

No. 9
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, February 10, 1999.

10:00 a.m.

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

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

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

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

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

Senator Gary Peters of the 14th District offered the following invocation:

Dear God, show us Your mercy, O Lord, and grant us Your salvation. Clothe Your ministers with righteousness. Let Your people sing with joy. Give peace, O Lord, in all the world for only in You can we live in safety. Lord, keep this state under Your care and guide us in the way of justice and truth. Let Your way be known upon earth and Your saving health among all nations. Let not the needy, O Lord, be forgotten nor the hope of the poor taken away. Create in us clean hearts, O Lord, and sustain us with Your Holy Spirit.

We also ask special blessings and strengths for the family and friends of Tom Lawton, the former Senate staffer who died last night as a result of a seizure. Please bless and guide his wife, Kim, and his two children, Allison and Brendon. Let Your faith be a beacon of hope for them at this difficult time. Amen.

Motions and Communications

Senator Rogers moved that Senators Dunaskiss and McManus be temporarily excused from today's session. The motion prevailed.

Senators McCotter and Stille entered the Senate Chamber.

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, February 9:
House Bill Nos. 4090 4091

The Secretary announced the printing and placement in the members' files on Tuesday, February 9 of:
Senate Bill No. 288

Messages from the Governor

The following messages from the Governor were received and read:

February 9, 1999

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

Athletic Board of Control

Mr. William A. Phillips, 15748 Hubbell, Detroit, Michigan 48227, county of Wayne, as a member representing the general public, succeeding Mr. Michael S. Green of Okemos, who has resigned, for a term expiring on March 31, 2000.

February 9, 1999

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

Board of Cosmetology

Ms. Sue Ann LeFleur Stefancik, 209 Mason Street, Hancock, Michigan 49930, county of Houghton, as a member representing the general public, succeeding herself, for a term expiring on December 31, 2002.

February 9, 1999

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

Commission on Law Enforcement Standards

Mr. John W. Brown, 5188 Darby Circle, Rochester, Michigan 48306, county of Oakland, as a member representing the Fraternal Order of Police, succeeding himself, for a term expiring on January 1, 2002.

Sheriff Thomas N. Edmonds, 3512 Tamsin Avenue, Kalamazoo, Michigan 49008, county of Kalamazoo, as a member representing the Michigan Sheriffs' Association, succeeding himself, for a term expiring on January 1, 2002.

Chief Benny N. Napoleon, Detroit Police Department, 1300 Beaubien, Detroit, Michigan 48226, county of Wayne, as a member representing Michigan Association of Chiefs of Police, succeeding Chief Isaiah McKinnon of Detroit, whose term has expired, for a term expiring on January 1, 2002.

Officer Richard G. Weaver, 8650 Heyden, Detroit, Michigan 48228, county of Wayne, as a member representing Detroit Police Officers' Association, succeeding himself, for a term expiring on January 1, 2002.

February 9, 1999

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

Michigan Board of Nursing

Mrs. Jane S. Welborn, 2528 Rambling Road, Kalamazoo, Michigan 49008, county of Kalamazoo, as a member representing the general public, succeeding herself, for a term expiring on June 30, 2002.

Sincerely,
John Engler
Governor

The appointments were referred to the Committee on Government Operations.

By unanimous consent the Senate proceeded to the order of

Resolutions

Senator DeGrow offered the following resolution:

Senate Resolution No. 17.

A resolution of tribute for the Honorable Michael J. Bouchard.

Whereas, It is with great appreciation for his contributions to the legislative process and his leadership on a host of issues that we commend our friend and colleague Senator Michael Bouchard as he brings to a close his service to the Michigan Senate. His hard work and dedication have earned him the respect of members and staff, and we wish him well in his new responsibilities; and

Whereas, A criminal justice graduate of Michigan State University, Michael Bouchard has distinguished himself in a variety of roles. His career includes his achievements as a small business owner, as well as exemplary public sector service. When he came to the Michigan Legislature as a State Representative following his 1990 election, he brought with him knowledge and insights gained in twelve years with the Bloomfield Township Police Department and two terms as the mayor of Beverly Hills. These experiences have proven invaluable in his lawmaking responsibilities; and

Whereas, Since coming to the Michigan Senate in 1991 following a special election, Senator Bouchard has been a key figure in the development of legislative responses to some of the most important issues facing our state and nation. He has made notable contributions in the development of policy in law enforcement and corrections, economic development, and education. In addition, he served his caucus with great effectiveness as the Assistant Majority Leader and was elected as the Majority Floor Leader for the Ninetieth Legislature. Clearly, Senator Bouchard's sense of duty will long be remembered in the Michigan Senate and will long advance our state in the years to come; now, therefore, be it

Resolved by the Senate, That we offer this expression of our thanks and best wishes to the Honorable Michael Bouchard as he leaves this legislative body to assume new challenges in public service; and be it further

Resolved, That a copy of this resolution be transmitted to Senator Bouchard as evidence of our respect and gratitude.

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

Senator Rogers moved that the rule be suspended.

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

The resolution was adopted.

Senator DeGrow 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 Dunaskiss entered the Senate Chamber.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senators DeGrow, Miller, Emmons, Bullard, Shugars, Jaye, Dunaskiss, Hoffman, Schuette, Gougeon and Van Regenmorter asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator DeGrow's statement is as follows:

Usually when a member leaves, we have an opportunity to say good-bye to them and to wish them well on their new endeavor. One member, through some opportunities he had back at home, left before we were able to say good-bye. So what I'd like to do is just take a moment today to thank former Senator Bouchard for his years of service to the Senate. The resolution we just adopted thanks him for all of his hard work that he's done here, and we have a plaque, as well,

thanking him for his loyal and dedicated service from 1991 to 1998. I would just like to wish him well in his new endeavors as sheriff of Oakland County.

Mike, you were a good friend—still are—you didn't die, and we will miss you though here in the Senate. During the years we served together, we had an opportunity to work on a lot of issues, and I've always enjoyed our friendship here in the Senate and the chances we had to work together. So I just want to say, "Thank you for the years you put in to help the people of this state and to serve with us here in this body, and I want to wish you well in your new endeavor. We will miss you here, but life does go on. There comes a time when each of us feels it's time to leave, and I think you chose a time that was appropriate for you. And we wish you well."

So on behalf of all of the Senators, we say, "Thank you and good luck."

If you could come up here, I would like to present you with this.

Mike, the plaque reads, "The Michigan State Senate honors Senator Michael J. Bouchard for his loyal and dedicated service 1991 to 1998" and also present you with Senate Resolution No. 17. Thank you and Godspeed.

Senator Miller's statement is as follows:

Mr. President, I'm glad to see that the fastest gun in Oakland County is back here in the chamber. It just seems like yesterday that he replaced a classmate of mine, Senator Cruce. I remember when the good Senator came to this body, he certainly was a little inexperienced, let's say this, and I'm proud to say, in the eight years that I got to know the Senator from Oakland County, had the privilege to serve on the committee with him, I really watched this young man grow in his knowledge and experience in the body. He really was an asset and a real tribute to the people in Oakland County.

I want to wish the new sheriff the best of luck and hope that he keeps all those tough people locked up and make the streets safer because I know that he turned out to be a young state Representative who came to this body and grew to be a really, really astute Senator for the entire state of Michigan.

Mr. President, I wish my former chairman the best of luck and a great future he has in Oakland County and the state of Michigan.

Mike, thanks for a great job.

Senator Emmons' statement is as follows:

I'm going to miss Mikey. Under the podium, Michael talked, and we never got a picture of that, and I'm really sorry now that we never did that because now you're going to be gone.

You've been a dear, dear friend, and I want your phone number because I'm now chair of this committee you just left, and you left some things undone, and so I want your phone number to help me out on this committee.

Michael, you're gone, not forgotten, and you'll always be loved.

Senator Bullard's statement is as follows:

I also want to commend and congratulate our good friend, Mike Bouchard, on being named sheriff of Oakland County. I think Mike is the obvious best choice for the job. He has the law enforcement background as a police officer, while here in the state House and the state Senate, he was very involved in improving our criminal justice system with a lot of legislation, and I look forward to working with him also on legislation. I think one of our priorities this year will be to debate and vote on a bill to allow in our Constitution the death penalty for first-degree murder. That's an idea that Mike has had for a number of years, and I'm hoping that he will work with us and help us in that particular proposal.

Finally, I would just like to say, as a resident of Oakland County under Mike's jurisdiction, the township I live in is patrolled by the sheriff's department by contract with the Oakland County Sheriff. I just want to say, I feel safe at night with Mike Bouchard as my sheriff.

Senator Shugars' statement is as follows:

I'd like to share a couple of stories with my colleagues about Sheriff Bouchard. I came in the House of Representatives with him at the same time, and it was really unusual to get about four postcards before we had our freshman caucus. We were trying to find out why somebody would be writing cards and letting everybody know how nice he is, and he'd call you up, and obviously, he was looking for leadership from Day One. As you see in the Senate, he was a leader, and he's a very hard-working, honest, and dedicated individual.

After our caucus, we went out and played basketball a few times down here at the YMCA. Now I want you guys to look at Senator Bouchard—now Sheriff Bouchard. Everybody look at him. Now I look at him. He's taller than I am. I'm thinking he's a post man or a center, right? So we go down, and we play basketball down there, and he starts shooting these 30-footers, and they're going in! And I'm sitting there saying, "You're a center; you're not a guard! That's were us little people are." So after the game, we won a number of games against all these guys, and I'm out of breath, and I sit there and say, "Boy, where'd you learn how to play basketball?" He was on the state championship in

high school—guard, so it explains that over in Oakland County, they have a lot of tall people as guards instead of, you know, us little short people. So Mike was a great athlete and a great person to serve with in both the House and the Senate.

Mike, to you and Pam and your children, I wish you the very best. You'll do well for the citizens of Oakland County.

Senator Jaye's statement is as follows:

Senate colleagues and Sheriff Bouchard, I wanted to welcome you and congratulate you. I remember in 1988, you and I were both elected to the Michigan House of Representatives together. It's been a real pleasure and honor to serve with you, to meet you and your family, and your staff, and I know it's an exciting time for you and the taxpayers.

I'm particularly looking forward to working with you on issues of allowing Oakland County residents to carry concealed pistols because now I know you have a direct role in that. We may be passing legislation on that empowering you and encouraging you even more, as well as perhaps targeting some reckless ice fishermen. So while I wish you well, I just wanted to remind you that I will have a couple of amendments in legislation to keep you busy even out in Oakland County. Have a nice day.

Senator Dunaskiss' statement is as follows:

I, too, would like to add my voice of remembrance to our former colleague.

Certainly, Mike, I'm going to miss your friendship, certainly the leadership that you helped provide for the entire Senate floor. The previous two speakers talked about carrying concealed weapons, death penalty, patrolling the streets, but as lake residents, Diane and I will feel very pleased and safe knowing that you'll be out there in the boat taking care of our lake as well.

Congratulations, Mike.

Senator Hoffman's statement is as follows:

I've had the pleasure of working with Mike both in the House of Representatives and in the Michigan Senate, and he is really doing something that deep down inside, I've always wished that I could have done—probably still could, but I really don't want to anymore—and that is to be the sheriff. Being an ex-deputy sheriff myself, I used to have visions of grandeur. However, I must say that I think it's more enjoyable to write the laws than it is to enforce the laws.

But clearly, Mike, you're the person for the job, and I look up to you, and I admire you for your willingness to take on the bigger issues. I can only say that when Joanne asked for your phone number, I want your card, so when I'm driving through Oakland County, I can tell the folks, in case I get stopped, that I know you. I just hope you'll remember me.

Senator Schuette's statement is as follows:

You know, Mike, this is a special day for all of us in the Senate where we have the opportunity to pay our thanks, respects, and remembrances to you.

I've had the privilege—and it really has been a marvelous privilege—of knowing Mike for many years when he was a police officer in Oakland County and as he had this opportunity to run for state Representative office and serving with Mike for four years in the Michigan Senate.

I've always appreciated your hand of friendship and the leadership that you have provided for this body. Now you and Pam and your three children, Mike, have new vistas and new horizons for you professionally. I remember we spoke on the phone just last week that you have to spend even more time with your family. You could drop your daughter off at school and still be to work at 8:30 a.m., and you don't have that hour and 45-minute commute anymore, so you can give the people of Oakland County the marvelous law enforcement protection and services that you provide and still have even better and more time with your family. It's a win-win for you professionally and personally.

We wish you the best, and I wish you the best in every way and look forward to working with you, and because you're a former Senate member, if any of us get out of line, you're able to come back here and pull us up by the scruff of the neck and say that the badge still counts here on the floor. We wish you well, Mike Bouchard.

Senator Gougeon's statement is as follows:

Mr. President and colleagues, I just want to echo the sentiments of all who spoke earlier. It certainly has been a pleasure for to me to serve with Senator Bouchard, now Sheriff Bouchard, since I came into the Michigan Senate in March of 1993. I've served with Mike on committees, and I've served with him on the floor and supported his sentiments as he's expressed them on the floor often and many times.

But the one thing I wanted to point out is that we're very, very proud of Mike Bouchard up in Bay City. In fact, we claim him as one of our own because, unbeknownst to most of you, Senator Bouchard is actually the grandson of one of the Sams Brothers in Bay City, and he has many relatives in Bay City. From all of us in Bay City, Michigan, we congratulate you, Senator, and good job!

Senator Van Regenmorter's statement is as follows:

I, too, want to congratulate Mike and echo what all of my colleagues have said. I particularly want to echo what Phil Hoffman said.

Mike, when we're driving through Oakland County, I think I can tell you that we're going to be thinking about legislation which will expand or contract the authority of the sheriff depending entirely on how we're treated over there.

Congratulations! Oakland County will be very, very well served by your leadership there as we have been blessed with your leadership here.

The President of the Senate made a statement and requested that it be printed in the Journal.

The motion prevailed.

The President's statement is as follows:

Sheriff Bouchard, you will be missed professionally and more so personally by all of us here.

Senator Rogers moved that the rules be suspended to allow former Senator Michael J. Bouchard to make a statement and that the statement be printed in the Journal.

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

Former Senator Bouchard's statement is as follows:

I was asked to get coffee for a bunch of people this morning, and I'm happy to do that for all of you because—don't forget secondary road funding!

Mr. Governor, fellow members, this whole thing came very, very quickly, and it didn't afford me the opportunity to chat with many of you in person. As that old saying goes, "When you see a fork in the road, take it." Sometimes you don't know which direction to take, and it was a very, very difficult choice.

I truly loved being in the Senate and serving with you, and the ones who were coming, I looked forward to serving with. I was very, very proud every single day that I spent here. I very much enjoyed the business of the people in the Senate Chamber. I think that the people are well represented in our state by their Senators whether they are Republican or Democrat or independent or wherever they're from, their voice is heard here, and unfortunately, sometimes the popular belief is there are people here who don't listen and don't care, and I think that's wrong. You have always honored me with your attention, your willingness to work, your dedication, and I will miss that a lot.

I will miss my friendships, but I don't expect they will come to a conclusion. In fact, I hope to see you all, and I plan to hold periodic events or something. I'm going to figure out a way to keep us together even if you guys don't care. I want to still see you.

The other thing is, it was such a fast departure that my staff, Nicole Nystrom, who has been with me for a long time, and I see Dave Palsrok and Mark Cook and Rob Kennedy and others who have been on my staff. Some of the best people you would ever want to meet work on the staffs here. The work that they have done for me has been incredible, and I know the same thing is felt by everybody here. All of us would not be able to accomplish what we have here without some incredibly dedicated people here who put in long hours with not great compensation to serve the people of our state. To my staff, it was appreciated. (I've got to get tough. I'm a cop again, remember?)

I just would say that I will miss you a lot—all of you—people who I have had a chance to work with on both sides of the aisle. I really enjoyed, for example, working on the gaming control act closely with Senator Smith and Senator Cherry and Senator Koivisto. We got to know all of you much better in that effort, and the other members I've had a chance to serve with closely we've heard from today, my friends.

I hope you know you can always count on me for anything, and this body can count on me for anything because you do a remarkable job, and I will miss you.

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

House Bill No. 4033

House Bill No. 4034

House Bill No. 4035

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

By unanimous consent the Senate proceeded to the order of

General Orders

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

The motion prevailed, and the President, Lieutenant Governor Posthumus, designated Senator Dingell as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Posthumus, having resumed the Chair,

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

House Bill No. 4033, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 51c. Substitute (S-1).

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

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

House Bill No. 4034, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 51b. Substitute (S-1).

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

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

House Bill No. 4035, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 51 (MCL 206.51), as amended by 1995 PA 194.

Substitute (S-2).

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

By unanimous consent the Senate returned to the order of

Third Reading of Bills

Senator McManus entered the Senate Chamber.

The following bill was read a third time:

Senate Bill No. 138, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending section 57b (MCL 400.57b), as added by 1995 PA 223.

The question being on the passage of the bill,

Senator North offered the following amendment:

1. Amend page 3, line 16, after "57E." by inserting "THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO IS 65 YEARS OF AGE OR OLDER UNLESS THAT PERSON HAS PRIMARY RESPONSIBILITY OF A MINOR CHILD FOR WHOM HE OR SHE IS RECEIVING FAMILY INDEPENDENCE ASSISTANCE."

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

Senator Hart offered the following amendment:

1. Amend page 3, line 16, after "57E." by inserting "THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO IS 65 YEARS OF AGE OR OLDER."

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

Senator Dingell offered the following amendment:

1. Amend page 3, line 16, after "57E." by inserting "AS USED IN THIS SUBSECTION, "TESTS POSITIVE FOR SUBSTANCE ABUSE" MEANS THAT A GAS CHROMATOGRAPHY OR MASS SPECTROMETRY TEST HAS CONFIRMED THE RESULTS OF A PREVIOUS TEST THAT DETECTED THE PRESENCE OF A CONTROLLED SUBSTANCE REGULATED UNDER THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.1101 TO 333.25211, THAT THE TESTED INDIVIDUAL IS NOT AUTHORIZED TO POSSESS OR CONSUME."

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

Senator Dingell offered the following amendment:

1. Amend page 3, following line 16, following subsection (5), by inserting:

"(6) IF THE FAMILY INDEPENDENCE AGENCY IMPLEMENTS THE SUBSTANCE ABUSE TESTING AUTHORIZED IN SUBSECTION (3), THE FAMILY INDEPENDENCE AGENCY SHALL APPLY A CONSISTENT

METHOD OF ADMINISTERING THE SUBSTANCE ABUSE TESTING FROM ONE OF THE FOLLOWING METHODS:

(A) TESTING ON A RANDOM BASIS

(B) TESTING BASED ON A REASONABLE SUSPICION OF ABUSE

(C) TESTING OF ALL FAMILY INDEPENDENCE ASSISTANCE ELIGIBLE AS DESCRIBED IN SUBSECTION (1).”.

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

Senator DeBeaussiaert offered the following amendment:

1. Amend page 3, following line 16, following subsection (5), by inserting:

“(6) SUBSECTIONS (3) TO (5) ARE REPEALED EFFECTIVE SEPTEMBER 30, 2001.”.

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

Senator A. Smith offered the following amendment:

1. Amend page 3, following line 16, following subsection (5), by inserting:

“(6) THE FAMILY INDEPENDENCE AGENCY SHALL NOT IMPLEMENT SUBSTANCE ABUSE TESTING DESCRIBED IN SUBSECTION (3) UNTIL ALL OF THE FOLLOWING CONDITIONS ARE MET:

(A) THE FAMILY INDEPENDENCE AGENCY HAS TRAINED FAMILY INDEPENDENCE AGENCY CASEWORKERS ON SUBSTANCE ABUSE ISSUES.

(B) THE LEGISLATURE HAS APPROPRIATED ADEQUATE FUNDS FOR SUBSTANCE ABUSE ASSESSMENT AND SUBSTANCE ABUSE TREATMENT.”.

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

Senator Leland offered the following amendment:

1. Amend page 3, following line 16, following subsection (5), by inserting:

“(6) THE FAMILY INDEPENDENCE AGENCY MAY IMPLEMENT SUBSTANCE ABUSE TESTING DESCRIBED IN SUBSECTION (3) ONLY IF ALL SERVING STATE LEGISLATORS ARE REQUIRED TO SUBMIT TO SUBSTANCE ABUSE TESTING AS DESCRIBED IN SUBSECTION (3).”.

The question being on the adoption of the amendment,

Senator Leland 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. 16

Yeas—18

Byrum
Cherry
DeBeaussiaert
Dingell
Goschka

Hart
Jaye
Koivisto
Leland
Miller

Murphy
North
Peters
Shugars

Smith, A.
Smith, V.
Vaughn
Young

Nays—18

Bennett
Bullard
DeGrow
Dunaskiss
Emmons

Gast
Gougeon
Hammerstrom
Hoffman
McCotter

McManus
Rogers
Schuette
Schwarz

Sikkema
Steil
Stille
Van Regenmorter

Excused—0

Not Voting—1

Emerson

In The Chair: President

Senator Leland moved to reconsider the vote by which the amendment was not adopted.
 The question being on the motion to reconsider,
 Senator Leland moved that further consideration of the bill be postponed temporarily.
 The motion did not prevail.
 The question being on the motion to reconsider the vote by which the amendment was not adopted,
 The motion did not prevail.
 The question being on the passage of the bill,
 The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 17**Yeas—24**

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

Nays—13

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

Excused—0**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

Protests

Senators Dingell, DeBeaussaert and A. Smith, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 138.

Senators Dingell and DeBeaussaert moved that the statements they made during the discussion of the amendments they offered be printed as their reasons for voting “no.”

The motion prevailed.

Senator Dingell’s first statement is as follows:

Legislation similar to this bill was brought up last year, and I raised a number of concerns that weren’t addressed in the legislation last year. It needs to be addressed here. Two of the concerns I have are addressed in this particular amendment. One of them being the case of persons who have administered to them by doctors controlled substances. There’s nothing in the legislation right now, nothing at all to exempt them from the consequences of controlled substance metabolites or products being found in their urine. Now, if you’re someone such as myself, who just had a procedure done similar to a root canal a couple weeks ago, I probably have lots of controlled substances running around in my urine. I’d kind of like it if I was to be required to take a urine test that I have some recognition taken of that fact.

Also, there is a problem with the preliminary tests that are taken having a relatively high incidence of false positives. From my experiences talking with doctors working for Department of Corrections and from other doctors, the incidences of false positives can be 5 to 15 percent. I'd like people, if they contest the initial results which are admitted by everyone to be quick and dirty, in addition to being cheap, to have a chance to force the department to do another test, a more exact test, one that has a much higher level of confidence in it. These two problems, along with one more amendment, would make it possible for me to vote for the bill. The way it is now, I can't vote for it; I don't think any citizen of Michigan would want me to.

Senator Dingell's second statement is as follows:

This amendment is another due process-type amendment. We're hearing from the floor managers of this legislation that the department will provide due process to clients of the Family Independence Agency (FIA) who are applying for benefits. It's just that they keep refusing to do it. Now we just had an amendment dealing with drug testing, and fundamental due process would require certain things. The floor managers are saying that they're going to make sure that the department does that, but they are not willing to put it in statute. I would tell you that in the Michigan Department of Corrections, those retesting opportunities that fundamental due process would seemingly require are simply not done.

Another type of due process that I think every resident of Michigan would want persons applying for benefits to have is the establishment in the statute of some kind of reasonable basis for requiring testing. I wouldn't have a problem if we simply tested everyone. I wouldn't have a problem if we choose some other reasonable basis, some rational basis for testing people, such as anybody who you have even the remotest reason for suspecting has some kind of drug problem. Then have a policy that requires you to have some kind of reasonable basis for suspecting that the person has a drug problem. You could set up a simply random system—that also would be a rational basis for requiring drug testing. There's nothing to require a rational basis in the bill as it is now. The FIA people could simply establish a basis that they were going to test all tall, funny-looking pollacks, like myself. I mean fundamental, rational due process requires that there be a rational basis for telling certain persons that they are going to be tested. This amendment requires it; it is something that goes to fundamental fairness. I don't think that anything less than this is something that the people of Michigan would support. Therefore, I recommend to you the Dingell amendment.

Senator DeBeaussiaert's first statement, in which Senator A. Smith concurred, is as follows:

This amendment, as was read by the Secretary, basically would provide the Legislature an opportunity to revisit this issue by making the provisions repealed effective September 30, 2001.

I offer the amendment because the bill that's before us is very broad, as the sponsor indicates. He asks us not to try to micro-manage—to let the department take this concept and move forward in implementation. They, as I understand it, at the committee put forward a proposal as to how the plan would operate, but the bill itself doesn't specify very much in the way of detail. We did, yesterday, adopt an amendment that said that we would begin with pilot projects. It seems to me if you're going to have a pilot project, the logical thing for the Legislature to do then is to look to see how that pilot project works before you implement it on a statewide basis.

This amendment to the bill would allow us that opportunity, even though it's not clear how long those pilot projects are expected to operate. I've chosen September 30, 2001, to give the department some time to test the program and to bring it back. It's important to do that for a number of reasons, I think.

We have heard great debate about what the cost of this program will be. We heard debate from the Senator from the 24th District yesterday concerned about the cost of some of the confirmatory tests and concerns about the cost of the treatment programs and the availability of those programs, so it seems to me to make sense to bring the issue back on that side. It's important to note that other states in the country have considered this same kind of approach, and it's my understanding that no one has taken this kind of a proposal statewide, and one of the reasons, at least, is the issue of cost. So, it seems to me before we simply leave this open for statewide implications as it relates to costs, that we should bring it back to the Legislature for some review. But it's even more important now, after the defeat of the amendments that were previously offered that dealt with some of the issues involving requiring of the secondary test—the confirmatory test—and the questions about due process that were raised and were not adopted to be included in this bill. I think that bringing this issue back before the Legislature to review how, in fact, the department has implemented this process on a pilot project basis, at least, in a couple of years makes appropriate sense, and I'd ask for your support.

Senator DeBeaussiaert's second statement, in which Senator A. Smith concurred, is as follows:

We heard, I think, throughout the course of this debate, that there will be continuing legislative involvement. I think this amendment will simply help to guarantee that. I think it's very difficult if, in fact, there are problems that occur down the line, sometimes to get at those issues. This will provide us a second opportunity to revisit it if there are, in fact, problems that occur in the implementation; if there are, in fact, unexpected costs or the lack of expected results from the other side of the aisles' perspective, as they put forward this proposal.

I think it makes sense for all of us to review it. If, in fact, the proposal works as the sponsors, the supporters of it hope it will as they've put forward, then they would, I would think, not be afraid of this kind of second review in the year 2001 so that we can have a public and full analysis of the results. I would ask for your support.

Senator Rogers moved that rule 2.106 be suspended to allow all committees to meet during Senate session. The motion prevailed, a majority of the members serving voting therefor.

The Assistant President pro tempore, Senator Hoffman, assumed the Chair.

By unanimous consent the Senate proceeded to the order of
Statements

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

The motion prevailed.

Senator Leland's statement is as follows:

As it was announced earlier during the invocation, my very best friend in the whole world, Tom Lawton, passed away last night. Tom was my employee for six years. He went to work for Speaker Dodak for a couple of years, was policy director for Senator Art Miller for awhile. Until recently, he was an employee for Sheriff Ficano in Wayne County.

Tom was an outstanding person, a great father, husband, good friend. To know Tom was to love Tom, and it was a classic case of the good die young. Those that knew Tom will miss him. My sympathies and prayers go out to his family: Kim and his two children, Allison and Brendon. I'm sure I'll see many of you folks at the funeral this weekend in Livonia.

By unanimous consent the Senate returned to the order of
Introduction and Referral of Bills

Senators Stille, Byrum, McCotter, McManus, Shugars, Koivisto, Bennett, Young, Goschka and Jaye introduced
Senate Bill No. 289, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," (MCL 205.51 to 205.78) by adding section 4s. The bill was read a first and second time by title and referred to the Committee on Finance.

Senators McManus, Bennett, Steil, Schuette, Schwarz, North, Miller, McCotter, Jaye, Young, Hoffman, Bullard, Sikkema, Leland, Hart, Murphy, Shugars and Goschka introduced

Senate Bill No. 290, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," (MCL 168.1 to 168.992) by adding section 17 and chapter XIV.

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

Senators Bennett, Schuette, McManus, McCotter, Sikkema, Miller, Young, Jaye, Leland, Hart, Murphy, Shugars and Goschka introduced

Senate Bill No. 291, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 30a, 500f, 500g, 501a, 505, 509n, 509r, 509gg, 544c, 644k, 690, 862, 863, 954, and 972 (MCL 168.30a, 168.500f, 168.500g, 168.501a, 168.505, 168.509n, 168.509r, 168.509gg, 168.544c, 168.644k, 168.690, 168.862, 168.863, 168.954, and 168.972), section 501a as amended by 1995 PA 87, sections 509n, 509r, and 509gg as added by 1994 PA 441, section 544c as amended by 1993 PA 137, and section 972 as amended by 1989 PA 26.

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

Senators Steil, McManus, Bennett, Schuette, Sikkema, Miller, McCotter, Jaye, Leland, Young, Hart, Murphy, Shugars and Goschka introduced

Senate Bill No. 292, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 3, 5, 6, 11a, 613, 616, 617, 661, 687, 701, 702, 703, 705, 856, 857, 858, 859, 860, 861, 932, 945, 1361, and 1732 (MCL 380.3, 380.5, 380.6, 380.11a, 380.613, 380.616, 380.617, 380.661, 380.687, 380.701, 380.702, 380.703, 380.705, 380.856, 380.857, 380.858, 380.859, 380.860, 380.861, 380.932, 380.945, 380.1361, and 380.1732), sections 3, 5, 6, and 687 as amended and section 11a as added by 1995 PA 289, section 617 as amended by 1989 PA 268, section 703 as amended by 1981 PA 87, section 705 as amended by 1994 PA 258, sections 857 and 858 as amended by 1992 PA 263, and section 945 as added by 1984 PA 154, and by adding sections 629a, 1206, and 1351c; and to repeal acts and parts of acts.

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

Senators Young, DeBeaussaert, A. Smith, Peters, Cherry and V. Smith introduced

Senate Bill No. 293, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 268. The bill was read a first and second time by title and referred to the Committee on Finance.

Senators Young, DeBeaussaert, A. Smith, Peters, Cherry, V. Smith and Byrum introduced

Senate Bill No. 294, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 32701 (MCL 324.32701), as amended by 1996 PA 434, and by adding section 32704a.

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

Senators Young, DeBeaussaert, Peters, Cherry, V. Smith and Byrum introduced

Senate Bill No. 295, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 32704a.

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

Senators Koivisto, North, McManus and Byrum introduced

Senate Bill No. 296, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 2150 (MCL 324.2150), as amended by 1996 PA 585.

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

Senators DeGrow, Emerson, Steil and Sikkema introduced

Senate Bill No. 297, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 14, 402, and 471a (MCL 380.14, 380.402, and 380.471a), section 14 as added by 1998 PA 406 and section 471a as amended by 1982 PA 71, and by adding part 5A and section 449.

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

Committee Reports

The Committee on Finance reported

House Bill No. 4033, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 51c. 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.

Joanne Emmons
Chairperson

To Report Out:

Yeas: Senators Emmons, Bullard, Hammerstrom, Peters and Dingell

Nays: None

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

The Committee on Finance reported

House Bill No. 4034, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 51b. 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.

Joanne Emmons
Chairperson

To Report Out:

Yeas: Senators Emmons, Bullard, Hammerstrom, Peters and Dingell

Nays: None

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

The Committee on Finance reported

House Bill No. 4035, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 51 (MCL 206.51), as amended by 1995 PA 194.

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

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

Joanne Emmons

Chairperson

To Report Out:

Yeas: Senators Emmons, Bullard, Hammerstrom, Peters and Dingell

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 Finance submits the following:

Meeting held on Tuesday, February 9, 1999, at 1:00 p.m., 8th Floor Conference Room, Farnum Building

Present: Senators Emmons (C), Bullard, Hammerstrom, Peters and Dingell

COMMITTEE ATTENDANCE REPORT

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

Meeting held on Tuesday, February 9, 1999, at 3:00 p.m., Room 810, Farnum Building

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

Scheduled Meetings

Family Independence Agency Appropriations Subcommittee - Tuesdays, February 16 and February 23, and Thursdays, February 18 and February 25, at 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (3-1760).

General Government Appropriations Subcommittee - Tuesdays, February 16, February 23, March 2 and March 9, and Wednesday, March 10, at 1:30 p.m., Room 404, Capitol Building (3-3447).

Health Policy Committee, Financial Services Committee, House Health Policy Committee, House Insurance and Financial Services Committee, Joint Meeting - Tuesday, February 23, at 3:30 p.m., Room 100, Farnum Building (3-0793).

State Police and Military Affairs Appropriations Subcommittee - Thursdays, February 25, March 4 and March 11, at 8:30 a.m., Room 110, Farnum Building (3-2426).

Senator Rogers moved that the Senate adjourn.

The motion prevailed, the time being 11:34 a.m.

The Assistant President pro tempore, Senator Hoffman, declared the Senate adjourned until Thursday, February 11, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

