

No. 86
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, December 5, 2001.

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 Secretary of the Senate, who announced that a quorum was present.

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

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

Sanborn—present
Schuette—present
Schwarz—present
Scott—present
Shugars—present
Sikkema—present
Smith—present
Steil—present
Stille—present
Van Regenmorter—present
Vaughn—excused
Young—present

Senator Joe Young, Jr., of the 1st District offered the following invocation:

Dear God, please bless us here—this process, bless our families, our loved ones, and our friends. Teach us to forgive our enemies and just allow us to enjoy Your wisdom as You try to get us to listen to Your excellent and good ways. Amen.

Senators Schwarz, Dunaskiss, Miller, Peters and Cherry entered the Senate Chamber.

Motions and Communications

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

Senator Murphy entered the Senate Chamber.

Senator Emmons moved that Senators DeGrow and Garcia be temporarily excused from today's session.
The motion prevailed.

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

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

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

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

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, December 4:
House Bill Nos. 4325 5032 5033 5449

Recess

Senator Emmons moved that the Senate recess subject to the call of the President.
The motion prevailed, the time being 10:04 a.m.

10:12 a.m.

The Senate was called to order by the President pro tempore, Senator Schwarz.

During the recess, Senator Schuette introduced to the Senate Charles (Charlie) Thornhill, Senate sergeant at arms and 2001 recipient of the MSU Duffy Daugherty Award, his wife Laurie and sons Kaleb and Josh, and presented him with a special tribute.

During the recess, Senator Garcia entered the Senate Chamber.

Messages from the House

Senator Emmons moved that consideration of the following bill be postponed temporarily:
Senate Bill No. 494
The motion prevailed.

By unanimous consent the Senate proceeded to the order of

General Orders

Senator Emmons moved that the Senate resolve itself into the Committee of the Whole for consideration of the General Orders calendar.

The motion prevailed, and the President pro tempore, Senator Schwarz, designated Senator Dingell as Chairperson.

After some time spent therein, the Committee arose; and, the Assistant President pro tempore, Senator Hoffman, having resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

House Bill No. 4621, entitled

A bill to amend 1992 PA 147, entitled “Neighborhood enterprise zone act,” by amending sections 2, 3, 9, 10, 11, and 12 (MCL 207.772, 207.773, 207.779, 207.780, 207.781, and 207.782), section 9 as amended by 1996 PA 449 and section 12 as amended by 1994 PA 391; and to repeal acts and parts of acts.

Substitute (S-1).

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

Recess

Senator Emmons moved that the Senate recess subject to the call of the President. The motion prevailed, the time being 10:21 a.m.

10:52 a.m.

The Senate was called to order by the President pro tempore, Senator Schwarz.

During the recess, Senators DeGrow and Leland entered the Senate Chamber.

By unanimous consent the Senate returned to the order of

Messages from the House

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

Senate Bill No. 494, entitled

A bill to repeal 1895 PA 266, entitled “An act relative to bonds and other obligations, with surety or sureties, and the acceptance as surety thereon of companies qualified to act as such, and the release of such surety, and the safe depositing of assets for which such surety may be liable, and to the charging by fiduciaries of the expense of procuring sureties, and repealing all laws in conflict therewith,” (MCL 550.101 to 550.109).

Substitute (H-1).

The question being on concurring in 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. 520

Yeas—35

Bennett	Garcia	Leland	Schwarz
Bullard	Gast	McCotter	Scott
Byrum	Goschka	McManus	Shugars
Cherry	Gougeon	Miller	Sikkema
DeBeaussaert	Hammerstrom	Murphy	Smith
DeGrow	Hart	North	Steil
Dingell	Hoffman	Peters	Stille
Emerson	Johnson	Sanborn	Van Regenmorter
Emmons	Koivisto	Schuette	

Nays—0

Excused—1

Vaughn

Not Voting—2

Dunaskiss

Young

In The Chair: Schwarz

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 bill was referred to the Secretary for enrollment printing and presentation to the Governor.

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

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

Senators Young and Dunaskiss entered the Senate Chamber.

By unanimous consent the Senate proceeded to the order of
Third Reading of Bills

Senator Emmons moved that the following bills be placed at the head of the Third Reading of Bills calendar:

House Bill No. 5146**House Bill No. 4811****Senate Bill No. 76****Senate Bill No. 764****Senate Bill No. 765****Senate Bill No. 766****Senate Bill No. 786****Senate Bill No. 825****House Bill No. 4333****Senate Bill No. 826****Senate Bill No. 827****Senate Bill No. 828****Senate Bill No. 645****Senate Bill No. 647****Senate Bill No. 213**

The motion prevailed.

The following bill was read a third time:

House Bill No. 5146, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 20155 (MCL 333.20155), as amended by 2000 PA 171.

The question being on the passage of the bill,

Senator Shugars offered the following amendment:

1. Amend page 13, following line 19, by inserting:

"(M) PHYSICAL AND CHEMICAL RESTRAINTS."

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

The question being on the passage of the bill,

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

Roll Call No. 521**Yeas—37**

Bennett
Bullard
Byrum

Garcia
Gast
Goschka

Leland
McCotter
McManus

Schwarz
Scott
Shugars

Cherry	Gougeon	Miller	Sikkema
DeBeaussiaert	Hammerstrom	Murphy	Smith
DeGrow	Hart	North	Steil
Dingell	Hoffman	Peters	Stille
Dunaskiss	Johnson	Sanborn	Van Regenmorter
Emerson	Koivisto	Schuette	Young
Emmons			

Nays—0

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

“An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates.”.

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 4811, entitled

A bill to amend 1956 PA 218, entitled “The insurance code of 1956,” by amending sections 5028, 5412, and 7918 (MCL 500.5028, 500.5412, and 500.7918), section 7918 as amended by 1980 PA 41, and by adding section 121.

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. 522

Yeas—37

Bennett	Garcia	Leland	Schwarz
Bullard	Gast	McCotter	Scott
Byrum	Goschka	McManus	Shugars
Cherry	Gougeon	Miller	Sikkema

DeBeaussaert	Hammerstrom	Murphy	Smith
DeGrow	Hart	North	Steil
Dingell	Hoffman	Peters	Stille
Dunaskiss	Johnson	Sanborn	Van Regenmorter
Emerson	Koivisto	Schuette	Young
Emmons			

Nays—0

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

“An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker’s compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act.”

The Senate agreed to the full title.

The following bill was read a third time:

Senate Bill No. 76, entitled

A bill to amend 1961 PA 236, entitled “Revised judicature act of 1961,” by amending section 507 (MCL 600.507), as amended by 1994 PA 138.

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. 523**Yeas—37**

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

Nays—0**Excused—1**

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Senator McCotter moved that he be named co-sponsor of the following bill:

Senate Bill No. 76

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 764, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 508, 803, and 8134 (MCL 600.508, 600.803, and 600.8134), section 803 as amended by 1998 PA 55 and section 8134 as amended by 1987 PA 75.

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. 524**Yeas—37**

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

Nays—0

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 765, entitled

A bill to amend 1961 PA 236, entitled “Revised judicature act of 1961,” by amending section 504 (MCL 600.504), as amended by 1996 PA 388.

The question being on the passage of the bill,

Senator Dingell offered the following amendment:

1. Amend page 1, line 6, after “2003,” by striking out the balance of the section and inserting “EACH VACANCY IN THE OFFICE OF JUDGE IN THIS CIRCUIT THAT OCCURS AFTER JANUARY 1, 2003, SHALL REDUCE THE NUMBER OF JUDGESHIPS BY 1, UNTIL THE NUMBER OF JUDGES IS 61. AS USED IN THIS SUBDIVISION, “VACANCY” MEANS EITHER OF THE FOLLOWING:

(i) A CIRCUIT JUDGE’S DEATH, RESIGNATION, RETIREMENT, REMOVAL FROM OFFICE, OR REMOVAL OF DOMICILE BEYOND THE LIMITS OF THE CIRCUIT.

(ii) THE EXPIRATION OF THE TERM OF AN INCUMBENT CIRCUIT JUDGE WHO IS ELIGIBLE TO SEEK REELECTION BUT WHO DOES NOT FILE BY AFFIDAVIT TO SEEK REELECTION TO THAT OFFICE OR WHO WITHDRAWS WITHIN 3 DAYS AFTER FILING BY AFFIDAVIT TO SEEK REELECTION TO THAT OFFICE.”.

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

Senator Scott offered the following amendments:

1. Amend page 1, line 7, after “2005,” by striking out “62” and inserting “63”.

2. Amend page 1, line 8, after “2005,” by striking out “61” and inserting “62”.

The question being on the adoption of the amendments,

Senator Scott requested the yeas and nays.

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

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

Roll Call No. 525

Yeas—16

Bennett	Dingell	Leland	Peters
Byrum	Emerson	McCotter	Scott
Cherry	Hart	Miller	Smith
DeBeaussaert	Koivisto	Murphy	Young

Nays—21

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

Excused—1

Vaughn

Not Voting—0

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. 526**Yeas—22**

Bullard	Goschka	Miller	Shugars
DeGrow	Gougeon	North	Sikkema
Dunaskiss	Hammerstrom	Sanborn	Steil
Emmons	Hoffman	Schuette	Stille
Garcia	Johnson	Schwarz	Van Regenmorter
Gast	McManus		

Nays—15

Bennett	Dingell	Leland	Scott
Byrum	Emerson	McCotter	Smith
Cherry	Hart	Murphy	Young
DeBeaussaert	Koivisto	Peters	

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Protests

Senators Scott and Dingell, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 765 and moved that the statements they made during the discussion of the amendments they offered and the bill be printed as their reasons for voting “no.”

The motion prevailed.

Senator Scott’s first statement is as follows:

This amendment provides for the reduction of two judgeships in Wayne County by 2005, as opposed to the elimination of three judgeships. While I am not convinced of the validity of the State Court Administrative Office findings, the report recommends the elimination of two judges, not four judges, in Wayne County.

This bill, along with House Bill No. 5357, removes four judges from Wayne County. It is also determined that the judgeships in Wayne County must be removed based on the State Court Administrative Office report. This amendment is more in line with the report’s recommendation. I would request that my colleagues vote for this amendment if they are going along with the report.

Senator Scott's second statement is as follows:

Wherever it's convenient, we use population. When that's not convenient, we use caseloads. Let's be consistent with this and not just always feel that we can take away from Wayne County. Wayne County is the busiest court in this state, and we need to give them the opportunity to handle their caseloads like others have the opportunity in this state. I voted for the others; maybe they do need judges. But we certainly do need our judges, and we don't need to have our judges in Detroit at the expense of another county. The citizens in Wayne County pay taxes just like others in the state. I would hope that my colleagues would at least go by the report that the State Court Administrative Office has recommended. This is only fair. Let's have a little fairness in this.

Senator Scott's third statement is as follows:

The chair of the Judiciary Committee just indicated that we should be using this report. Well, we are not using this report when it comes Wayne County. They said two judges—we're eliminating four judges in Wayne County. Mistakes have been made. For example, the report recommended eliminating judgeships in Marquette. Upon further analysis, the recommendations turned out to be a faulty evaluation. I believe it is faulty in Wayne County; in fact, I know it is. We never had the opportunity to really debate this issue or see the raw data that the chairman is speaking of. I would certainly encourage my colleagues to vote "no" on this bill because you are using two different standards for different counties.

Senator Dingell's first statement is as follows:

We are confronted by a policy question—whether judges should be elected or whether judges should be appointed by the Governor. The drafters of our 1963 Constitution debated this long and at length on how judges should take office, and instead of going with an appointment model, they went with an election model.

Now when there is a mid-term vacancy in the circuit court around the state, even in Wayne County, where the Governor feels there should be less judges, the Governor appoints to fill those vacancies. This really runs contrary to the thinking of the drafters of our Constitution.

What this amendment tries to do is put in a policy where there's a preference for electing judges over an appointment. What this amendment does is eliminate the number of judges that Senator Van Regenmorter wants to eliminate by eliminating those mid-term vacancies instead of eliminating vacancies on the ballot at the next election next fall. I think that as a matter of public policy this is much more in accord with the drafters of our Constitution. It is a much less messy way to handle these things, and it's the way that the judges prefer to have reductions in the number of judges in the circuit done.

Senator Dingell's second statement is as follows:

On the subject of judicial reapportionment, my Republican colleagues have tried for many years to redistribute both judicial seats, as well as the assets that make it possible for judges to operate. Some ten years ago, they were just convinced that only Wayne County courts got anything from state government in the way of resources and that 100 percent of Wayne County's courts were paid for by the state, and no other county in the state got anything. I knew that was hog wash. Eventually, at the very last minute, I got numbers out of the Supreme Court administrator's office that said that these very rural legislators actually were getting more money for their courts than Wayne County was.

This particular amendment that's in front of us right now is an effort to bring the bill in line with what the Supreme Court administrator's office actually recommended. If you are listening to my Republican colleagues, what they are saying is, "We'll pay attention to the SCAO study when we want to, and we'll just ignore it the rest of the time." This is wrong. Others of my Republican colleagues talk about population and the number of judges per population, which is, again, a simply incorrect analysis of what judges do and how they do it. When a judge gets a case assigned to them, it doesn't take the same amount of time per filing. The most difficult types of cases to deal with are felony cases, especially capital felony cases and also multiple plaintiff or multiple defendant civil cases. Where do those types of cases typically happen? Wayne County. You have well over half of the felony trials—and felony trials are where you really have a lot of time spent on a case—half of the felony trials in the whole state happen in just Wayne County alone.

My friend and colleague, Senator Bullard, wanted to talk about census numbers. Let's talk about census numbers. The total population in Detroit did drop a little bit since the last census, but that really isn't relevant either. What is relevant is what happened to the percentage of persons in that county who are of the age where they typically commit felonies. In Wayne County, that actually went up. What happened to the percentage of persons typically involved in complicated civil litigation? Again, that went up. Should we expect a reduction in the caseload, the actual work done by judges? The answer is no. These judicial resources, the out-state legislators, non-Wayne County legislators keep trying to raid Wayne County as part of their strategy. These resources are necessary to dispose of the needs of the state courts. Therefore, I recommend to my colleagues the amendment in front of you. Please vote "yes."

Senator Dingell's third statement is as follows:

We have a piece of legislation in front of us that's based, in part, upon a study that has a very questionable basis. The bill goes much further than the recommendations of that questionable study in stripping Wayne County of the kind of resources necessary to dispose of the docket it is supposed to dispose of.

I'd like to review a few of the questionable assumptions on which it's based, as well as talk a little bit about how it goes further than those.

The report from the Supreme Court administrator's office cites a 2-percent drop in Wayne County population in the past decade but totally ignores the reams of census data that show that the demographics that are most likely to cause an increase in judicial workload have actually gone up in Wayne County, not gone down. The report cites a drop in total filings of both criminal and civil cases but does absolutely no analysis of changes in the proportion of cases which go to full-fledged trial, even though a case which goes to trial takes 20 times more judicial effort as one that is settled by the parties or is resolved by plea bargaining early on.

Going further with the study, it was seemingly selected to be done at a time which was guaranteed to make Wayne County look less busy than it actually is. The study only recommended removing two judges from the Wayne County courts, and this bill removes four. It goes twice as far as the study recommends. This is part of a strategy to try to strip Wayne County of the resources necessary to dispose of its docket. This is nothing new. This is essentially the third attempt by the out-state interests to do this kind of thing. It's as much of an outrage as the previous two. Therefore, I recommend my colleagues vote "no."

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

The motion prevailed.

Senator Bullard's statement is as follows:

I also rise to oppose the amendment.

I would like to give the body some figures. The population of Wayne County in 2000 was 2,061,162—a little over 2 million. The population of Oakland County was 1,194,000—almost 1.2 million. There are currently 64 circuit judges in Wayne County and 17 circuit judges in Oakland County.

This means that in Wayne County there is one judge for every 32,000 persons. In Oakland County, there is one judge for every 70,000 persons in the county. Therefore, Wayne County has twice as many circuit judges per capita than Oakland County.

It's long past time that this inequity is addressed. These bills do that. Even after adding two circuit judges in Oakland County and subtracting three circuit judges in Wayne County, this gross disparity will continue.

I hope that future Legislatures will take further action so that one day the people in this state will have roughly equal judicial resources to serve their needs.

Senator McCotter's statement is as follows:

I would just like to rise in opposition of the bill. We've heard much from my distinguished colleagues from Wayne County on the other side of the aisle, but it is as seemingly disappointing to me as a Wayne County Republican that under the auspices of circuit court reform only Wayne County will be losing judges in the state of Michigan. What we've heard a lot about today has been essentially a shifting of judgeships to different parts of the state. The underlying rationale behind that is that no new judges will be afforded to areas. Within the rhetoric of that policy decision, we now see four judgeships leaving Wayne County. I think that the reports and I think that all the debate are driven by that underlying assumption. It is not an assumption that I believe is logical. It is not an assumption that I can philosophically concur with, and so I will be voting against the bill.

Senator Stille moved that he be named co-sponsor of the following bill:

Senate Bill No. 765

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 766, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 517 (MCL 600.517), as amended by 1990 PA 54.

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. 527

Yeas—37

Bennett
Bullard
Byrum

Garcia
Gast
Goschka

Leland
McCotter
McManus

Schwarz
Scott
Shugars

Cherry
DeBeaussaert
DeGrow
Dingell
Dunaskiss
Emerson
Emmons

Gougeon
Hammerstrom
Hart
Hoffman
Johnson
Koivisto

Miller
Murphy
North
Peters
Sanborn
Schuette

Sikkema
Smith
Steil
Stille
Van Regenmorter
Young

Nays—0

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Senator Sanborn moved that he be named co-sponsor of the following bill:

Senate Bill No. 766

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 786, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 8121 (MCL 600.8121), as amended by 2000 PA 449.

The question being on the passage of the bill,

Senator Scott offered the following amendment:

1. Amend page 3, line 20, after "has" by striking out the balance of the subsection and inserting "2 JUDGES."

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

Senator Scott 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. 528

Yeas—16

Bennett
Byrum
Cherry
DeBeaussaert

Dingell
Emerson
Hart
Koivisto

Leland
McCotter
Miller
Murphy

Peters
Scott
Smith
Young

Nays—21

Bullard
DeGrow
Dunaskiss
Emmons
Garcia
Gast

Goschka
Gougeon
Hammerstrom
Hoffman
Johnson

McManus
North
Sanborn
Schuette
Schwarz

Shugars
Sikkema
Steil
Stille
Van Regenmorter

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

Senator Scott offered the following amendment:

1. Amend page 4, line 3, after “has” by striking out “1 JUDGE” and inserting “2 JUDGES”.

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

Senator Scott 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. 529**Yeas—16**

Bennett	Dingell	Leland	Peters
Byrum	Emerson	McCotter	Scott
Cherry	Hart	Miller	Smith
DeBeaussaert	Koivisto	Murphy	Young

Nays—21

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

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

Senator Scott offered the following amendment:

1. Amend page 4, following line 22, by inserting:

“Sec. 8511. A district court magistrate shall have the following jurisdiction and duties IN A JUDICIAL DISTRICT HAVING ONLY ONE JUDGE:

(a) To arraign and sentence upon pleas of guilty or nolo contendere for ~~violations of the following acts or parts of acts, or a local ordinance substantially corresponding to these acts or parts of acts,~~ ANY VIOLATION OVER WHICH THE DISTRICT COURT HAS JURISDICTION when authorized by the chief judge of the district court. ~~and if the maximum permissible punishment does not exceed 90 days in jail or a fine, or both:~~

~~(i) Part 487 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.48701 to 324.48740.~~

~~(ii) Part 401 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40101 to 324.40119.~~

~~(iii) Part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199.~~

~~(iv) The motor carrier act, 1933 PA 254, MCL 475.1 to 479.43.~~

- ~~(v) Motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22.~~
- ~~(vi) Dog law of 1919, 1919 PA 339, MCL 287.261 to 287.290.~~
- ~~(vii) Section 703 or 915 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703 and 436.1915.~~
- ~~(viii) Part 5 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.501 to 324.511.~~
- ~~(ix) Part 89 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8901 to 324.8907.~~
- ~~(x) Part 435 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43501 to 324.43561.~~
- ~~(xi) Part 731 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.73101 to 324.73111.~~
- ~~(xii) Chapter LXXXV of the Michigan penal code, 1931 PA 328, MCL 750.546 to 750.552b.~~

~~(b) To arraign and sentence upon pleas of guilty or nolo contendere for violations of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a local ordinance substantially corresponding to a provision of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, except for violations of sections 625 and 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625 or 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, when authorized by the chief judge of the district court and if the maximum permissible punishment does not exceed 93 days in jail or a fine, or both. However, the magistrate may have the jurisdiction to arraign defendants and set bond with regard to violations of sections 625 and 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625 or 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m.~~

~~(c) To arraign and sentence upon pleas of guilty or nolo contendere for violations of part 811 or 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81150 and 324.82101 to 324.82160, or a local ordinance substantially corresponding to a provision of part 811 or 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81150 and 324.82101 to 324.82160, except for violations of sections 81134, 81135, 82128, and 82129 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129, or a local ordinance substantially corresponding to sections 81134, 81135, 82128, and 82129 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129, when authorized by the chief judge of the district court and if the maximum permissible punishment does not exceed 93 days in jail or a fine, or both. However, the magistrate may have the jurisdiction to arraign defendants and set bond with regard to violations of sections 81134, 81135, 82128, and 82129 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129.~~

(B) ~~(⊕)~~ To issue warrants for the arrest of a person upon the written authorization of the prosecuting or municipal attorney, except written authorization shall not be required for a vehicle law or ordinance violation within the jurisdiction of the magistrate if a police officer issued a traffic citation pursuant to section 728 of the Michigan vehicle code, 1949 PA 300, MCL 257.728, and the defendant failed to appear.

(C) ~~(⊕)~~ To fix bail and accept bond in all cases.

(D) ~~(⊕)~~ To issue search warrants, when authorized to do so by a district court judge.

(E) TO CONDUCT PRELIMINARY EXAMINATIONS WHEN AUTHORIZED TO DO SO BY A DISTRICT COURT JUDGE.

Sec. 8512a. Only to the extent expressly authorized by the chief judge, presiding judge, or only judge of the district court district, a district court magistrate may do 1 or more of the following:

(a) Accept an admission of responsibility and order civil sanctions for a civil infraction and order an appropriate civil sanction permitted by the statute or ordinance defining the act or omission.

(b) Accept a plea of guilty or nolo contendere and impose sentence for ~~a misdemeanor or ordinance~~ ANY violation punishable by a fine and which is not punishable by imprisonment by the terms of the statute or ordinance creating the offense OVER WHICH THE DISTRICT COURT HAS JURISDICTION.

Sec. 8513. (1) When authorized by the chief judge of the district and whenever a district judge is not immediately available, a district court magistrate may conduct the first appearance of a defendant before the court in all criminal and ordinance violation cases, including acceptance of any written demand or waiver of preliminary examination and acceptance of any written demand or waiver of jury trial, but this section shall not authorize any district court magistrate to accept a plea of guilty or nolo contendere not expressly authorized pursuant to section 8511 or 8512a. A defendant neither demanding nor waiving preliminary examination in writing shall be ~~deemed~~ CONSIDERED to have demanded preliminary examination and a defendant neither demanding nor waiving jury trial in writing shall be considered to have demanded a jury trial.

(2) If authorized by the chief judge of the district, a district court magistrate may:

(a) Approve and grant petitions for the appointment of an attorney to represent an indigent defendant accused of any ~~misdemeanor punishable by imprisonment for not more than 1 year or ordinance violation punishable by imprisonment~~ VIOLATION.

(b) Suspend payment of court fees by an indigent party in any civil, small claims, or summary proceedings action, until after judgment has been entered.

(c) Upon written authorization of the prosecuting or city attorney, sign a nolle prosequi, dismissing any criminal or ordinance violation case over which the district court has jurisdiction and release any bail bond or bail bond deposit to the persons entitled ~~thereto~~ TO BAIL. However, if the preliminary examination or trial has commenced or a plea of guilty or nolo contendere has been accepted by a district court judge, the dismissal order may be entered only by that judge or his or her alternate.

(d) Execute and issue process to carry into effect authority expressly granted by law to district court magistrates.

(3) A district court magistrate, for acts done within his or her jurisdiction as provided by law, ~~shall have~~ HAS judicial immunity to the extent accorded a district court judge.”.

The amendment was 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. 530

Yeas—22

Bullard	Goschka	McManus	Shugars
DeGrow	Gougeon	North	Sikkema
Dunaskiss	Hammerstrom	Sanborn	Steil
Emmons	Hoffman	Schuette	Stille
Garcia	Johnson	Schwarz	Van Regenmorter
Gast	Koivisto		

Nays—15

Bennett	Dingell	McCotter	Scott
Byrum	Emerson	Miller	Smith
Cherry	Hart	Murphy	Young
DeBeaussaert	Leland	Peters	

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Protest

Senator Scott, under her constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 786 and moved that the statements she made during the discussion of the amendments she offered be printed as her reasons for voting “no.”

The motion prevailed.

Senator Scott’s first statement is as follows:

This amendment provides for the retention of the Highland Park judgeship.

Elimination of this judgeship will have a negative impact on anyone who has dealings with the court. Case backlogs and delays will occur which will affect crime victims who deserve to have justice done so they can move on with their lives. Even though the population is down, this is a city that is centrally located—that is, totally surrounded by many other municipalities—and many citizens come through that city.

I would urge you to support this amendment. Highland Park deserves better.

Senator Scott's second statement is as follows:

This amendment provides for the retention of the Hamtramck judgeship.

Keeping intact the Hamtramck judgeship only makes sense when considering that the population in Hamtramck has increased by 25 percent over the past decade. As you notice in one of the other roll call votes, they considered increases in population, so I would hope that you would consider the increase in this population of Hamtramck. Twenty-five percent is like an additional 4,000 residents.

Elimination of this judgeship will result in a case backlog and delays which are unacceptable. Crime victims deserve better, and the citizens of Hamtramck deserve better.

I would like your support on this.

Senator Scott's third statement is as follows:

You have one more chance, okay? What this amendment says is a district court magistrate shall have the following jurisdiction and duties in a judicial district where there's only one judge: Any violation over which the district court has jurisdiction when authorized by the chief judge of the district court to conduct preliminary examinations when authorized to do so by the district court judge, which is only one, accept a plea of guilty or nolo contendere and impose a sentence over which the district court has jurisdiction. So I would certainly love to have your support for this. All citizens need an opportunity for a speedy trial.

Senator Scott's fourth statement is as follows:

I am asking for this so that the judge, the only judge in the court, will have some help in giving speedy justice to the citizens of that district. I would certainly love to have your support for this.

The following bill was read a third time:

Senate Bill No. 825, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 518 and 521 (MCL 600.518 and 500.521), section 518 as amended by 1988 PA 134 and section 521 as amended by 1990 PA 54.

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. 531

Yeas—37

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

Nays—0

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Senators Stille and McCotter moved that they be named co-sponsors of the following bill:

Senate Bill No. 825

The motion prevailed.

The following bill was read a third time:

House Bill No. 4333, entitled

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending section 5 (MCL 38.1305), as amended by 2000 PA 150.

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. 532

Yeas—37

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

Nays—0

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

The question being on concurring in the committee recommendation to give the bill immediate effect,

The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

"An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,".

The Senate agreed to the full title.

The following bill was read a third time:

Senate Bill No. 826, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 21766 (MCL 333.21766), as amended by 1994 PA 73.

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. 533**Yeas—37**

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

Nays—0**Excused—1**

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Senator Shugars moved that he be named co-sponsor of the following bill:

Senate Bill No. 826

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 827, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7401, 7403, 7407, and 7521 (MCL 333.7401, 333.7403, 333.7407, and 333.7521), sections 7401 and 7403 as amended by 2000 PA 314, section 7407 as amended by 1993 PA 80, and section 7521 as amended by 2000 PA 302; 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. 534**Yeas—37**

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

Nays—0

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 828, entitled

A bill to amend 1972 PA 222, entitled “An act to provide for an official personal identification card; to provide for its form, issuance and use; to regulate the use and disclosure of information obtained from the card; to prescribe the powers and duties of the secretary of state; to prescribe fees; and to prescribe certain penalties for violations,” by amending section 2 (MCL 28.292), as amended by 1999 PA 89.

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. 535

Yeas—37

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

Nays—0

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Senators North, Gougeon and McCotter moved that they be named co-sponsors of the following bill:

Senate Bill No. 828

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 645, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 303, 310e, 319, and 732 (MCL 257.303, 257.310e, 257.319, and 257.732), sections 303 and 319 as amended by 2001 PA 159, section 310e as amended by 2000 PA 456, and section 732 as amended by 2001 PA 134.

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. 536

Yeas—32

Bennett	Emmons	Johnson	Schuette
Bullard	Garcia	Koivisto	Schwarz
Byrum	Gast	McCotter	Shugars
DeBeaussaert	Goschka	McManus	Sikkema
DeGrow	Gougeon	Miller	Steil
Dingell	Hammerstrom	North	Stille
Dunaskiss	Hart	Peters	Van Regenmorter
Emerson	Hoffman	Sanborn	Young

Nays—5

Cherry	Murphy	Scott	Smith
Leland			

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Protest

Senator Leland, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 645 and moved that the statement he made during the discussion of the bill be printed as his reasons for voting "no."

The motion prevailed.

Senator Leland's statement is as follows:

I arise to oppose Senate Bill No. 645. I appreciate what the Senator from the 26th District is doing, but the punishment does not fit the crime and does very little to solve the problem or prevent others from committing similar acts.

A child who is less than 14 does not understand consequences. A juvenile over 14 may not even understand consequences. When some of you in this chamber were young and foolish, would smoking a joint have stopped you from that indiscretion knowing that you faced a license revocation? Probably not. Would a minor in possession indulge if he or she knew that it would be on their driving record if caught? Probably not. It doesn't stop a young person today, even though that is the action that is taken. Even adults who commit more serious offenses do not lose their driving privileges.

A better method for achieving the sponsor's objective would be treatment for the young person, diversion or community service, and possibly adjudication. The person would benefit by this as opposed to this punishment which, in my opinion, does nothing.

The bill, if it becomes law, would follow that young person for years to come with a permanent action on their driving record. Job prospects would become more difficult, and insurance rates could increase in the future. Preventing a young person from getting their license would also have an impact on the rest of the household. The juvenile may need the car for going to school, running family chores, and earning money to help with the family income.

There should be no connection between a bomb threat and driving privileges. I urge my colleagues to vote "no."

Senator Murphy moved that his name be removed as co-sponsor of the following bill:

Senate Bill No. 645

The motion prevailed.

Senators Stille, Bennett and Sanborn moved that they be named co-sponsors of the following bill:

Senate Bill No. 645

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 647, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding section 1319.

The question being on the passage of the bill,

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

Roll Call No. 537

Yeas—36

Bennett	Emmons	Koivisto	Schuette
Bullard	Garcia	Leland	Schwarz
Byrum	Gast	McCotter	Scott
Cherry	Goschka	McManus	Shugars
DeBeaussaert	Gougeon	Miller	Sikkema
DeGrow	Hammerstrom	Murphy	Smith
Dingell	Hart	North	Steil
Dunaskiss	Hoffman	Peters	Van Regenmorter
Emerson	Johnson	Sanborn	Young

Nays—1

Stille

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Senator Stille moved that his name be removed as co-sponsor of the following bill:

Senate Bill No. 647

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 213, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1231 and 1236 (MCL 380.1231 and 380.1236), section 1236 as amended by 1995 PA 289, and by adding section 1236a.

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—23

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

Nays—14

Byrum	Emerson	Miller	Scott
Cherry	Hart	Murphy	Smith
DeBeaussaert	Koivisto	Peters	Young
Dingell	Leland		

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

By unanimous consent the Senate returned to the order of

General Orders

Senator Emmons moved that the Senate resolve itself into the Committee of the Whole for consideration of the General Orders calendar.

The motion prevailed, and the President pro tempore, Senator Schwarz, designated Senator Dingell as Chairperson.

After some time spent therein, the Committee arose; and, the President pro tempore, Senator Schwarz, having resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 527, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 205 (MCL 436.1205), as amended by 1998 PA 416, and by adding section 206.

Substitute (S-1).

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

1. Amend page 2, line 20, after "spirits." by striking out the balance of the subsection and inserting "AFTER SEPTEMBER 24, 1996, AN AUTHORIZED DISTRIBUTION AGENT OR AN APPLICANT TO BECOME AN AUTHORIZED DISTRIBUTION AGENT WHO DIRECTLY OR INDIRECTLY BECOMES LICENSED SUBSEQUENTLY AS A WHOLESALER SHALL NOT BE APPOINTED TO SELL A BRAND OF WINE IN A COUNTY OR PART OF A COUNTY FOR WHICH A WHOLESALER HAS BEEN APPOINTED TO SELL THAT BRAND UNDER AN AGREEMENT REQUIRED BY THIS ACT. A WHOLESALER WHO DIRECTLY OR INDIRECTLY BECOMES AN AUTHORIZED DISTRIBUTION AGENT SHALL NOT BE APPOINTED TO SELL A BRAND OF WINE TO A RETAILER IN A COUNTY OR PART OF A COUNTY FOR WHICH ANOTHER WHOLESALER HAS BEEN APPOINTED TO SELL THAT BRAND UNDER AN AGREEMENT REQUIRED BY THIS ACT, UNLESS THAT WHOLESALER WAS SELLING THAT BRAND TO RETAILERS IN THAT COUNTY OR PART OF THAT COUNTY PRIOR TO SEPTEMBER 24, 1996."

2. Amend page 3, line 10, after "requirements." by inserting "EXCEPT THAT IN THOSE WEEKS THAT ACCOMPANY A STATE HOLIDAY, THE COMMISSION MAY ORDER A MODIFIED DELIVERY SCHEDULE PROVIDED THAT A RETAILER WAITS NOT LONGER THAN 9 DAYS BETWEEN DELIVERIES DUE TO A MODIFIED DELIVERY SCHEDULE."

3. Amend page 3, line 18, after "SHALL" by striking out "ALLOW" and inserting "REQUIRE".

4. Amend page 8, line 9, after "SHALL" by striking out "ESTABLISH" and inserting "PROVIDE FOR".

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

Resolutions

Senator Emmons moved that consideration of the following concurrent resolution be postponed for today:

Senate Concurrent Resolution No. 11

The motion prevailed.

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

Senate Resolution No. 140

Senate Resolution No. 142

The resolution consent calendar was adopted.

Senators Schwarz, Smith, Cherry, DeGrow, Koivisto, Hoffman, McManus, North, Bennett, Van Regenmorter, Emmons, Gast, Johnson, Steil, Bullard, Hammerstrom, Stille, Schuette, Leland, Shugars, Gougeon, Murphy, Emerson, Hart, Byrum, DeBeaussaert, Dingell, Scott, Young, Garcia, Sanborn, Sikkema and Miller offered the following resolution:

Senate Resolution No. 140.

A resolution to commemorate the achievements of Lee C. Bollinger, J.D., President of the University of Michigan.

Whereas, The members of the Michigan Senate offer this tribute to Lee C. Bollinger on the occasion of his taking leave as president of the University of Michigan. It is appropriate that we honor the achievements he has made and the benefits derived by the university from his tenure; and

Whereas, Lee Bollinger was born in Santa Rosa, California, on April 30, 1946, and was raised in Santa Rosa and Baker, Oregon. He graduated Phi Beta Kappa from the University of Oregon with a Bachelor of Science degree in 1968 and from Columbia Law School with a juris doctorate in 1971. While attending Columbia, he excelled as articles editor of *Law Review* and was named a Harlan Fiske Stone Scholar; and

Whereas, After two clerkships in the United States Court of Appeals and Supreme Court, Lee Bollinger came to the University of Michigan (U-M) Law School to serve as assistant professor, 1973-1976; associate professor, 1976-1978; professor of law, 1979-1994; and dean, 1987-1994. After three years at Dartmouth College as professor of government and provost, he returned to the University of Michigan in 1997 as president and professor of law; and

Whereas, His accomplishments as president of the University of Michigan are as diverse as the university itself; and

Whereas, Lee Bollinger has made interaction with students a priority, teaching a course on the First Amendment, opening the president's home on special occasions, sponsoring a 5K fun run, and meeting regularly with students. Perhaps these are factors attributable to the record number of admissions applications the university has received. The University of Michigan has maintained its high academic standards, and with 82 percent of undergraduate students graduating within six years, it has the highest graduation rate in the state; and

Whereas, His guidance in fiscal management has greatly increased investment returns, endowments, and fundraising, resulting in several milestones: The naming of the Gerald R. Ford School of Public Policy in November 1999; the establishment of the Life Sciences Initiative and Institute, which complement a broader statewide effort, the Life Sciences Corridor; and major construction efforts through the Palmer Drive Development and numerous renovation and addition projects to long-standing campus structures; and

Whereas, President Bollinger has been an ardent and powerful defender of affirmative action, marshalling considerable resources to defend the university's admissions policies. Recipient of the National Association for College Admission Counseling 2001 Excellence in Education award in September 2001, he was cited for his "... unwavering support of affirmative action and his eloquent articulation of the value—and importance—of diversity on the nation's college and university campuses"; and

Whereas, He has worked diligently to strengthen the experience of the arts on campus, refining the efforts of the University Musical Society and the School of Music. The Walgreen Drama Center and the Arthur Miller Theatre are outgrowths of that commitment, as well as the Year of the Arts and Humanities (YoHA), the Arts of Citizenship Program, Imagining America, and the partnership with the Royal Shakespeare Company; and

Whereas, He appointed the President's Information Revolution Commission to examine the university's relationship to information and communication technologies; the Commission on the Undergraduate Experience to evaluate how undergraduates are engaged at the university; and sought to strengthen the International Institute by elevating its profile within the university; and

Whereas, The University of Michigan is considered a leader in sustainability efforts, promoting environmental stewardship through initiatives and programs, including recycling, energy conservation, building design, pollution prevention, emissions reduction, alternative-fuel vehicles, and storm water management; and

Whereas, In 1998, by adding 5,500 seats to Michigan Stadium, the University of Michigan once again boasts the largest stadium in the country with 108,000 seats. Perhaps this addition inspired the 1998 Wolverine football team to win the Rose Bowl over Washington State University and to be named the national champion in the Associated Press Top 25 poll, the university's first national football championship in 50 years and the Big Ten's first since 1968. Recently, the University of Michigan placed 4th in the 2000-2001 Sears Directors' Cup competition for NCAA Division I schools, which recognizes the best overall collegiate programs in the country; and

Whereas, Lee Bollinger has received numerous awards, including honorary fellow, Clare Hall, Cambridge University, LL.D. (hon.), Westminster College, Fulton, Missouri; fellow, American Academy of Arts and Sciences; and the Rockefeller National Humanities Fellowship. President Bollinger has served on many boards and commissions, including the Kresge Foundation, the Royal Shakespeare Company America, the Gerald R. Ford Foundation, and the Mount Desert Island Marine Biological Laboratory. He has also served as author and lecturer in his passion to further higher education; now, therefore, be it

Resolved by the Senate, That sincere praise be hereby accorded to President Lee C. Bollinger for his tireless efforts to further higher education in the state of Michigan. We honor him for his dedication and vision, which will benefit the University of Michigan for years to come. May he and his wife Jean, son Lee, and daughter Carey know of our deep appreciation and best wishes for continued success in all future endeavors; and be it further

Resolved, That a copy of this resolution be presented to President Bollinger at a special ceremony as an expression of our admiration and best wishes for the future.

Senator Emmons moved that rule 3.204 be suspended to name the entire membership of the Senate and the Lieutenant Governor as co-sponsors of the resolution.

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

Senator Schuette offered the following resolution:

Senate Resolution No. 142.

A resolution to honor Charles (Charlie) Thornhill as recipient of the 2001 Duffy Daugherty Award.

Whereas, It is a pleasure and a privilege to honor Charlie Thornhill in recognition of his selection as winner of the 2001 Duffy Daugherty Award.

Whereas, Named for the legendary football coach for whom Charlie played, the award goes annually to a Michigan State University football alumnus who has distinguished himself in endeavors on and off the field since graduation. Clearly, Charlie is most deserving of this prestigious award as well as our highest praise; and

Whereas, Charlie joins three of his former teammates from the 1965 and 1966 Big Ten and national championship teams as previous winners of the Duffy Daugherty Award, including George Webster, Gene Washington, and Bubba Smith; and

Whereas, Charlie, a native of Roanoke, Virginia, was a four-year starter on the varsity football team at Lucy Addison High School. Charlie is so well thought of in his hometown that he was named "Most Valuable Player" by the Roanoke Touchdown Club, had a day named in his honor, and received a key to the city; and

Whereas, At Michigan State University, Charlie was a three-year letter winner from 1964 to 1966, playing primarily at linebacker where he earned the nickname "Mad Dog." Charlie led the Spartans in tackles his senior year with 102 and helped the team set several records, including most wins in a season, with 10 in 1965, and most Big Ten wins in a season, with 7 each in 1965 and 1966. His efforts were noticed nationally as Charlie was named All-American as a senior, as well as All-Big Ten his junior and senior seasons; and

Whereas, Charlie started his employment with the Michigan Senate as an assistant sergeant at arms on December 28, 1993. He is known as a dedicated, committed, and reliable employee who is quick to share a smile. He previously worked 21 years as a security officer at General Motors and was also a supervisor at the Boys Training School. In his spare time, Charlie has volunteered for numerous organizations and youth teams, including football, baseball, and soccer; now, therefore, be it

Resolved by the Senate, That we join with his wife Laurie and sons Josh and Kaleb to commend and congratulate Charlie Thornhill as the 2001 Duffy Daugherty Award winner; and be it further

Resolved, That a copy of this resolution be transmitted to Charlie Thornhill as a token of our esteem and congratulations.

Senator Emmons moved that rule 3.204 be suspended to name the entire membership of the Senate and the Lieutenant Governor as co-sponsors of the resolution.

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

Senator Peters offered the following resolution:

Senate Resolution No. 141.

A resolution to urge the President of the United States and the Prime Minister of Canada to provide for customs inspections before the border is crossed at Michigan/Ontario points of entry.

Whereas, The September 11, 2001, attacks have caused us to reexamine policies and practices in many areas, including border security. As we examine these issues, it seems clear that our unsurpassed friendly relationship with Canada brings a level of cooperation that can help both our countries. A specific component of security that can be strengthened because of our partnership with Canada is how we provide for customs inspections to safeguard against terrorists; and

Whereas, Under current practices, people and equipment traversing the border between the United States and Canada are not inspected until after they have crossed the border. For Michigan and Ontario, this means that trucks, cars, and people coming into our countries are not examined or questioned until after they have crossed a major bridge or tunnel. It would be far wiser to perform the customs inspections before these vulnerable resources are crossed and exposed to potential damage; and

Whereas, Given the threats against peace since September 11, there is a sense of urgency to take strong actions to increase security. Congress has moved to study this concept, but, with the enormous volume of traffic between Michigan and Ontario, steps must be taken quickly. Authorities at the Ambassador Bridge have affirmed that relocating the site of inspections so they occur before the border is crossed is their number one security issue. It is imperative that the President act quickly and decisively by issuing an executive order immediately to provide for the reversal of inspection stations. Both of our nations will benefit from such a move; now, therefore, be it

Resolved by the Senate, That we urge the President of the United States and the Prime Minister of Canada to provide for customs inspections before the border is crossed at Michigan/Ontario points of entry. We call on the President to issue an executive order immediately to provide for the reversal of inspection stations; and be it further

Resolved, That copies of this resolution be transmitted to the Office of the President of the United States and to the United States Department of State to forward to the Prime Minister of Canada.

Pending the order that, under rule 3.204, the resolution be referred to the Committee on Government Operations, Senator Emmons moved that the rule be suspended.

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

The question being on the adoption of the resolution,

Senator Emmons moved that the resolution be referred to the Committee on Judiciary.

The motion prevailed.

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

Senator DeGrow offered the following resolution:

Senate Resolution No. 143.

A resolution to memorialize the Congress of the United States to enact legislation to provide a convenient means for consumers to choose not to receive unsolicited telemarketing calls.

Whereas, Over the years, many consumers and groups have expressed strong opposition to the extent of telemarketing. The barrage of phone calls from businesses selling goods and services through unsolicited contacts to

nonbusiness phones has become, for most people, an unwelcome use of communications technology. The widespread practice of telemarketing is, however, much more than an annoyance—it is a privacy issue for many. Telemarketing also causes worries over security and safety for many people, including some of the elderly; and

Whereas, Under current federal law, a person wishing to be taken off a company's call list needs to contact each business individually to request that the company add the consumer to the do not call list. Some associations can remove a name from lists shared by several telemarketing companies. However, placing the burden for halting unwanted calls on the consumer serves, in effect, as a protection for the telemarketing industry. The potentially limitless number of contacts that would be required to seek removal from all calling lists is beyond all but the most dedicated and persistent consumer; and

Whereas, New technologies, including automatic dialing devices and shared data bases of phone numbers, have served to accelerate the problems for consumers who do not wish to be besieged by unwanted phone calls. People have a right to privacy, and businesses still have the right to sell their goods and services in many other ways, including through phone calls to consumers who indicate an interest in being informed of products and services. The burden should be on the callers—not the consumers; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to enact legislation to provide a convenient means for consumers to choose not to receive unsolicited telemarketing calls; and be it further

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

Pending the order that, under rule 3.204, the resolution be referred to the Committee on Government Operations, Senator Emmons moved that the rule be suspended.

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

The question being on the adoption of the resolution,

Senator Emmons moved that the resolution be referred to the Committee on Technology and Energy.

The motion prevailed.

Senate Concurrent Resolution No. 34.

A concurrent resolution approving the conveyance of property to the State Building Authority and approving a lease between the State of Michigan and the State Building Authority relative to the Department of Corrections Parnall Correctional Facility Additional Housing Unit.

(For text of resolution, see Senate Journal No. 70, p. 1806.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

Senate Concurrent Resolution No. 35.

A concurrent resolution approving the conveyance of property to the State Building Authority and approving a lease among the State of Michigan, the State Building Authority, and Central Michigan University relative to the Central Michigan University Health Professions Building.

(For text of resolution, see Senate Journal No. 70, p. 1807.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

Senate Concurrent Resolution No. 36.

A concurrent resolution approving the conveyance of property to the State Building Authority and approving a lease among the State of Michigan, the State Building Authority, and Gogebic Community College relative to the Gogebic Community College General Campus Renovations.

(For text of resolution, see Senate Journal No. 70, p. 1808.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

Senate Concurrent Resolution No. 37.

A concurrent resolution approving the conveyance of property to the State Building Authority and approving a lease among the State of Michigan, the State Building Authority, and Grand Valley State University relative to the Grand Valley State University Health Professions Building.

(For text of resolution, see Senate Journal No. 70, p. 1809.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

Senate Concurrent Resolution No. 38.

A concurrent resolution approving the conveyance of property to the State Building Authority and approving a lease among the State of Michigan, the State Building Authority, and the School District of the City of Dearborn relative to the Henry Ford Community College Instructional/Classroom Renovations.

(For text of resolution, see Senate Journal No. 70, p. 1810.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

Senate Concurrent Resolution No. 39.

A concurrent resolution approving the conveyance of property to the State Building Authority and approving a lease among the State of Michigan, the State Building Authority, and Oakland University relative to the Oakland University School of Education and Human Services Building.

(For text of resolution, see Senate Journal No. 70, p. 1811.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

Senate Concurrent Resolution No. 43.

A concurrent resolution to change the scope of the Computer Technology and Academic Center project at Kellogg Community College.

(For text of resolution, see Senate Journal No. 70, p. 1814.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

By unanimous consent the Senate proceeded to the order of

Statements

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

The motion prevailed.

Senator Hart's statement is as follows:

Inasmuch as I am the only veteran of World War II serving in the Michigan Legislature, I thought it was incumbent upon me to make this remark as it alludes to December 7, this coming Friday. We will not be in session, so I want to take this opportunity to make these remarks. Prior to September 11 of this year, the most infamous day in American history—especially during my time—was December 7, 1941. That was bad enough, but only to have five times as many people who were killed on September 11, a bigger day—an infamous day in history. It's my belief that we must be mindful of this all times—not to forget what happen on Pearl Harbor, but also remember what's happened on September 11. We ask that you continue to pray the best way you possibly can in the way that you want to to be mindful of those who made that supreme sacrifice on both days.

By unanimous consent the Senate returned to the order of

Introduction and Referral of Bills

Senators Hart, Murphy, Peters, Dingell, Koivisto, Scott and Young introduced

Senate Bill No. 919, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 141b.

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

Senator Hoffman introduced

Senate Bill No. 920, entitled

A bill to authorize the state administrative board to convey certain property in Branch county; to prescribe conditions for the conveyance; and to provide for disposition of the revenue from the conveyance.

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. 4325, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 451 (MCL 750.451). 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 Judiciary.

House Bill No. 5032, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 145a (MCL 750.145a). 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 Judiciary.

House Bill No. 5033, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 16g of chapter XVII (MCL 777.16g), as amended by 2000 PA 279. 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 Judiciary.

House Bill No. 5449, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 145b, 448, 449, 450, and 462 (MCL 750.145b, 750.448, 750.449, 750.450, and 750.462). 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 Judiciary.

Committee Reports

The Committee on Natural Resources and Environmental Affairs reported

House Bill No. 5038, entitled

A bill to amend 1959 PA 168, entitled "An act to provide for township planning; for the creation, organization, powers and duties of township planning commissions; for the regulation and subdivision of land; and to prescribe penalties and provide remedies," by amending sections 1, 6, 7, 8, 9, and 10 (MCL 125.321, 125.326, 125.327, 125.328, 125.329, and 125.330), section 6 as amended by 1987 PA 73 and section 9 as amended by 1999 PA 197, and by adding sections 7a and 7b.

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

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

Ken Sikkema
Chairman

To Report Out:

Yeas: Senators Sikkema, Dunaskiss, Gast, Peters and Young

Nays: None

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

The Committee on Natural Resources and Environmental Affairs reported

House Bill No. 5252, entitled

A bill to amend 1945 PA 282, entitled "An act to provide for county planning; the creation, organization, powers and duties of county planning commissions," by amending sections 4 and 5 (MCL 125.104 and 125.105) and by adding sections 4b, 4c, and 15.

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

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

Ken Sikkema
Chairman

To Report Out:

Yeas: Senators Sikkema, Dunaskiss, Gast, Peters and Young

Nays: None

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

The Committee on Natural Resources and Environmental Affairs reported

House Bill No. 5267, entitled

A bill to amend 1931 PA 285, entitled "An act to provide for city, village and municipal planning; the creation, organization, powers and duties of planning commissions; the regulation and subdivision of land; and to provide penalties for violation of the provisions of this act," by amending sections 1, 6, and 8 (MCL 125.31, 125.36, and 125.38), section 1 as amended by 1997 PA 18 and section 8 as amended by 1999 PA 14, and by adding sections 7a, 7b, and 8a.

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

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

Ken Sikkema
Chairman

To Report Out:

Yeas: Senators Sikkema, Dunaskiss, Gast, Peters and Young

Nays: None

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

COMMITTEE ATTENDANCE REPORT

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

Meeting held on Tuesday, December 4, 2001, at 1:30 p.m., Room 810, Farnum Building

Present: Senators Sikkema (C), Dunaskiss, Gast, Peters and Young

Scheduled Meetings

Appropriations -

Subcommittee -

Community Health - Thursdays, December 6 and December 13, and Tuesday, December 11, 1:30 p.m., Senate Hearing Room, Ground Floor, Michigan National Tower (373-1777)

Technology and Energy - Thursday, December 6, 9:15 a.m., Room 405, Capitol Building and Wednesday, December 12, 3:00 p.m., Rooms 402 and 403, Capitol Building (373-2417)

Senator Emmons moved that the Senate adjourn.

The motion prevailed, the time being 12:35 p.m.

The President pro tempore, Senator Schwarz, declared the Senate adjourned until Thursday, December 6, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

