendment. If you have an area that has a decline in population and you artificially maintain state House and state Senate districts, you are disadvantaging the rest of the state. This amendment mirrors the rights that are natural rights that we all share as human beings, natural rights that are God-given, and that are constitutionally written and prescribed both in the Michigan and United States Constitutions, and again in this amendment.

I am very happy that we're going to have a record roll call vote on this, and I ask you to read the amendment carefully before you vote against this and before you vote against the Michigan and U.S. Constitutions and court opinion after court opinion, including Miller v. Johnson, Shaw v. Hunt, and George W. Bush, Governor of Texas v. Vera in 1996. Please read this amendment before you vote against the oath of office that we all took to serve in this Legislature.

Senator DeBeaussiaert's first statement is as follows:

Well, clearly the record is available, and at some point, I expect will be dissected for those who were part of the committee process. As it relates to the testimony of the state demographer, for those who are interested, they may want to look and start looking at the exhibit that was presented which was titled: "Key Shortcomings of the Current Undercount Adjustment Methodology." In fact, as that testimony was presented, I asked specifically, recognizing that he had problems with the current undercount adjustment methodology, whether in fact some adjustment mechanism could be put in place that would improve the process. I think that the record will reflect that he answered that, yes, it could in fact improve that process and that he did have problems with the current undercount adjustment methodology. I think that is part of the record. People can look that issue up for themselves.

Also as it relates to the question of what the United States Supreme Court ruled as it relates to the issue of whether the old methodology must be used or whether these newer methodologies can be implemented, the ruling of the court did not reach any constitutional findings. They looked at the statute, and they said that based on the statute, these new methodologies could not be used for the specific question of the apportionment of the seats of Congress among the states. I think that ruling also suggested that the new methodology could be used within that sample or within that

context to divide those districts. In fact, it suggested that in many cases that additional methodology may be required to implement other acts that are in fact also the law of the land.

So I would invite everyone to look at the testimony and at the record. If you do, I think you will find that the Leland amendment is an appropriate one. I ask for your support.

Senator DeBeaussiaert's second statement is as follows:

Every ten years the Legislature has to come to grips with this, and it's a difficult issue always. It seems to me our objective should always be to adopt the legislation that will result in fair and full and equal representation.

I heard yesterday and listened carefully as the chairman of the committee said we should put in place a system that left no one behind, one that fully counted every person. But, unfortunately, the bills in this package do just the opposite. They return us to a day when government would officially require the use of a system that it knows undercounts people in this state and across this country, especially minority members of this state. There was a time previously when we did deliberately undercount residents when certain people only counted as 3/5 of a person. We all regret that, and we now know that the 14th Amendment repealed that. Over the history of this country, we have moved toward the efforts to fully count every person, and we made progress through the 1940s and 1950s.

Every year the undercount of citizens across this country dropped, until 1980 when we reached a level of about 1.2 percent undercount. Unfortunately, when we reached the 1990s, the 1990 census jumped significantly to 1.8 percent. For the first time in the history of the census that undercount increased, and following that, of course, there was a great outcry and great review of the data. We found that in Michigan some 66,000 people were not counted—.7 percent of the state population. In Detroit the undercount was 2.2 percent; in Grand Rapids, 1,636 children were missed; in Lansing, 1,202. Those 1990 results have been widely reviewed nationally and analyzed. The Government Accounting Office, a nonpartisan office, review found that "the American public has grown too diverse and dynamic to be accurately counted solely by the traditional head count approach and that fundamental change must be implemented for a successful census in the year 2000."

But, I'd also point out that a Michigan resident who was appointed by then-President Bush to conduct that 1990 census also believes that the old methods have peaked in their efficiency, and to fully and fairly account for the remainder will require some new methods of measurement.

This legislation proposed by the Majority really pits them against the vast experience and testimony of the scientific community. We have come together, as was indicated by Senator Leland in testimony before the Congress, calling for these measurement changes which would better count all the citizens of this country. As I indicated, the demographer had some questions about the methodology in his testimony before the committee, but he acknowledged the shortcomings of the current undercount of the old method. I don't necessarily agree with his analysis of the undercount adjustments that are in place, but it's clear to point out that while he did have questions about that methodology, he also acknowledged that the current method undercounted citizens and that perhaps some change could lead to improvement in the count.

So, knowing that all these old methods have led to serious undercounts, especially of minorities, and cementing that flawed system in place now in perpetuity, I think it certainly is suspect as some sort of a deliberate attempt to codify a system that could be questioned that discriminates against minorities. For the first time in Michigan, these bills would ban the use of official census data in the redistricting of legislative, congressional, county commission and Court of Appeals districts. They not only ban the use of official census data, but they would include provisions for the conducting of a separate census in the state or at the county level. I think that raises some interesting questions regarding the Michigan Constitution, Article 4, but also raises questions about duplication and the costs of those other censuses that might be conducted if they believe that the federal data is inconclusive or rather inadequate. But I can understand, having looked at some of these very serious flaws that are in the bill in terms of the content; to understand why these bills were rushed out of committee because I think they cannot stand the light of public scrutiny. The package of bills, as was suggested by the Minority Leader here, were quickly rushed through a process, and it seems to me that given the sensitivity of this issue, if we're talking about locking into place a flawed system that has historically undercounted minorities, given that sensitivity, we should allow at least an opportunity, an adequate opportunity, for public comment on this important legislation from individuals and groups.

Instead the process has been rushed. Most bills don't make their way from committee being introduced on a Thursday and reported from committee the following Wednesday. A legislative analysis was only available the day of the hearing, and the substitute bill was available at that time. There wasn't a lot of opportunity for people to respond. I asked at that hearing for a week delay so that we could bring other interested parties forward to testify, other experts. That postponement request was denied on a party line-vote.

I was interested to hear the comments about outrage to some groups because when I returned to my office after the committee meeting, I received a copy of a letter that was sent to the chair of the committee from the executive director of the National Association for the Advancement of Colored People in Detroit, the Detroit branch, dated October 20, which says: "Dear Senator Schuette: Thank you for inviting our participation. We support statistical sampling versus enumeration, but we request fair notice to participate. We, the Detroit branch NAACP, invite you to host a hearing in

Detroit regarding reapportionment. It appears you have no commitment to fairness. Why this rush? You must know that Detroit and many other urban centers have grave concerns over which way census data is collected and used. If you are committed to fairness versus expedience and accuracy versus acrimony, then we urge you to slow this process down, at least long enough to allow for diverse input. Mr. Senator, you called me on Monday and sent me a fax communique on Tuesday, all to invite the NAACP to bring testimony on Wednesday. You also state that you expect passage on Wednesday, today, so what do you expect from testimony? What difference will it make? Again, we urge you to host a hearing here in our great city, Michigan's largest population center. Come and hear the perspective of many of the experts, when in all fairness ought to have an opportunity to help shape such an important piece of public policy. Please do not continue to feed into what appears to be an anti-Detroit sentiment. I invite you or your representative to contact me if you need additional directions. Sincerely, Heaster L. Wheeler, Executive Director." That letter again was to the chair of the committee, to the Senator who is the sponsor of this legislation.

It's obvious that this bill has serious implications. It's obvious that the parties who feel that this bill will directly impact them feel that they did not have the opportunity to testify. I would like to comment on one reason that was suggested as to the need to move this bill quickly: That we only have something like 12 session days left. I'd only point out that that is an artificial limitation that we have created here. There's no constitutional crisis if we need more than 12 days. It's hard to envision the citizens of Michigan welling up with concern that on October 28, their full-time Legislature can only find 12 more days to do business.

This is an important issue. We could and should have had more thoughtful deliberation in this process. I also know that in the end there's no substitute for votes. This process will move forward, and I know where the votes are. We in the minority don't have the votes to stop or slow down this process. We know that from our perspective that the bills are flawed, that the process was flawed, and we can only hope that as this process moves forward, an independent and less partisan forum can be found where the bills can be reviewed. These bills certainly do cry out for that kind of review that they have not fairly received in this chamber.

Senator DeBeaussiaert's third statement is as follows:

It seems to me that Senators and Representatives the people who are affected by this bill should represent people first. In adherence to a strict one person-one vote concept that we teach our school children is something that we should adhere to in the process of drawing district lines. When you combine the unfairness of moving away from one person-one vote with the Apol Standards that have been used previously, we know the results. We've used that concept before. We've seen real cases putting aside partisan changes it affects negatively as it relates to one community versus the next. In the 1992 example, we saw Senate districts in the tri-county area where my county had, in fact, lower population of 238,000 to 240,000 compared to our neighboring Oakland County, which had 254,000 to 263,000 in those districts. At the same time on the House side, we saw Macomb County districts ranging from 88,000 to 91,000, while in Oakland County, they ran in the range of 78,000. That sacrifice of the concept of one person-one vote to, in fact, put that aside in favor of higher priority of not breaking county lines. It results in a situation where county A is underrepresented unfairly, and county B in another case may be underrepresented unfairly. So we have a situation where neither people nor counties are, in fact, being treated fairly by the process that is being proposed here.

I would propose that we follow the concept of one person-one vote that we teach to our schoolchildren across Michigan. We should mean it just as we meant it in the congressional system. It has worked there. It can work here and that should be our policy.

Senator V. Smith, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill Nos. 810, 811, 812, 813 and 814 and moved that the statement he made during the discussion of Senate Bill No. 814 be printed as his reasons for voting "no."

The motion prevailed.

Senator V. Smith's statement is as follows:

I heard the comments from the Majority Leader, and basically, what it does clarify is the fact that this a very political process. It was a political process in 1980, and it is a political process going on right now. That is the nature of what these bills are really about.

I voted "no" on Senate Bill Nos. 810 through 814 for several reasons. First, while my Republican colleagues have come to the realization that the principle of one person-one vote is best preserved by requiring each congressional district to be mathematically equal in population, they have failed to apply the same principle to county and legislative districts.

Using anything less than exact population equality among the districts is unconstitutional. Under Article 1, Section 2 of the United States Constitution, the United States Supreme Court has followed the principle of "one person-one vote." In the cases of Kirpatrick v. Preisler, 394 U.S.C. 525 (1969) and White v. Weiser, 412 U.S.C. 783 (1973), the court required exact mathematical equality of population among congressional districts, rejecting variances based on asserted interests in preserving political boundaries and even compactness. Michigan has followed these principles. The 1992 federal court-drawn plan had 15 districts with 580,956 people and one district with 580,957 people; even at the cost of fragmenting many political subdivisions.

If exact mathematical equality is required in order to adhere to the principle of one person-one vote on the congressional level, it follows that mathematical equality must be required on the county and legislative levels as well to ensure that the requirements of the U.S. Constitution and the Voting Rights Act are followed, the Legislature must provide for exact mathematical equality as the population standard for congressional, legislative, and county districts.

Second, the bar on statistical sampling will lead to the use of less accurate population data with several legal ramifications. The ban on sampling violates the Voting Rights Act. Section 2 of the Voting Rights Act prohibits any practice or procedure by a state which results in denial or abridgement of the right to vote, such as dilution based on race or color. Intent to discriminate is not required.

It has been demonstrated that the undercount disproportionately impacts African-Americans, Hispanics, and others. The federal courts have held that during the redistricting process, if a state knows that census data undercounts minorities, it must utilize more accurate data, such as that obtained from sampling to comply with the Voting Rights Act, State of California v. Mosbacher, 968 F 2d 974 (9th Cir., 1991). The ban on sampling violates the census act.

The U.S. Supreme Court in Department of Commerce v. House of Representatives, 525 U.S.C. 142 L Ed 2d 797 (1999), held that while the federal census act prohibits the use of statistical sampling to apportion congressional districts among the states, the act requires its use for other purposes, including redistricting of congressional districts within the state when the Secretary of Commerce deems it feasible. The Secretary of Commerce has declared that sampling procedures are feasible and must be used for all other purposes, including congressional redistricting within states. Thus is a violation of the federal census act to bar statistical sampling.

Politically, because minority populations lean more to the Democratic Party than to the Republican Party, Republicans believe that using sampling methods to bring about a more accurate count of the nation's population will harm their political interests. This concern is demonstrated by a memo from the Republican National Committee dated May 20, 1997, to all state Republican chairpersons, stating that it is vital that Republicans be united in opposing statistical sampling because based upon their analysis, it will clearly benefit Democrats.

Finally, this package of bills imports the Apol criteria from state legislative redistricting into congressional redistricting. These criteria stress the preservation of county, city, and township lines. The list of criteria is neither accurate nor fair to Democrats. The Apol criteria does not reflect the criteria historically recognized by federal courts in Michigan congressional redistricting. These nonprioritized factors were articulated in the case of Good v. Austin, 800 S. Supp. 557, 563-66 and n. 6 (1992). The factors are compactness, contiguity, preservation of the integrity of county and municipal boundaries, maintenance of the cores of existing districts, preservation of cultural, social, and economic communities of interest, and political and racial fairness. The Apol criteria are biased against Democrats in general and will result in the serve dilution of African-American voting strength in particular, and thus, do not promote political and racial fairness.

Redistricting criteria which limit the ability to split jurisdictions are detrimental to the construction of plans which are fair to Democratic candidates. Limiting the splitting of jurisdictions is designed to pack as many Democrats, and particularly African-Americans and other minority voters, into as few districts as possible, thus creating supermajority Democratic districts—packing these districts with as many Democratic voters as possible leads to the creation of many more Republican districts than if Democratic voters could be distributed evenly. While these supermajority Democratic districts would reliably elect Democratic minority representatives to the Congress and the Legislature, these districts could be construed with far fewer Democratic voters so as not to pack Democratic voters into a district.

Let me make it clear, the Voting Rights Act prohibits packing and if the Apol Standards are adopted for congressional redistricting, it will allow packing to occur, and thus, lead to a violation of the Voting Rights Act. The U.S. Supreme Court has held in Burns v. Richardson, 384 U.S.C. 73 (1966) and in Fortson v. Dorsey, 379 U.S.C. 433 (1965), that apportionment plans will constitute invidious discrimination when it is shown that “designedly or otherwise, “the apportionment” would operate to minimize or cancel out the voting strength of racial or political elements of the voting population.

Adoption of this package of bills will undoubtedly lead to costly and acrimonious litigation. For these reasons, I voted “no” on Senate Bill Nos. 810 through 814.

Senators Schuette, Emmons and DeGrow asked and was granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Schuette's first statement is as follows:

First, to the amendment. I would urge that we reject the V. Smith amendment for some reasons I will elaborate in a moment. Most specifically because what we have done in these bills, Senate Bill No. 810 and the other ones, is put into law and codify the history of decision-making of Michigan courts and federal court so as to protect the rights of minorities, so there is no dilution, and to make sure that we're abiding by the law of the land—both federal courts, the United States Supreme Court, and our own Michigan Supreme Court.

The Apol Standards really are legal words named after a statistician, a person who is actively involved in this, of making sure we didn't bust up counties, that neighborhoods wouldn't be broken up. That's really what these Apol

Standards are like and, frankly, what we have been abiding by in this state, adopted by courts and this Legislature. For those reasons, I would reject the V. Smith amendment.

Let's talk about really what this whole issue before the Senate is today in these series of bills. Really what we're embarking upon today is an effort to make sure in every way we can that we cleanse this process of redistricting from politics; that no matter who might be in charge in 2001 and 2002, no matter what, there'll be no rigging of the game; that there won't be gerrymandering by either party; that we make sure that we cleanse this as best we can from partisanship and gamesmanship; rather, make sure that a fundamental tenet of American democracy and Michigan democracy is making sure that we have standards and rules that either party must meet; that they are abided by in the future. I think that's so vitally important for this body and the House as well.

Another reason to put these standards and bars into law now is so that in this era of term limits, where in the future there may be people coming and going who may not have had some of the experience as others have had in this whole reapportionment process, that we put rules that have been established and adopted by courts and past legislatures that will be important to fairness. Fairness really is the axiom in the world we are hoping to put into place today.

Now it is very important to know that in Senate Bill No. 810 and these other bills we are imprinting. We are inserting in our statute, smack dab, the Voting Rights Act of 1973 to protect the rights of minorities so we don't dilute minority representation. It is important we understand this. Section 2 of the Voting Rights Act, we are putting in our legislation, says: "No voting qualification or prerequisite to voting or standard practice or procedure shall be imposed or applied by any state or political subdivision in a manner that results in the denial or abridgement of the right of any citizen of the United States to vote on account of race or color in contravention of the guarantees set forth in this act." The point here is we're making sure that we have the federal prescriptions put in the statute here in Michigan to protect rights of minorities. Whether it's African-Americans in Detroit, Hispanics, or wherever it might be in any part of Michigan, we want those federal protections. I think that's important.

We put in place these Apol Standards, which frankly, is again so we don't bust up communities and we don't break up or fracture neighborhoods. It's how we have redistricting today. We want to make sure that those issues of compactness and not having gerrymandering to try to benefit one party or the other, we're trying to rid ourselves of that.

Also what we are trying to do is have hard actual counts. We don't want anybody left behind. We don't want anybody frozen out. We want to count everyone. There's an article in the Lansing State Journal yesterday about Maribelle Garcia. I want Maribelle Garcia and her daughter counted in Michigan and other people across the state counted in every accurate way.

What we have also done is put into these statutes United States Supreme Court decisions. Two cases: The Scott case and the Growe case that say the court of first jurisdiction, the first review of any redistricting case should be the state Supreme Court of Michigan and other high courts within the states. So we are putting into place that United States Supreme Court decision so we'd follow it here in our state.

Now other states across the country are doing what we are doing in Michigan, trying to establish fair, accurate, and tough nonpartisan guidelines. I think it's important we know that in Alaska, Arizona, Colorado, and Kansas similar bills have been put into place. Also other states are engaging this process: Georgia, Indiana, Maryland, Minnesota, Nevada, New Jersey, Oklahoma, and Tennessee. So other states are trying to implement some standards and rules in terms of making sure we have hard actual counts.

You'll hear a discussion today about this issue of hard counts versus wild guesses. Accurate precision instead of "Oh, what's the guesstimate of how many people we may have missed?" I don't want to minimize the issue of undercounting. It is essential that we put all of our resources, both money and people, in having accurate counts from the outset of this process of the census; making sure that in heavily populated areas of Michigan that we have community groups and committees to count in urban areas, where sometimes folks have been missed. We don't want that to happen. Or in sparsely populated rural areas that we make every effort to count those people who live in communities where the population is sparse or people live few and far between. The point is let's have an accurate count so no one is missed in Michigan; that everybody is counted because everyone is part of this process. So let us have hard counts instead of guesses.

We had hearings, the Committee on Reapportionment, with the state demographer, who established very precisely how this sampling process, frankly, can exasperate the undercount—widen this crater of not counting people. So let us, instead of saying, well, let's try to guess who we might have missed, seems to me that the focus ought to be let's count everyone. That's our purpose today.

I look forward to this discussion of this important issue today. I would urge rejection of the V. Smith amendment, and may I add that we adopt this bill.

Senator Schuette's second statement is as follows:

On the Smith amendment, a couple of things. First, with respect to process. I spoke with both the Democratic Leader and the Democratic Floor Leader within minutes after these bills were introduced on the 14th of October. We had 112 notices that went out concerning the hearing upcoming on October 20. On October 15, the day after the bills were

introduced, the issue of this legislation was put into the news media and covered. We had a hearing on October 20. We had the state demographer testify. We had an attorney, Pete Ellsworth, testify, who has great expertise in redistricting matters. We had Mark Brewer testify, who has, frankly, just a splendid academic record, an attorney, and of prestigious universities, who is exceptionally well-versed on these issues, giving a different viewpoint. So we had no other people who wished to testify at that time. I had also made calls personally to the executive director of the NAACP, Mr. Heaster Wheeler, Bill Beckham of New Detroit, Charles Anderson of the Detroit Urban League, and Mayor Archer, trying to communicate the open opportunity for all points of view on this issue to come testify. So it's important that that be placed on the record.

Now, with respect to the Smith amendment. What this amendment does, frankly, is try to politicize Standards. We have as one of the huge criteria, and higher than the Apol Standards, the Voting Rights Act making sure that there's no dilution and no retrogression in any district. The Smith amendment puts in a number of things. It doesn't include townships, and frankly, it's an incumbent protection device. The point about this is not to maintain districts. The point on this is to count everybody accurately and then have districts that keep intact rights of minorities, that don't dilute minority representation, and make sure that with issues of the Apol Standards of compactness and all of that, we don't bust up communities.

So the point is that this is not about having safe seats, which the Smith amendment speaks to, which is not correct. This is not about politics in terms of political fairness. It's not about having more Democrat or Republican or Republican or Democrat. It's about fairness standards and abiding by very specific Supreme Court decisions of the United States and in Michigan, and abiding by, you know, a pattern of history of having hard enumerated counts.

So we should not have an amendment that speaks to politics, that eliminates townships, or frankly, tries to maintain existing seats because it's not about preserving seats. Rather, it's about making sure that everyone has a voice to be heard in fair representation. I'd urge rejection of the Smith amendment.

Senator Schuette's third statement is as follows:

Speaking to the Leland amendment, I would urge its rejection because what the Leland amendment would do is say let's not have a hard count; let's not try to be accurate; let's not try to be precise; let's not put all our efforts of counting everyone; let's not attempt to make sure we're enumerating everyone and not have people have frozen out. And what the Leland amendment said was let's just roll the dice and guess. That's not right. That's not good enough.

The point here ought to be let's count everyone, and let us not put into place a method that says, well, we're not going to get enough people anyway, so let's not try, and let's have some abstract approach of wild guesses determine the course of redistricting and reapportionment across our state. That's not right. Let's have a hard accurate count not wild guesses.

Now with respect to his comments about Mr. Nicholson, I have not seen or read the memo. The only thing I'd say is that Nicholson's probably right that if he did sampling, that would be a radical new approach. That's pretty radical, never been done before, and ought not to be a new standard to replace what we've done over federal courts, the U.S. Supreme Court, and Michigan courts. From the standpoint of the very specific issue of sampling, I would commend the reading of everyone here—exhibit 1—which was entered into the record at the Senate Committee on Reapportionment testimony by Mr. Kenneth Darga, the state demographer who talked about the problems with sampling. And if there is an undercount in the census, in a block, or a neighborhood, if you try to extrapolate and hypothecate and guesstimate who might have been missed, that doesn't solve the problem. There's still an undercount. The difference would widen and get bigger and not be helped. Is that a system making sure we've not frozen anybody out, that we've left no one behind? No. It just glosses over the problem and doesn't solve it. Our efforts ought to be to count everyone in Michigan, not having wild guesses soothed our conscience.

In terms of this discussion, the "Key Shortcomings of Undercount Adjustment Methodology" statements by Mr. Darga to the Senate Committee on Reapportionment are available to everyone and should be made part of this record as well because it talks about the problems of undercounting when sometimes in urban areas, people are mobile, they move, and may be renters instead of land people who live there. There might be some folks who, frankly, have some trepidation about coming at the door knocking saying they're from the government. That can happen in rural areas as well. Someone may come to your door wanting to ask you questions about where you live. Some people don't like to fill out the form. I can understand that. But the point is let's make every effort—communicate and talk about the need to have everybody counted. Let's just not gloss over it in a wild way.

So I would reject the Leland amendment and make sure we have an effort here of counting everyone instead of guessing about who might live in a block.

Senator Schuette's fourth statement is as follows:

A couple of points. First, with respect on the Leland amendment, Senator Leland talked about this issue of sampling. I need to clear up for the record that the state demographer, Mr. Darga, was very precise and chose his words in a precise fashion. He clearly stated to the committee that sampling doesn't work. Sampling doesn't cure the problem. Sampling doesn't fill the void of an undercount; rather, it would make the void bigger. It would have greater undercount

and actually could contribute to depopulation of a district. It doesn't solve the problem. What the state demographer did do in his analysis about a census is say there are items that contribute to an undercount, whether it's in some areas, homelessness, some areas it might be mobility, moving on to a different job, a different community, maybe renters than not owning the property—those issues come into place. He talked about the problems of a census and then encouraged us to have resources directed to counting everybody. I needed to clear that up.

Then, with respect to my friend, the distinguished Senator Virgil Smith, with respect to the United States Supreme Court decision, Department of Commerce v. United States House of Representatives, that holding clearly states that the law of the land is hard enumerated count. That is the congressional decision, the act of Congress, requiring a hard enumerated count and prohibiting sampling. And beyond that, very specific, holding any other dicta, what may or may not occur, frankly, is not at all the ruling or holding of the Supreme Court. The Court is very clear that sampling may not be used. That's the rule of law.

Senator Schuette's fifth statement is as follows:

A number of items here. First in terms of the process. This was, frankly, a wide open process. Three people came to testify. We had plenty of time. There were no quick gavels here. This is not reminiscent of 1983 when a bill was discharged in the middle of the night after there was a recall by the Democratic Senate. We didn't do that. This was well in advance talked about, three people testified, and no quick gavels. Frankly, from this process, we achieved some changes in the bills and inserted the words of precise mathematical equality of districts, of population in each district. And, may I say, the Democratic Party chairman, a skilled attorney, faced off with Pete Elsworth, who is a Republican attorney. So, frankly, it was head-to-head, and it was not as if anyone was unaware about these issues.

This issue of statistically sampling versus a hard count, this issue of wild guesses versus let's count everybody is not new. Everybody is aware of these issues. We had a process that invited everybody to participate, as I know will occur in the House as well. So the process here, frankly, was straightforward. This really is an issue, this bill and the other ones, about having hard accurate counts, not wild guesses. Let's make sure we count everybody instead of Gee, who might have we forgotten, and what's the mathematical computation and evaluation to try to achieve some result that, frankly, doesn't solve the problem.

I'd encourage passage of this bill. What we have done is put into place and codified in statute voting rights protections; put into place Michigan Supreme Court decisions; put into place the rules of the United States Supreme Court. So we codified the rule of land, not to have politics come into play in 2001, no matter what happens in the elections of the year 2000.

Senator Schuette's sixth statement is as follows:

With respect to my comments on final passage of Senate Bill No. 810, we should adopt this legislation because I've said in the past it codifies existing court decisions in Michigan and federal laws and Supreme Court rulings. I have to tell you that the Supreme Court of the United States prohibits sampling to be used. It very clearly said "hard, actual, numerated counts." That was the intent and laws of Congress. And the theory behind this is let's not have two sets of books. If you've got a restaurant or business, and you have two sets of books that you want to cook, one on the one side, one on the other—that's not how we do democracy. Democracy ought to be hard actual counts, not statistical guesswork as to who lives where. That's the focus behind it.

Second, in terms of the process here, it's been two weeks since these bills have been introduced. There's been plenty of time for people to submit documents, items, letters, treatises, or opinions. I'm not seeing much. We had three exhibits in the Committee on Reapportionment. Exhibit 1 that I made reference to earlier. Exhibit 2 is from the U.S. Census Monitoring Board that says "Unkept promise: statistical adjustment fails to eliminate local undercounts." That's Exhibit 2. Exhibit 3 from the U.S. Census Monitoring Board, one of the headnotes says "Statistical adjustment alone has no hope of correcting large undercounts in African-American, Native American, Asian, and Latino neighborhoods in Michigan."

The point is statistics don't solve the problem. I do also want to mention that, yes, I was, frankly, happy and pleased, and I'm glad that I contacted key leaders in the African-American community from the National Association for the Advancement of Colored People, Mr. Heaster Wheeler, inviting his group to come, Bill Beckham from New Detroit, Charles Anderson from the Detroit Urban League, and Mayor Archer, letting them know in advance that I would welcome their views in every way, not that they would necessarily mirror mine or I theirs, but welcomed them to this process. And I would certainly do it again.

Senator Schuette's seventh statement is as follows:

The distinguished Senator, Senator Smith, speaks to the Apol Standards. That's the name of a person who really put into place something that we have abided by in 1982 and 1992. It says let's not bust up communities, let's not fracture lines of townships and counties, and let's have things be as compact as practicable. That is what the Apol Standards are, and that is how they've been used in 1982, 1992, and reviewed by federal courts. The federal courts have approved and used these Apol Standards, and it has met constitutional approval. I think it's important we understand that.

The Senator used the Good decision, the federal court decision in the case of Good, the plaintiff, and you should know that our bill, Senate Bill No. 814, really takes the framework of Good and puts it into statute. First, the constitutional criteria is you must have precise mathematical equality of population. We are taking that and then using the Standards that are so appropriate. We're following Good with the requirements of the 1982 amendments to the Voting Rights Act, Section 2, making sure that we never dilute and no retrogression of minority rights. So we're using those Standards in a very high way.

I think it's important that in this bill, Senate Bill No. 814, we also clarify and codify the rights of the Michigan Supreme Court to be the court of first jurisdiction if there ever is any question. It goes to a higher authority, the third branch of government. We're following United States Supreme Court decisions in the cases of Scott and Grow to vest first jurisdiction in the Michigan Supreme Court.

So what we're doing today is putting into law the Standards that we've been utilizing since 1982 and 1992. We adopted the Apol Standards in 1996, and we're putting them into place, making sure we have hard, enumerated counts and making sure that we have the Michigan Supreme Court as the court of first jurisdiction.

The Smith amendment also talks about preserving political seats. This isn't about maintaining existing seats. This is about fairness and making sure we have specific Standards. The Smith amendment would bust up townships, and it talks about political fairness. The Good decision doesn't speak to political fairness. It talks about the Standards which must be met.

Senator Schuette's eighth statement is as follows:

I rise in opposition to the Leland amendment and urge its rejection.

As we stated in previous bills, Senate Bill Nos. 810, 811, 812 and 813, statistical sampling, which are really big syllable words for guesswork, wild guesses; let's have a hunch where people might live is inadequate for Michigan. We need to have our focus on state legislative districts to be toward an effort of counting everybody. Leave no one out. Let no one be frozen out. Let's count everyone. And, as it was explained in the committee by the state demographer, sampling only widens the undercount. I'm not minimizing that.

I'd refer, again, this Senate to exhibits 1, 2, and 3 that talked in detail about how statistical sampling misses the mark, misses people, and means there's a bigger undercount. I think that means underrepresentation. So, what we've tried to do in this bill is make sure we have hard data abiding by the United States Supreme Court decisions that say clearly in Department of Commerce v. United States House of Representative decision that sampling is prohibited by statute, by the federal Congress, and improved and upheld by the United States Supreme Court. That's what we're doing is having a hard accurate count so that no matter where you live in Michigan, our efforts will be to count you for Michigan in our state's future.

Senator Schuette's ninth statement is as follows:

I would urge rejection of the Jaye amendment. This standard of deviation that's statutorily at 10 percent in the bill, is a result of the reflection of Michigan court decisions and also across the country. If we try to get everything down to zero in the many, many, many House districts we have, I think we'd be fracturing communities and displacing and having lines drawn that really might impact neighborhoods and communities as we know them. This 10 percent approach is consistent with case law and been approved of in the past. I would reject the Jaye amendment and adopt Senate Bill No. 814.

Senator Schuette's tenth statement is as follows:

This amendment has to have a swift and immediate and vigorous 37-1 rejection. This amendment flies in the face of constitutional and statutory laws and principles of this nation. This amendment would violate the Voting Rights Act of 1973. Remember, in this bill, smack-dab in Senate Bill No. 814, we've inserting the Voting Rights Act protection under Section 2, which says—and let's all make sure we understand it—no voting qualification or prerequisite to voting or standard practice or procedure shall be imposed or applied by any state or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color. We're going to make sure that there's no dilution and no retrogression of minorities' representation and rights, whether that be African-American rights in the city of Detroit, Benton Harbor Hispanic, or anywhere in this state. We're going to uphold these important values as embodied by the Constitution and the Voting Rights Act, and I'd urge the rejection of this amendment. Support Senate Bill No. 814.

Senator Emmons' statement is as follows:

I would also urge you to reject this amendment. Actually, this was done, and I saw the map in 1982, done on a computer, done mathematically accurate, and it chopped one township up in Otsego County into seven pieces—seven pieces not along lines in the township either, but along enumeration district lines that did not follow anything. It is a total disaster in holding communities together to do this. That map was totally rejected by anyone across Michigan because it simply was not good policy to have people chopped into so many pieces.

I would urge this to be rejected.

Senator DeGrow's statement is as follows:

As we are on final passage, first I wanted to compliment Senator Schuette on his handling of this package both in committee and on the floor.

Earlier in the debate on the bills, there was some talk from the other side about the lack of time, we were rushing this, and the implication was that they weren't treated fairly. Now with term limits, we may not be able to do this in future years, but I was here on November 30, 1983. Senator Gast and I were the only ones still here from that night on our side, but I remember well. You want to talk about rushing through, lack of process, and not a chance to have your friends come in and testify, you ought to have been there that night. On that night, a reapportionment bill was run through all in one day. Rules were suspended. On this package, not one rule has been broken, let alone even suspended.

Let's talk about the time that went through this package. On October 14, the bills were introduced—October 14. The hearing for these bills was on October 20, six days later. Anyone who wished to testify had six days to know about it, could come, and could testify. No one was denied the opportunity to testify. We had General Orders then six days later on October 26, and today on October 27, we're passing the bills. That's 13 days.

In November of 1983, it was all done in one. Nobody got to testify. They were rammed through. Rules were suspended. We skipped General Orders and went right to final passage on a complete reapportionment bill that drew the lines for this state. So the court or anyone else who really wants to look at what a real rush job is should go back and look at 1983. We look slow by comparison to that, and I think the Senator did a fair job. Anybody who wanted to testify could, and everybody had their chance.

Thirteen days—this was a normal process for the Michigan Senate. What happened when the Democrats were in charge was a violation of democracy and good faith.

Senator McCotter moved that rule 2.106 be suspended to allow all committees 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. 94

The resolution consent calendar was adopted.

Senator McCotter offered the following resolution:

Senate Resolution No. 94.

A resolution recognizing the month of October 1999 as National Lupus Awareness Month.

Whereas, The Lupus Foundation of America has declared the month of October as National Lupus Awareness Month; and

Whereas, The Lupus Foundation, a voluntary health organization, stands dedicated to improving the quality of life for lupus patients through educating victims, families of victims, and the general public of the ramifications of the diseases, services available for patients, and the need for research to find additional treatments and a cure; and

Whereas, Lupus is often a life-threatening, chronic disorder where the immune system forms antibodies that attack healthy tissues and organs, for which there is not a cure; and

Whereas, Lupus can be difficult to diagnose as the symptoms come and go and mimic many other illnesses; and

Whereas, Lupus is more prevalent than AIDS, sickle-cell anemia, cerebral palsy, multiple sclerosis, and cystic fibrosis combined; and

Whereas, Michigan is home to many citizens inflicted with lupus, including the second youngest child in the nation to be diagnosed; now, therefore, be it

Resolved by the Senate, That the state of Michigan recognize the month of October 1999 as Michigan Lupus Awareness Month; and be it further

Resolved, That a copy of this resolution be transmitted to the Lupus Foundation of America as a reflection of our support for their efforts.

Introduction and Referral of Bills

Senator Van Regenmorter introduced

Senate Bill No. 862, entitled

A bill to amend 1996 PA 575, entitled "The central disability resource directory act," by amending sections 2, 3, 6, 7, 8, 9, and 10 (MCL 395.322, 395.323, 395.326, 395.327, 395.328, 395.329, and 395.330); and to repeal acts and parts of acts.

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

Senators Hart, Murphy and Vaughn introduced

Senate Bill No. 863, entitled

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending sections 1106, 5106, and 5313 (MCL 700.1106, 700.5106, and 700.5313).

The bill was read a first and second time by title and referred to the Committee on Families, Mental Health and Human Services.

Senators Hammerstrom, Bullard, Goschka, McManus and North introduced

Senate Bill No. 864, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 322, 349, 413, 433, and 467b (MCL 168.322, 168.349, 168.413, 168.433, and 168.467b), as amended by 1996 PA 583; and to repeal acts and parts of acts.

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

Senator Emmons introduced

Senate Bill No. 865, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending section 101 (MCL 388.1701), as amended by 1999 PA 119.

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

Senator Bennett introduced

Senate Bill No. 866, entitled

A bill to amend 1955 PA 233, entitled "An act to provide for the incorporation of certain municipal authorities to acquire, own, extend, improve, and operate sewage disposal systems, water supply systems, and solid waste management systems; to prescribe the rights, powers, and duties thereof; to authorize contracts between such authorities and public corporations; to provide for the issuance of bonds to acquire, construct, extend, or improve the systems; and to prescribe penalties and provide remedies," by amending section 4b (MCL 124.284b), as added by 1985 PA 178.

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

Senators Steil and Sikkema introduced

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.

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

House Bill No. 4280, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 61503c.

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 Natural Resources and Environmental Affairs.

House Bill No. 4281, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 61503b; and to repeal acts and parts of acts.

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 Natural Resources and Environmental Affairs.

House Bill No. 4755, entitled

A bill to amend 1984 PA 22, entitled "Michigan civilian conservation corps act," by amending section 6 (MCL 409.306), as amended by 1998 PA 71.

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 Natural Resources and Environmental Affairs.

Committee Reports

The Committee on Transportation and Tourism reported

Senate Bill No. 581, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 717 (MCL 257.717), as amended by 1992 PA 257.

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.

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Steil, North, Leland and Hart

Nays: None

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

The Committee on Transportation and Tourism reported

House Bill No. 4632, entitled

A bill to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending section 15b (MCL 247.665b), as added by 1997 PA 79.

With the recommendation that the bill pass.

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

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Steil, North and Leland

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Farming, Agribusiness and Food Systems reported

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.

With the recommendation that the following amendment be adopted and that the bill then pass:

1. Amend page 5, line 3, after "exceed" by striking out "7%" and inserting "3.5%".

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

George A. McManus, Jr.
Chairperson

To Report Out:

Yeas: Senators McManus, Stille, Gougeon, Byrum and Hart

Nays: None

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

The Committee on Farming, Agribusiness and Food Systems reported

Senate Resolution No. 68.

A resolution to memorialize the Congress of the United States to end tobacco subsidies and to redirect this support to food-producing agricultural activities.

(For text of resolution, see Senate Journal No. 56, p. 1212.)

With the recommendation that the resolution be adopted.

George A. McManus, Jr.
Chairperson

To Report Out:

Yeas: Senators McManus, Stille, Gougeon and Byrum

Nays: None

The resolution was placed on the order of Resolutions.

COMMITTEE ATTENDANCE REPORT

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

Meeting held on Wednesday, October 27, 1999, at 1:30 p.m., Room 405, Capitol Building

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

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Environmental Quality submits the following:

Meeting held on Wednesday, October 20, 1999, at 8:30 a.m., House Appropriations Room, Capitol Building

Present: Senators Bennett (C), Gast, North, A. Smith and DeBeaussiaert

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Environmental Quality submits the following:

Meeting held on Wednesday, October 27, 1999, at 8:30 a.m., House Appropriations Room, Capitol Building

Present: Senators Bennett (C), Gast, North, A. Smith and DeBeaussiaert

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submits the following:

Meeting held on Wednesday, October 27, 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

COMMITTEE ATTENDANCE REPORT

The Committee on Government Operations submits the following:

Meeting held on Wednesday, October 27, 1999, at 3:00 p.m., Room 405, Capitol Building

Present: Senators McCotter (C), Hammerstrom, Sikkema and Miller

Excused: Senator V. Smith

Scheduled Meetings

Banking and Financial Institutions Committee - Thursday, November 4, at 2:30 p.m., Room 210, Farnum Building (3-1801).

Community Health Appropriations Subcommittee - Tuesday, November 2, at 1:00 p.m., Room 210, Farnum Building (3-1777).

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

Families, Mental Health and Human Services Committee and Family Independence Agency Appropriations Subcommittee (Joint meeting with House Family and Children Services Committee and House Appropriations Subcommittee on Family Independence Agency) - Thursday, November 4, at 8:30 a.m., House Appropriations Room, 3rd Floor, Capitol Building (3-3543/3-1760).

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

Local, Urban and State Affairs Committee - Monday, November 1, at 10:00 a.m., Sacred Heart Major Seminary, Cardinal Mooney Room, 2701 West Chicago, Detroit (3-1707).

State Police and Military Affairs Appropriations Subcommittee - Wednesday, November 3, at 9:30 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (3-2426).

Transportation Appropriations Subcommittee - Tuesday, November 2, at 2:00 p.m., Room 100, Farnum Building (3-2426).

Senator McCotter moved that the Senate adjourn.
The motion prevailed, the time being 2:56 p.m.

The President, Lieutenant Governor Posthumus, declared the Senate adjourned until Tuesday, November 2, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

