

No. 83
JOURNAL OF THE HOUSE

House Chamber, Lansing, Thursday, October 23, 1997.

10:00 a.m.

The House was called to order by the Speaker.

The roll was called by the Clerk of the House of Representatives, who announced that a quorum was present.

Agee—present	Emerson—present	Kaza—present	Price—present
Alley—present	Fitzgerald—present	Kelly—present	Profit—present
Anthony—present	Frank—present	Kilpatrick—present	Prusi—present
Baade—present	Freeman—present	Kukuk—present	Quarles—present
Baird—present	Gagliardi—present	LaForge—present	Rackowski—present
Bankes—present	Galloway—present	Law—present	Rhead—present
Basham—present	Geiger—present	Leland—present	Richner—present
Birkholz—present	Gernaat—present	LeTarte—present	Rison—present
Bobier—present	Gilmer—present	Llewellyn—present	Rocca—present
Bodem—present	Gire—excused	London—present	Schauer—present
Bogardus—present	Godchaux—present	Lowe—present	Schermesser—present
Brackenridge—present	Goschka—present	Mans—present	Schroer—present
Brater—present	Green—present	Martinez—present	Scott—present
Brewer—present	Griffin—present	Mathieu—present	Scranton—present
Brown—present	Gubow—present	McBryde—present	Sikkema—present
Byl—present	Gustafson—present	McManus—present	Stallworth—present
Callahan—excused	Hale—present	McNutt—excused	Tesanovich—present
Cassis—present	Hammerstrom—present	Middaugh—present	Thomas—present
Cherry—present	Hanley—present	Middleton—present	Varga—present
Ciaramitaro—present	Harder—present	Murphy—present	Vaughn—present
Crissman—present	Hertel—present	Nye—present	Voorhees—present
Cropsey—present	Hood—present	Olshove—present	Walberg—excused
Curtis—present	Horton—present	Owen—present	Wallace—excused
Dalman—present	Jansen—present	Oxender—present	Wetters—present
DeHart—present	Jaye—present	Palamara—present	Whyman—present
DeVuyst—present	Jelinek—present	Parks—present	Willard—present
Dobb—present	Jellema—present	Perricone—present	Wojno—present
Dobronski—present	Johnson—present		

e/d/s = entered during session

Rep. Gloria Schermesser from the 25th District, offered the following invocation:

“Our Heavenly Father, we thank You, for You have given us the privilege of being citizens of this country and this state. I pray that You give special wisdom and leadership to the men and women who lead us and who in this great body make the decisions that affect our lives. Help their minds to be clear and without prejudice. May they govern with wisdom from You. In our Father’s Name, Amen.”

Rep. Hammerstrom moved that Reps. McNutt and Walberg be excused from today’s session.
The motion prevailed.

Rep. Dobronski moved that Reps. Gire, Callahan and Wallace be excused from today’s session.
The motion prevailed.

Rep. Gagliardi moved that a special committee of four members be appointed to notify the Senate that the House was ready to meet the Senate in Joint Convention.

The motion prevailed.

The Speaker appointed as such committee Reps. Baird, Cherry, Cassis and Raczkowski.

The special committee to notify the Senate that the House was ready to meet in Joint Convention returned to the House along with the members of the Senate.

The committee, through its Chairperson, reported that it had performed the duty assigned it. The report was accepted and the committee discharged.

The Sergeant at Arms announced the members of the Senate, who were admitted and conducted to seats.

Joint Convention

The Joint convention was called to order by the President of the Joint Convention, Lieutenant Governor Binsfeld.

Rev. Nicholas Hood, III, Detroit City council member and senior pastor from Plymouth United Church of Christ, offered the following invocation:

“Let us pray. O Lord our God, how excellent is Thy Name. Before the mountains brought forth or ever Thou hadst formed the earth and the world even from everlasting to everlasting Thou art God. For a thousand years in Thy sight are like yesterday when it is past or like a watch in the night. O Lord we pray this day Your blessings upon the Judiciary. We pray Your blessings upon not only our state supreme court but all the respective courts which make up this great judicial system. We pray a special blessing this day upon our Chief Justice Mallett. We pray, O Lord God, that you might surround him with justices who combine their efforts for a positive and fair judicial system. O Lord God, we pray that You might direct our paths. We pray Your blessings upon this joint session of the House and the Senate. We pray that You might pierce the hearts of each representative, each senator. And we pray O Lord God, that You might bind us closer together, regardless of the districts that we come from, but closer together because of our common need for each other. Our common desire for a better state. Our common desire for a more productive state. Our common desire for a state which is working, a state without poverty. And also bind us closer together because of our common dependence upon Thee. These and other blessings we pray through Jesus Christ our Rock and our Redeemer. Amen.”

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

The roll of the House was called by the Clerk, who announced that a quorum of the House was present.

The President of the Joint Convention announced that the two Houses had met in Joint Convention to receive the message of the Chief Justice of the Michigan Supreme Court.

The motion prevailed.

Senator DeGrow moved that a special committee, consisting of three Representatives and three Senators, be appointed to invite and escort the Judges of the Court of Appeals to the Joint Convention.

The motion prevailed.

The President of the Joint Convention named as such committee Reps. Kilpatrick, Mans and Godchaux, and Senators Bullard, Shugars and Peters.

The Sergeant at Arms announced the special committee appointed to invite the Judges of the Appeals Court to be present at the Joint Convention.

The Judges of the Appeals Court, escorted by the committee, were conducted to seats.

Representative Gagliardi moved that a special committee, consisting of three Representatives and three Senators, be appointed to invite and escort the Justices of the Supreme Court to the Joint Convention.

The motion prevailed.

The President of the Joint Convention named as such committee Reps. Quarles, Schauer and Richner, and Senators Gougeon, North and Vaughn.

The Sergeant at Arms announced the special committee appointed to invite the Justices of the Supreme Court to be present at the Joint Convention.

The Justices of the Supreme Court, escorted by the committee, were conducted to seats.

Senator DeGrow moved that a special committee, consisting of three Representatives and three Senators, be appointed to invite and escort the Governor to the Joint Convention.

The motion prevailed.

The President of the Joint Convention named as such committee Reps. DeHart, Thomas and Jansen, and Senators Bennett, Emmons and Hart.

The Sergeant at Arms announced the special committee to wait on the Governor.

The Governor, escorted by the committee, was conducted to his seat.

Representative Gagliardi moved that a special committee, consisting of three Representatives and three Senators, be appointed to escort the Chief Justice of the Supreme Court to the Joint Convention.

The motion prevailed.

The President of the Joint Convention named as such committee Reps. Hanley, Hood and Nye, and Senators Stille, Van Regenmorter and Dingell.

The Sergeant at Arms announced the special committee appointed to wait on the Chief Justice of the Supreme Court.

The Chief Justice of the Supreme Court, escorted by the committee, was conducted to the rostrum.

The President of the Joint Convention then introduced Chief Justice Mallett who gave the message to the Joint Convention as follows:

"Mr. Speaker Hertel, Mr. Minority Leader Sikkema, Mr. Majority Leader Posthumus, Mr. Minority Floor Leader Smith, Governor Engler, Lieutenant Governor Binsfeld, Secretary of State Miller, Members of the House, Members of the Senate, Reverend Hood, Members of the Judiciary, ladies and gentlemen, good morning. Let me first acknowledge the presence of my family. Seated with State Representative Pat Gagliardi is my wife, Barbara, and my daughter Kristan, and my son Alex. Seated with Representative Hood, is my mother Dr. Claudia Mallett and my father Dr. Conrad Mallett, Sr. My sisters are here, Drs. Lydia and Veronica Mallett, and my nieces Noel, Leah and Simone. My sister Veronica is a medical doctor, so when she says lawyer, she always looks down at the bottom of her shoe. Also, present is my aunt Mrs. Jacqueline Warr and Mrs. Dolores Wilson.

Ladies and gentlemen, thirty-nine days after I was elected Chief Justice a good friend of mine, the Speaker of this House, Curtis Hertel, came to my office. He indicated to me that in times past the then Chief Justice G. Mennen Williams spoke regularly to a joint session of the House and Senate and chose on occasion to deliver that message on

Law Day. Curtis pointed out that this year Law Day fell on a Thursday and that May 1st was certainly a day that a majority of the membership of the House and Senate would be present. He invited me then to renew the William's tradition and I politely declined. Then, ladies and gentlemen, I had nothing important to say. Today, I do.

During the summer of 1996, two public acts were passed that forever changed the Michigan Judiciary. Public Acts 374 and 388 significantly changed trial court organization and redistributed the third branch of government's power regarding budgeting and personnel management. The changes wrought were not fully supported by the Michigan Supreme Court. Our own plan rejected, in the end we opposed the form of the legislation finally passed. You remember that we were especially critical of the decision to merge the City of Detroit Recorder's Court into the Wayne County Circuit Court. Every member of the Court then publicly opposed the dissolution of one of this country's and one of this state's great criminal courts. As the first African American Chief Justices of the Michigan Supreme Court, I am regularly called upon to defend our system of justice. I am asked whether or not our system of justice can function fairly, free of bias and free of racism, and regularly I respond yes, it can. The empirical evidence that I had in hand was Recorder's Court. I can't tell you how much I disagreed with the decision to dissolve an institution, but nevertheless, the Michigan Supreme Court, under my leadership, has determined to move on.

Today, we celebrate the arrival of this state's new Family Court and report the successful merger of Detroit Recorder's Court into the Wayne County Circuit Court.

I want to thank all of the trial court judges for their hard work. I have made no mistake. There is, in fact, a Family Court today, because the Michigan Supreme Court and trial court judges across the state recognize that to ignore the message sent by the men and women assembled here would have jeopardized the justice system for which we are responsible. On February 25, 1997, the Michigan Supreme Court issued Administrative Order 1997-1 and the reorganization process began. I do not want to overstate my case, but there is a Family Court because the Michigan Supreme Court accepted the Legislature's invitation to create it. Reorganization has not been easy and it is not yet over. Let us not forget that just ten months ago respected members of the Judiciary loudly proclaimed their opposition to the legislation and said, we your honor, want to test this laws constitutionality, and they, at my request, cooled their rhetoric and gave me a change by process and agreement to modify that which they found to be constitutionally offensive. For their support, for their prayers, and for their patience, I thank my trial court colleagues from the depth of my soul.

I also want to thank the State Bar of Michigan and the Family Law Section of the State Bar for allowing me early on to report to the trial court judges who would make up the new Family Court, that their tenure in the Family Court would not be lifetime, and they in fact could expect at some point to rotate out of the Family Court and assume different trial court responsibilities.

I also want to thank the County Clerk's Association of Michigan. Public Act 374 acknowledges what the constitution requires. The county clerks of this state are the clerks of the circuit court, and they are the clerks of the new Family Court. In most parts of this state the county clerks and the chief judges figured out how the Family Court records are to be kept, and to whom the record keepers are in fact to report. Unfortunately, that is not yet true everywhere. In some places the parties have not been able to reach agreement. In some places the trial court judges have not done a good job, including the county clerks, in the creation of the family management plans, and for that I apologize. I say to the county clerks of this state again: 'We need your cooperation'. On behalf of the members of the Michigan Supreme Court, we welcome you, again, to the judicial family.

During this time of transition, all of the parties to these important negotiations must remain flexible. Everyone must be prepared to yield something in the furtherance of the public's good. Negotiation is the only tool available. Failure is not an alternative. In this process we only have each other. I repeat that I am available to participate in the negotiating process anytime, and have proven that I in fact will go anywhere. The executive members of my staff, the State Court Administrator understands, as I do, that we have a lot to prove to the local county officials. We know that we do not have a record yet that you trust, that allows us to say we will be fair arbiters of disputes between the trial court judges and the local county officials, but nevertheless, that is our task, to convince you of our good faith.

I must be clear, there is no force on earth that will cause the Michigan Supreme Court to surrender or compromise its responsibility for the administration of justice. If the judiciary's relationship with county officials or with county clerks lacks trust, I say please, please, give us time. I ask all of those persons involved in this process to focus on the public's good and not on bureaucratic prerogatives. What is best for the Justice system should be at the forefront of the discussions that we have regarding process and shape. I believe that sustained cooperation will produce excellence.

There has been enough destruction. We must begin on a new program of system design and construction. We need to avoid unnecessary and disruptive confrontation.

Remember that for ten months my office and brave and forward thinking members of the Michigan Association of Counties attempted to modify an agreement, parts of Public Act 374, that affected the budget process and the personnel management process. Three times I was certain that we had agreement, and three times I was wrong. Finally, on August 18, 1997, the Michigan Supreme Court acted. We issued Administrative Order 1997-6. In a speech before the Michigan Association of Counties, I announced the issuance of our order and I say to you now, as I said to the Michigan Association of Counties then, all that we have done with this order is restore the balance that Public Act 374 lacked. Imagine this, trial court judges and county officials now must work together. Is that a strange concept, that public officials would work together as opposed to engaging in confrontation with each other, would put the public's interest first, that is the effect of 1997-6? I also want to remind you that we did not take advantage of the Michigan Association of Counties absence from the bargaining table. The order that we issued significantly reflected the agreement we were prepared to sign. We acted in good faith and I say again to the Michigan Association of Counties we thank you for your tremendous effort. We believe that in the future, your participation with us will cause the public service process to remain better.

I want to apologize to the men and women assembled here, but particularly to Senators Posthumus, Cherry, Van Regenmorter, Smith and Dingell and Representatives Hertel, Sikkema, Wallace, Ciaramitaro, and Nye, for failing to provide you prior notice of 1997-6. None of us can look back now, however, none of us now can focus on past injuries or past slights. Perhaps it is true, in many instances our process failed, but each branch of government must look forward to the next century and realize that behind us the bridge is burning.

It is clear, the Executive Branch, the Legislative Branch, and the Judicial Branch, each play a critical public service role. The Legislature provides the people their law making voice. The Executive provides the people their executory hammer. The Judiciary provides the people their constitutional shield. Throughout this process many of you have heard the Judiciary scream from the top of their lungs, we declare our independence. The third branch of government, in fact, is an independent entity and the department of no government within this state. I'm sure some of you are tired of hearing it. I'm sure some of you believe that it doesn't have constitutional dimension or scope, but the Judiciary's demand for independence, the Judiciary's demand for control of important judicial functions, the Judiciary's demand for supervisory authority over the justice system, the Judiciary's demand for participation in the employee bargaining process, the Judiciary's demand for decisional integrity, is not the Judiciary's demand at all. It's the people's demand. It is reflected in the words, phrases and sections of this state's constitution.

We in the Judiciary do not aspire to the role of super Legislature, or super county commission, or super county clerk. Believe me, we are more than prepared to allow our brothers and sisters in government to do their jobs, and we are secure in the knowledge that you act in the people's interest and that you aspire to behave within the confines of the constitution. But just as we must be free to listen to the concerns raised by a citizen litigant, we must also be free to raise our voice and share our concerns as to how the Judiciary is to be shaped and how important functions within the Judiciary are to be performed. Ladies and gentlemen, the Judiciary is prepared to cooperate. The trial court judges in this state, particularly, stand ready to put their shoulders to the wheels of government and work with their local officials to achieve excellence. Those who oppose cooperation do not desire excellence. Those who oppose cooperation do not desire excellence. Those who oppose cooperation and instead want to focus on bureaucratic victory do not desire excellence. Those who oppose cooperation and want to come back in this chamber and the chamber across the way and wage new contests with the Judiciary do not desire excellence.

The Judiciary respects the power and the authority of the Executive Branch of this government, the Legislative Branch of this government and funding units across this state. That is why into the hands of the legislative and executive branch we are prepared to present line item vetoes. That is why the Judiciary will, when at all possible, make trial court employee holidays schedules the same as other local county employees. That is why the Judiciary will work with the local funding unit to create agreement regarding employee pay scales. That is why there is to be a trial court performance commission. That is why there is to be a judicial performance standards commission. That is why we will soon adopt a judicial vacation standard. That is why today we soon will appoint a local government advisory council. That is why today, with the Governor, we have created the trial support coordinating council, and that is why we will within the next 4 weeks publish for comment the Michigan Supreme Court's policy regarding open meetings and freedom of information.

We are prepared to share some of the space reserved in the constitution of the Administration of Justice to the Judiciary.

But surely even the most cynical observer of this process must realize that the Judiciary has been pushed to the edge, and that we cannot, we will not and we must not yield any more ground.

Now I'm aware the words that I have chosen seem harsh and direct. For that I apologize. Yet the directness of my message should not hide my institution's desire for productive peace. I have tried hard to point out that the Judiciary must be given credit for heeding your call for change. We, by the administrative orders issued this past year, avoided certain constitutional confrontation. At your direction we adopted rules that in fact have made the justice system work better.

Our task has been tremendously difficult. Difficult in no small part because the Michigan Supreme Court has no central base of operation. I want to acknowledge the tremendous work of state Senator Harry Gast and state Representative Morris Hood. These two men, along with Governor Engler, have recognized continually the necessity for a supreme court office building. And I want to thank Senator Gast, Representative Hood and all the members of the Legislature, both House and Senate, for the appropriation of planning money that will allow us in fact to draw up the plans for the office building not yet funded. I believe the time has come to insure that those planning dollars are in fact not spent in vain. I request again, full funding for the Michigan Supreme Court Office Building.

Ladies and gentlemen, I am the Chief Administrative Officer of a \$240 million dollar state budget. If costs are factored in regarding our trial court operations across this state the Michigan Supreme Court manages on behalf of the people of this state a \$1.2 billion dollar asset. Those of you who know me know that I'm a hands-on administrator, yet I am distant from and separated from most of my administrative staff. I tell you that the involvement that I have in the day to day process of the management of the Supreme Court is the only way under these circumstances the job can be done. The monumental changes required by this body and the public in general require the attention of hundreds of people. Most of whom have to have the ability at some point to be in contact with me or members of my executive staff. The Michigan Supreme Court, the State Court Administrator's Office and the Court of Appeals ought to be located in the same place.

At one point, because of the huge deficiencies of my current operation, I contemplated moving my executive staff to the State Court Administrator's Office. Variety of costs were delivered back, in terms of figuring out what that move would cost, \$450,000, \$250,000, \$150,000, more than \$100,000. Whatever the cost, we determined that it was frankly too high within the confines of our budget. But never the less that's a good idea. Cost made that very good idea politically and financially impossible. The necessity, however, for central base of operation remains the same.

I say again, these times require the hands on day-to-day presence of the Chief Justice. Modern communication miracles have not replaced the good that comes from executive management and front-line management occupying much of the same space at much of the same time.

Our request for a building is not just another request for a building. We are asking for tools, essential in our belief, to our ability to deliver efficient and effective work product to the people who demand it. The entire State Court Administrator's operation needs to be down the hall and not across the town.

Authorization of the new building is not the only request I make that I make today, and it the least of the requests that I make. Today the Michigan Supreme Court formally requests the Legislature's approval of Constitutional amendatory language fully merging the probate court into the circuit court and guaranteeing to the people of this state one judge per county at a minimum.

Without a vision there can be no leadership. And for decades the Michigan Supreme Court has envisioned the possibility that in some jurisdictions there would in fact exist fully unified trial courts, jurisdictions where one judge would do everything, probate work, district work, circuit work. We called for some version of this concept in the 21st Century Report. We called for another version of this concept in the Michigan Justice Project Report. Former Chief Justice Dorothy Comstock Riley, former Chief Justice Michael Cavanagh, former Chief Justice James Brickley, all stood where I stand today and said we need to figure out a way to further the cause of a unified trial court.

The time has come, ladies and gentlemen. If we, all of us, agree that the Family Court is a good idea, then let us complete the task begun in 1996. Let us finish our work and give concrete evidence to the people of this state that we know collectively that half measures simply are inappropriate. The Michigan Supreme Court fully supports the idea that the probate court should be merged into the circuit court, thus completing this iteration of court reform. That unanimity must produce, we believe, concrete action.

We ask for immediate consideration and swift approval of all of the requests made here today. The time has come to act. We must complete the difficult task of creating constitutional agreement. I ask my dear friends gathered here to do no more or less than the Court today requests.

We should all be clear. The path that I have marked out today that requires change and cooperation is a path marked with danger. Constitutional scholars, some of whom are members of my court, are afraid, concerned that our cooperative experiment will fail. And they fear, that in our failure, the lines that separate the branches of government in fact will be so blurred that in order to restore the balance lost all we will be able to do is be confrontational with each other and scream constitutional epitaphs back over the wall at each other. Their fear is real and because their fear is real, we must all proceed cautiously and deliberately. We must resist the temptation to add anything to our most sacred fundamental document not absolutely necessary to achieve that which the court outlines today.

I remind those who believe that the Michigan Supreme Court should be subject, per the constitution, to the Open Meetings Act and the Freedom of Information Act, that soon by court order we will be taking comments on a process designed to open up the courts administrative process and make available reams and reams of information. Before you ask, before you make a decision for which there are going to be great finality and huge consequences, please read our soon to be published order.

Surely we all realize that interbranch cooperation must be based on mutual respect. When as here, the Michigan Supreme Court comes before this body and says we have done all that you have asked us to do. Every program that you suggested be put in place has been put in place. Every programmatic change that you have required has been made or soon will be made. When we make that kind of report, fully outlining and providing empirical evidence of our willingness to cooperate, surely this is an opportunity for the Legislature to say we've listened, we've understood, we understand and we will grant the Court's request for careful and cautious performance.

This is a test we must pass. We together must shape a constitutional amendment that merges the Probate Court into the Circuit Court and guarantees that the people of this state one judge per county and does no more. If we can agree, we will have in hand empirical evidence that the branches of government can work together. We in the Judiciary, I repeat, have done all that has been asked of us. And now ladies and gentlemen, it is my belief, it is your turn.

So let me conclude as every speaker delivering this message has in the past and ask rhetorically, what is the State of the Judiciary.

We are resolute and we are sure. Our confidence does not just come from the fervent belief in our message, but in the quality of the membership of the Michigan Supreme Court. Patricia Boyle, Marilyn Kelly, Elizabeth Weaver, James Brickley, Michael Cavanagh and Clifford Taylor, are all extraordinary public servants. Whenever I have looked to my left or to my right in times of great difficulty my colleagues have always been present. I owe them a debt of gratitude for their support that I can never repay. Together my court stands united, eyes front, the gateway to the past far behind us.

We, all of us together, must improve the State of the Judiciary. We welcome your help, we look forward to your friendship, and your full participation in this process. Without your help, we will not achieve the excellence the people deserve. The people await our final work product. I thank you all for coming and God bless you all. Thank you very much."

The business of the Joint Convention having been completed, the Chief Justice, the Governor, the Justices of the Supreme Court and the Judges of the Appeals Court withdrew.

Rep. Gagliardi moved that the Joint Convention adjourn.
The motion prevailed, the time being 11:40 a.m.

The Lt. Governor and members of the Senate retired.

The Speaker announced that the House of Representatives and Senate had met in Joint Convention and had listened to the message of Chief Justice Mallett.

Rep. Gagliardi moved that when the House adjourns today it stand adjourned until Tuesday, October 28, at 2:00 p.m.
The motion prevailed.

Motions and Resolutions

Reps. McManus, Jellema, Oxender, DeVuyst, Godchaux, Goschka, Horton, Jansen, Green, Birkholz, Fitzgerald, Kukuk, London, Brackenridge, Dobb, Jelinek, Voorhees, Law, Middleton, Crissman, Bodem, Dalman, Perricone, Parks and Kaza offered the following resolution.

House Resolution No. 161.

A resolution to memorialize the Congress of the United States to review and amend the Indian Gaming Regulatory Act of 1988 to provide more state and local input.

Whereas, The Indian Gaming Regulatory Act of 1988 (IGRA) sets forth the procedures and standards for gaming operations of federally recognized Indian tribes. This act, acknowledging the sovereignty of Native American tribes, details the process of establishing several types of gaming on lands owned by the respective tribes; and

Whereas, Since its enactment, IGRA has led to the development of a significant number of gambling facilities across the country. Many of these facilities, ranging from locations for bingo and other card games to casinos with video gaming and slot machines, operate in Michigan; and

Whereas, Michigan, along with other states, is keenly aware of the complication and inadequacies of IGRA as it relates to authority for the states and the local units of government. Gaming operations make demands on state and local governments that need to be balanced by appropriate state and local authority under the law. Conflicting interests have made it difficult for local and state officials to represent the valid concerns of the people and businesses that are impacted by gaming operations. As IGRA now stands, far too much authority is granted to federal agencies and officials far removed from specific situations; and

Whereas, Many issues stemming from agreements on Indian gaming cannot be properly addressed by the states and local governments because of restrictions in IGRA. These obstacles are harmful to all concerned; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to review and amend the Indian Gaming Regulatory Act of 1988 to provide more state and local input; 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.

The resolution was referred to the Committee on House Oversight and Ethics.

Reps. Scranton, London, Martinez, DeHart, Brackenridge, Dobb, Jelinek, DeVuyst, Voorhees, Law Middleton, Crissman, Bodem, Dalman, Goschka, Perricone, Parks and Godchaux offered the following concurrent resolution:

House Concurrent Resolution No. 71.

A concurrent resolution to memorialize the Congress of the United States to amend federal law to exclude domestic abuse cases from limitations set in the Temporary Assistance to Needy Families block grant program.

Whereas, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 brought a host of changes to the way our nation tries to help people gain self-sufficiency. The act includes block grants to provide Temporary Assistance to Needy Families (TANF). Under the TANF block grant program, a state is allowed to waive up to 20 percent of its recipients as hardship exemptions and still be in compliance with the federal requirements; and

Whereas, The legislation providing for the TANF block grants does not include additional allowances for victims of domestic abuse. Considering the devastating impact family violence has on a person's efforts to reshape their life through employment, the states need to be able to exclude people who have suffered from domestic abuse from the thresholds that determine whether or not a state is in compliance with federal laws promoting work and financial independence. States should not be forced to deny help to people recovering from physical and emotional injury of abuse. Without flexibility, the states will never be able to help these victims help themselves in the long run; and

Whereas, Many concerned groups and individuals have expressed support for amending welfare reform policies and legislation to recognize more directly the unique problems caused by domestic violence. People who work with battered women feel that the existing limit on exemptions may force states to deny assistance for victims of domestic abuse. This possibility needs to be remedied; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we memorialize the Congress of the United States to amend federal law to exclude domestic abuse cases from limitations set in the Temporary Assistance to Needy Families block grant program; 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.

The concurrent resolution was referred to the Committee on Human Services and Children.

Reports of Standing Committees

The Committee on Consumer Protection, by Rep. Brater, Chair, reported

House Bill No. 5264, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 709a.

With the recommendation that the substitute (H-1) be adopted and that the bill then pass.
The bill and substitute were referred to the order of Second Reading of Bills.

Favorable Roll Call

HB 5264 To Report Out:

Yeas: Reps. Brater, DeHart, Brown, Freeman, Gire, Crissman, Cropsey, Law,
Nays: None.

The Committee on Consumer Protection, by Rep. Brater, Chair, reported

House Bill No. 5267, entitled

A bill to regulate certain sales solicitations; to prescribe the powers and duties of certain governmental officials; and to prescribe remedies and penalties.

With the recommendation that the substitute (H-2) be adopted and that the bill then pass.
The bill and substitute were referred to the order of Second Reading of Bills.

Favorable Roll Call

HB 5267 To Report Out:

Yeas: Reps. Brater, DeHart, Brown, Freeman, Gire, Cropsey, Law,
Nays: Rep. Perricone.

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Brater, Chair of the Committee on Consumer Protection, was received and read:

Meeting held on: Wednesday, October 22, 1997, at 9:00 a.m.,

Present: Reps. Brater, DeHart, Brown, Freeman, Gire, Crissman, Cropsey, Law, Perricone.

The Committee on Conservation, Environment and Recreation, by Rep. Alley, Chair, reported

House Bill No. 4254, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding part 752.

With the recommendation that the following amendments be adopted and that the bill then pass.

1. Amend page 4, line 8, after "MEET" by striking out "AT LEAST QUARTERLY, OR MORE FREQUENTLY".
2. Amend page 4, line 21, after "LIGHTING" by inserting "OF STATE FACILITIES AND ROADWAYS".

The bill and amendments were referred to the order of Second Reading of Bills.

Favorable Roll Call

HB 4254 To Report Out:

Yeas: Reps. Alley, Callahan, Anthony, Brater, Brown, Kilpatrick, LaForge, Mans, Schermesser, Basham, Middaugh, Birkholz, Bodem, Byl, DeVuyst, McManus, McNutt, Walberg,
Nays: None.

The Committee on Conservation, Environment and Recreation, by Rep. Alley, Chair, reported

House Bill No. 4849, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 14301, 14302, 14303, 14501, 14502, 14504, 14505, 14506, and 14510 (MCL 324.14301, 324.14302, 324.14303, 324.14501, 324.14502, 324.14504, 324.14505, 324.14506, and 324.14510) and by adding sections 14511 and 14512; and to repeal acts and parts of acts.

With the recommendation that the substitute (H-2) be adopted and that the bill then pass.
The bill and substitute were referred to the order of Second Reading of Bills.

Favorable Roll Call

HB 4849 To Report Out:

Yeas: Reps. Alley, Callahan, Anthony, Brater, Brown, Kilpatrick, LaForge, Mans, Schermesser, Basham, Middaugh, Birkholz, Bodem, DeVuyst, McManus, McNutt, Walberg,

Nays: None.

The Committee on Conservation, Environment and Recreation, by Rep. Alley, Chair, reported

House Bill No. 5002, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 43514 (MCL 324.43514), as added by 1995 PA 57; and to repeal acts and parts of acts.

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

The bill and substitute were referred to the order of Second Reading of Bills.

Favorable Roll Call

HB 5002 To Report Out:

Yeas: Reps. Alley, Callahan, Anthony, Brater, Brown, Kilpatrick, LaForge, Mans, Schermesser, Basham, Middaugh, Birkholz, Bodem, Byl, DeVuyst, McManus, McNutt, Walberg,

Nays: None.

The Committee on Conservation, Environment and Recreation, by Rep. Alley, Chair, reported

House Bill No. 5114, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 30306, 30307, and 30317 (MCL 324.30306, 324.30307, and 324.30317), section 30306 as added by 1995 PA 59, section 30307 as amended by 1995 PA 103, and section 30317 as amended by 1996 PA 530.

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

1. Amend page 8, line 5, after "30113." by inserting "SUBJECT TO SECTION 30113, THE DEPARTMENT SHALL EXPEND MONEY FROM THE LAND AND WATER MANAGEMENT PERMIT FEE FUND, UPON APPROPRIATION, TO SUPPORT GUIDANCE FOR PROPERTY OWNERS AND APPLICANTS, PERMIT PROCESSING, COMPLIANCE INSPECTIONS, AND ENFORCEMENT ACTIVITIES UNDER THIS PART.".

The bill and amendment were referred to the order of Second Reading of Bills.

Favorable Roll Call

HB 5114 To Report Out:

Yeas: Reps. Alley, Callahan, Brown, Kilpatrick, Mans, Schermesser, Basham, Middaugh, Birkholz, Bodem, DeVuyst, McManus,

Nays: None.

The Committee on Conservation, Environment and Recreation, by Rep. Alley, Chair, reported

House Bill No. 5136, entitled

A bill to amend 1976 PA 399, entitled "Safe drinking water act," by amending the title and sections 2, 4, 5, 7, 8, 9, 14, and 16 (MCL 325.1002, 325.1004, 325.1005, 325.1007, 325.1008, 325.1009, 325.1014, and 325.1016), the title and sections 2, 7, and 9 as amended by 1993 PA 165, and by adding section 3b.

With the recommendation that the bill pass.

The bill was referred to the order of Second Reading of Bills.

Favorable Roll Call

HB 5136 To Report Out:

Yeas: Reps. Alley, Callahan, Anthony, Brater, Brown, LaForge, Basham, Middaugh, Birkholz, Bodem, DeVuyst, McManus, McNutt, Walberg,

Nays: None.

The Committee on Conservation, Environment and Recreation, by Rep. Alley, Chair, reported

House Bill No. 5222, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 2102a.

With the recommendation that the bill pass.

The bill was referred to the order of Second Reading of Bills.

Favorable Roll Call

HB 5222 To Report Out:

Yeas: Reps. Alley, Callahan, Anthony, Brater, Brown, LaForge, Mans, Schermesser, Basham, Middaugh, Birkholz, Bodem, DeVuyst, McManus, McNutt, Walberg,

Nays: None.

The Committee on Conservation, Environment and Recreation, by Rep. Alley, Chair, reported

House Concurrent Resolution No. 70.

A concurrent resolution to urge the President of the United States to reject any agreement on limiting greenhouse gas emissions that apply restrictions only to developed nations and exempt other nations.

(For text of resolution, see House Journal No. 79, p. 2137.)

With the recommendation that the concurrent resolution be adopted.

The Speaker announced that under Rule 77 the concurrent resolution would lie over one day.

Favorable Roll Call

HCR 70 To Report Out:

Yeas: Reps. Alley, Callahan, Brater, Brown, Kilpatrick, LaForge, Mans, Schermesser, Basham, Middaugh, Birkholz, Bodem, DeVuyst, McManus, McNutt, Walberg,

Nays: None.

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Alley, Chair of the Committee on Conservation, Environment and Recreation, was received and read:

Meeting held on: Wednesday, October 22, 1997, at 10:30 a.m.,

Present: Reps. Alley, Callahan, Anthony, Brater, Brown, Kilpatrick, LaForge, Mans, Schermesser, Basham, Middaugh, Birkholz, Bodem, Byl, DeVuyst, McManus, McNutt, Walberg,

Absent: Rep. Wetters,

Excused: Rep. Wetters.

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Hertel, Chair of the Committee on House Television Oversight, was received and read:

Meeting held on: Wednesday, October 22, 1997, at 3:50 p.m.,

Present: Reps. Hertel, Gagliardi, Thomas, Sikkema, Gustafson, DeVuyst.

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Freeman, Chair of the Committee on Corrections, was received and read:

Meeting held on: Thursday, October 23, 1997, at 8:30 a.m.,

Present: Reps. Freeman, Mans, DeHart, Galloway, Jaye, Perricone,

Absent: Reps. Agee, Callahan, Nye,

Excused: Reps. Agee, Callahan, Nye.

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Gubow, Chair of the Committee on Insurance, was received and read:
Meeting held on: Thursday, October 23, 1997, at 8:30 a.m.,
Present: Reps. Gubow, Scott, Bogardus, Profit, Thomas, Varga, Vaughn, Basham, Llewellyn, Green, Jelinek, London, Middaugh, Voorhees,
Absent: Reps. Dobronski, Palamara, Law,
Excused: Reps. Dobronski, Palamara, Law.

Messages from the Senate

Senate Bill No. 226, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 8401 (MCL 600.8401), as amended by 1991 PA 192.

The Senate has passed the bill.

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

Senate Bill No. 313, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding section 1311a.

The Senate has passed the bill.

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

Senate Bill No. 596, entitled

A bill to amend 1972 PA 239, entitled "McCauley-Traxler-Law-Bowman-McNeely lottery act," by amending section 25 (MCL 432.25), as amended by 1996 PA 167.

The Senate has passed the bill.

The bill was read a first time by its title and referred to the Committee on Regulatory Affairs.

Senate Bill No. 600, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending section 109 (MCL 400.109), as amended by 1996 PA 473.

The Senate has passed the bill.

The bill was read a first time by its title and referred to the Committee on Human Services and Children.

Senate Bill No. 720, entitled

A bill to amend 1971 PA 140, entitled "State revenue sharing act of 1971," by amending section 11a (MCL 141.911a), as added by 1996 PA 342.

The Senate has passed the bill.

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

Senate Bill No. 727, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding part 831.

The Senate has passed the bill.

The bill was read a first time by its title and referred to the Committee on Conservation, Environment and Recreation.

Senate Bill No. 728, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 503 and 509 (MCL 324.503 and 324.509), section 503 as amended by 1996 PA 133.

The Senate has passed the bill.

The bill was read a first time by its title and referred to the Committee on Conservation, Environment and Recreation.

Senate Bill No. 741, entitled

A bill to amend 1993 PA 316, entitled "An act to provide for the collection of certain past due monetary amounts owed to courts of this state; and to prescribe the powers and duties of certain state and local officers and agencies," by repealing section 10 (MCL 12.140).

The Senate has passed the bill.

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

Senate Bill No. 755, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," (MCL 760.1 to 776.22) by adding section 15 to chapter IX.

The Senate has passed the bill.

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

House Bill No. 4221, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 558, 799a, and 803 (MCL 168.558, 168.799a, and 168.803), section 558 as amended by 1996 PA 583, section 799a as amended by 1992 PA 8, and section 803 as amended by 1985 PA 160.

The Senate has substituted (S-2) the bill.

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

A bill to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending sections 558, 799a, 803, and 933 (MCL 168.558, 168.799a, 168.803, and 168.933), section 558 as amended by 1996 PA 583, section 799a as amended by 1992 PA 8, and section 803 as amended by 1985 PA 160.

The Speaker announced that pursuant to Rule 45, the bill was laid over one day.

House Bill No. 4815, entitled

A bill to amend 1978 PA 90, entitled "Youth employment standards act," by amending section 3 (MCL 409.103), as amended by 1987 PA 71.

The Senate has substituted (S-1) the bill.

The Senate has passed the bill as substituted (S-1), ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title of the bill.

The Speaker announced that pursuant to Rule 45, the bill was laid over one day.

Notices**Public Hearing****Committee on Public Retirement**

Date: Monday, November 3, 1997

Time: 5:00 p.m.

Place: Kellogg Community College, Mawby Center, 450 North Avenue, Battle Creek, Michigan
Rep. DeHart
Chair

Agenda: Senate Bill No. 719 - Retirement; public school employees; certain amendments to defined contribution plan; provide for
and any/or all business properly before the committee

Announcement by the Clerk of Printing and Enrollment

The Clerk announced that the following bills had been printed and placed upon the files of the members, Tuesday, October 21:

Senate Bill Nos. 757 758 759 760 761

Introduction of Bills

Reps. Martinez, Freeman, Schauer, LaForge, Baird, Thomas, Goschka, Prusi, Cherry, Quarles, Brater, Mans, Price, Agee, Parks, Godchaux, Bogardus, Emerson, Hale, DeHart, Hanley, Rison, Jellema, Gire, Scott and Kilpatrick introduced

House Bill No. 5305, entitled

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," (MCL 125.2001 to 125.2093) by adding chapter 8a.

The bill was read a first time by its title and referred to the Committee on Urban Policy and Economic Development.

Reps. Martinez, Schauer, Hale, Price, Godchaux, LaForge, Hanley, Cherry, Quarles, Rison, Jellema, Gire, Scott and Bogardus introduced

House Bill No. 5306, entitled

A bill to permit the establishment and maintenance of individual or family development accounts; to provide penalties and remedies; to provide for certain tax deductions; and to prescribe the requirements of and restrictions on individual or family development accounts.

The bill was read a first time by its title and referred to the Committee on Urban Policy and Economic Development.

Reps. Schauer, Martinez, Hale, Godchaux, LaForge, Gire and Bogardus introduced

House Bill No. 5307, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 30 (MCL 206.30), as amended by 1997 PA 86; and to repeal acts and parts of acts.

The bill was read a first time by its title and referred to the Committee on Urban Policy and Economic Development.

Reps. Godchaux, Martinez, Schauer, Hale, LaForge, Jellema, Goschka, Gire and Bogardus introduced

House Bill No. 5308, entitled

A bill to amend 1975 PA 228, entitled "Single business tax act," by amending section 9 (MCL 208.9), as amended by 1996 PA 347.

The bill was read a first time by its title and referred to the Committee on Urban Policy and Economic Development.

Rep. Anthony introduced

House Bill No. 5309, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 36 (MCL 211.36), as amended by 1994 PA 343.

The bill was read a first time by its title and referred to the Committee on Tax Policy.

Reps. Kaza, Goschka, McBryde, Jaye and Perricone introduced

House Bill No. 5310, entitled

A bill to amend 1976 PA 442, entitled "Freedom of information act," by amending sections 10 and 11 (MCL 15.240 and 15.241), section 10 as amended by 1996 PA 553.

The bill was read a first time by its title and referred to the Committee on House Oversight and Ethics.

Reps. Kukuk, Lowe, Green, DeVuyst, Whyman, Horton, Jansen, DeHart, Jelinek, Kaza, Walberg, McBryde, Jaye, Goschka, Richner, Anthony, Brewer, Mans, Jellema, Dalman, Nye and Cropsey introduced

House Bill No. 5311, entitled

A bill to amend 1927 PA 372, entitled "An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license; to provide for the forfeiture of firearms possessed in violation of this act; to

provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; and to repeal all acts and parts of acts inconsistent with the provisions of this act,” by amending section 2 (MCL 28.422), as amended by 1994 PA 338.

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

Reps. Richner, Perricone, McBryde, Fitzgerald, Goschka, Jellema, Kilpatrick, Scranton, Basham, Birkholz, Baird, Raczkowski, London, McNutt, Jansen, Cropsey and Kukuk introduced

House Bill No. 5312, entitled

A bill to protect certain trade secrets; to prohibit disclosure of trade secrets; to provide for remedies; and to repeal acts and parts of acts.

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

Reps. Profit, Perricone and McBryde introduced

House Bill No. 5313, entitled

A bill to amend 1937 PA 94, entitled “Use tax act,” by amending sections 4f and 6 (MCL 205.94f and 205.96), as amended by 1993 PA 326.

The bill was read a first time by its title and referred to the Committee on Tax Policy.

Reps. Profit, Palamara and Alley introduced

House Bill No. 5314, entitled

A bill to amend 1950 (Ex Sess) PA 27, entitled “Motor vehicle sales finance act,” by amending section 13 (MCL 492.113), as amended by 1990 PA 27.

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

Reps. Profit, Perricone and McBryde introduced

House Bill No. 5315, entitled

A bill to amend 1941 PA 122, entitled “An act to establish a revenue division of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to create the position and to define the powers and duties of the state commissioner of revenue; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; and to declare the effect of this act,” by amending section 18 (MCL 205.18), as added by 1980 PA 162.

The bill was read a first time by its title and referred to the Committee on Tax Policy.

Reps. Lowe, Cropsey, Bodem, Goschka, DeVuyst, Voorhees, Bobier, McNutt, Horton and Raczkowski introduced

House Bill No. 5316, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 61501 and 61517 (MCL 324.61501 and 324.61517), as added by 1995 PA 57.

The bill was read a first time by its title and referred to the Committee on Forestry and Mineral Rights.

Reps. Lowe, Cropsey, Bodem, Goschka, DeVuyst, Voorhees, Horton, Jaye, Bobier and Raczkowski introduced

House Bill No. 5317, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending section 61513 (MCL 324.61513), as added by 1995 PA 57.

The bill was read a first time by its title and referred to the Committee on Forestry and Mineral Rights.

Reps. Lowe, Cropsey, Bodem, Goschka, DeVuyst, Voorhees, Bobier, McNutt, Horton and Raczkowski introduced

House Bill No. 5318, entitled

A bill to provide for certain rights of surface owners and subsurface owners; to prohibit certain uses of the surface of land without the authorization of the surface owner; and to provide remedies.

The bill was read a first time by its title and referred to the Committee on Forestry and Mineral Rights.

Reps. Lowe, Cropsey, Bodem, Goschka, Voorhees, McNutt, Horton and Raczkowski introduced

House Bill No. 5319, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 503 and 2132 (MCL 324.503 and 324.2132), section 503 as amended by 1996 PA 133 and section 2132 as added by 1995 PA 60, and by adding part 610.

The bill was read a first time by its title and referred to the Committee on Forestry and Mineral Rights.

Rep. Hammerstrom moved that the House adjourn.

The motion prevailed, the time being 12:15 p.m.

The Speaker declared the House adjourned until Tuesday, October 28, at 2:00 p.m.

MARY KAY SCULLION
Clerk of the House of Representatives.