

No. 89
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, December 12, 2001.

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
Garcia—present
Gast—present
Goschka—present

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

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

Senator Christopher D. Dingell of the 7th District offered the following invocation:

Lord, remind us every morning that when the demands of family, constituent service, legislating, and other things begin to crowd out our relationship with You, our need for Your guidance through our relationship with You will become more important. Help us to remember to make time for prayer. Amen.

Motions and Communications

Senators Murphy, DeGrow, Bennett, Hammerstrom and Schwarz entered the Senate Chamber.

Senator Emerson moved that Senators Miller and Young be temporarily excused from today's session. The motion prevailed.

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

The motion prevailed.

Senator McManus' statement is as follows:

I've had an aide in my office for five years, Mr. Mike Frederick. He's been my education man and my agricultural man, and he's had a few other responsibilities. Mike came to us from the House—that took about two years to get that straightened out, but he's making it. Then he went to law school, and I've spent the last four years trying to make an honest lawyer out of him. That may be a contradictory statement. I believe he finally graduated. I don't know how many times he took the test before he did, but anyway, he's passed the bar and decided to pave all the roads in Michigan now with concrete rather than asphalt. It's going to be a great loss to the Senate to lose Mike Frederick. He's been a hard worker. If nothing else, he keeps the racing commissioner upset over in the horse racing business. I don't know what we're going to do to keep her stirred up after we lose Mike.

He's been a great guy and a good worker in the Senate. We have a plaque for him here. All the Senators have signed this plaque, Mike. We'd like you to—once you get that office on that \$200.00 an hour for law work—we'd like to have you hang that up. Just try to remember us poor folks here in the Senate. With that, I'd like to have everyone congratulate Mike Frederick.

Senator Stille's statement is as follows:

I would just like to add a few comments of congratulations for Mike Frederick. I had the pleasure of working with Mike Frederick on several different issues, two in particular that I would like to comment on. One would be the state fairgrounds and the State Fair operation which was nothing but pure pleasure as we worked through some of those details. And there were a number of other issues that dealt with horses and horse racing and equine testing and things of that nature.

One of the most memorable occasions with Mike was when we both appeared at a statewide horse conference here at the state fairgrounds, and we were both asked to make some comments relative to some suggested new legislation for testing horses. I asked Mike whether or not he wanted to go first or second. He said, "Why don't you go first. They like to hear it from the horse's mouth." I said, "Well, you take care of your end, and I will take care of mine."

But it is has always been a pleasure working with Mike. We've had a fair amount of fun, particularly with Annette Bacola, the commissioner of horse racing. Mike actually thought he was coming over here this morning because he thought we had some concerns about commissioner concerns. As he has found out, it was more to recognize his work here in the Senate.

I will miss Mike. He has been a pleasure to work with, and he has actually made Senator McManus tolerable to work with from time to time. We are going to miss that ability. Mike, congratulations and best of luck on your new venture.

Senator Goschka's statement is as follows:

I also rise to make a comment about Mike Frederick. Mike is from Gratiot County. He grew up in Alma. He is an Alma Panther. In the years that I have known Mike, I have come to rely on him, as have many, for a lot of technical assistance—a lot of explanation on various bills and issues. Mike is very thorough in his work, and it is with regret that we see him leave. He has been a very good friend. I know that Alma, Michigan, and Alma High School, where he was a proud Panther, are very proud of the work that Mike Frederick did in the Senate and on behalf of the people of this state. We will miss him.

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

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

Senators Young and Miller entered the Senate Chamber.

The following communication was received:
Department of Consumer and Industry Services

December 6, 2001

Pursuant to Section 314 of P.A. 119 of 2001, we are enclosing a copy of the following report:

<u>Type of Report</u>	<u>Facility</u>	<u>Report #</u>	<u>License #</u>
Special Investigation Report	Summit Center	2002C0201002	CS470201446

This report was performed in compliance with the requirements of P.A. 116 of 1973 as amended, and the Administrative Rules for Child Caring Institutions. The report may also be viewed on our web site at the following address: http://www.cis.state.mi.us/fast/leg_rep.htm.

If you have any questions regarding this information, please feel free to contact me at 373-3892.

Sincerely,
John R. Suckow, C.P.A.
Director, Finance and Administrative Services

The communication was referred to the Secretary for record.

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

House Bill No. 5313

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

Senator Emmons moved that the Committee on Government Operations be discharged from further consideration of the following concurrent resolution:

Senate Concurrent Resolution No. 47.

A concurrent resolution to memorialize the President to adopt and the Congress to support recommendations by the International Trade Commission to remedy the injury to the United States steel industry caused by unfair trade practices.

The motion prevailed, a majority of the members serving voting therefor, and the concurrent resolution was placed on the order of Resolutions.

By unanimous consent the Senate proceeded to the order of
Resolutions

Senator Emmons moved that the following resolution be placed at the head of the Resolutions calendar:

Senate Resolution No. 134

The motion prevailed.

Senate Resolution No. 134.

A resolution to commend the Huron-Clinton Metropolitan Authority commissioners for their efforts in urban deer management.

The question being on the adoption of the resolution,
The resolution was adopted.

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

The motion prevailed.

Senator Miller's statement is as follows:

Today it's a privilege for me. I had the proud opportunity to sponsor a page here—Alissa Nann—and this is her last week here. She is a great student at your alma mater, Governor, Michigan State University. She resides in Macomb County. After she's finished with her service here, she will be going to Australia in January to pursue studies in political science. She's done a great job for me.

Her mother is my dental hygienist, so I get a real close-up opinion of politics here. Alissa has done a fabulous job here and her experience at Michigan State. I just want this body to wish her well on her future studies, and we want to thank her for the great service she provided here on the floor of the Michigan Senate.

By unanimous consent the Senate returned to the order of
General Orders

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

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

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

House Bill No. 5148, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 310 (MCL 257.310), as amended by 1998 PA 226.

House Bill No. 5255, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding section 21534.

House Bill No. 5271, entitled

A bill to amend 1968 PA 319, entitled "An act to provide a uniform crime reporting system; to provide for the submitting of such report to the department of state police; to require submission of the report by certain police agencies; to require the reporting on wanted persons and stolen vehicles; to require the reporting of information regarding certain persons and unidentified bodies of deceased persons; to prescribe certain powers and duties of law enforcement agencies; and to vest the director of the department of state police with certain authority," by amending section 7 (MCL 28.257).

House Bill No. 5313, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 1201, 1202, 1203, 1204, 1204c, 1205, 1206, 1209, 1214, 1224, 1234, 1242, 1243, 1244, 1905, and 3310 (MCL 500.1201, 500.1202, 500.1203, 500.1204, 500.1204c, 500.1205, 500.1206, 500.1209, 500.1214, 500.1224, 500.1234, 500.1242, 500.1243, 500.1244, 500.1905, and 500.3310), section 1201 as amended by 1980 PA 340, sections 1204 and 1214 as amended by 1986 PA 173, section 1204c as amended by 1998 PA 540, section 1206 as amended by 1992 PA 1, section 1209 as amended by 1980 PA 461, section 1224 as amended by 2000 PA 35, section 1234 as amended by 1981 PA 1, section 1243 as added by 1994 PA 409, section 1244 as amended by 1984 PA 7, section 1905 as amended by 1996 PA 548, and section 3310 as amended by 1986 PA 10, and by adding sections 1201a, 1204e, 1206a, 1206b, 1208a, 1208b, 1211, 1211a, 1211b, 1239, 1240, 1246, and 1247.

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

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

House Bill No. 5258, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 5652, 5653, 5654, and 5655 (MCL 333.5652, 333.5653, 333.5654, and 333.5655), sections 5652 and 5655 as added by 1996 PA 594 and sections 5653 and 5654 as amended by 2000 PA 58.

Substitute (S-2).

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

1. Amend page 3, line 9, after " "ADVANCED ILLNESS" " by inserting a comma and "EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION,".

2. Amend page 3, line 14, after "PROGNOSTICATION." by inserting "FOR PURPOSES OF SECTION 5655(B) ONLY, "ADVANCED ILLNESS" HAS THE SAME GENERAL MEANING AS "TERMINAL ILLNESS" HAS IN THE MEDICAL COMMUNITY.".

3. Amend page 6, line 9, after "treatment" by inserting "FOR THE PATIENT'S REDUCED LIFE EXPECTANCY DUE TO ADVANCED ILLNESS".

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
House Bill No. 5259, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 20201 (MCL 333.20201), as amended by 1998 PA 88.

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. 5260, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7333, 7401, 7403, 7407, 7521, 16204b, 16204c, and 16204d (MCL 333.7333, 333.7401, 333.7403, 333.7407, 333.7521, 333.16204b, 333.16204c, and 333.16204d), section 7333 as amended by 1993 PA 138, sections 7401 and 7403 as amended by 2000 PA 314, section 7407 as amended by 1993 PA 80, section 7521 as amended by 2000 PA 302, section 16204b as added by 1998 PA 422, and sections 16204c and 16204d as added by 1998 PA 423, and by adding section 7333a; and to repeal acts and parts of acts.

Substitute (S-2).

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

1. Amend page 1, line 1, after "Sec. 7333." by inserting "(1) AS USED IN THIS SECTION, "GOOD FAITH" MEANS THE PRESCRIBING OR DISPENSING OF A CONTROLLED SUBSTANCE BY A PRACTITIONER LICENSED UNDER SECTION 7303 IN THE REGULAR COURSE OF PROFESSIONAL TREATMENT TO OR FOR AN INDIVIDUAL WHO IS UNDER TREATMENT BY THE PRACTITIONER FOR A PATHOLOGY OR CONDITION OTHER THAN THAT INDIVIDUAL'S PHYSICAL OR PSYCHOLOGICAL DEPENDENCE UPON OR ADDICTION TO A CONTROLLED SUBSTANCE, EXCEPT AS PROVIDED IN THIS ARTICLE. APPLICATION OF GOOD FAITH TO A PHARMACIST MEANS THE DISPENSING OF A CONTROLLED SUBSTANCE PURSUANT TO A PRESCRIBER'S ORDER WHICH, IN THE PROFESSIONAL JUDGMENT OF THE PHARMACIST, IS LAWFUL. THE PHARMACIST SHALL BE GUIDED BY NATIONALLY ACCEPTED PROFESSIONAL STANDARDS INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING, IN MAKING THE JUDGMENT:

(A) LACK OF CONSISTENCY IN THE DOCTOR-PATIENT RELATIONSHIP.

(B) FREQUENCY OF PRESCRIPTIONS FOR THE SAME DRUG BY 1 PRESCRIBER FOR LARGER NUMBERS OF PATIENTS.

(C) QUANTITIES BEYOND THOSE NORMALLY PRESCRIBED FOR THE SAME DRUG.

(D) UNUSUAL DOSAGES.

(E) UNUSUAL GEOGRAPHIC DISTANCES BETWEEN PATIENT, PHARMACIST, AND PRESCRIBER." and renumbering the remaining subsections.

2. Amend page 1, line 2, after "section," by inserting "A PRACTITIONER, IN GOOD FAITH, MAY DISPENSE".

3. Amend page 1, line 4, by striking out "shall not be dispensed without the" and inserting "UPON RECEIPT OF A".

4. Amend page 4, line 17, after "(4)" by striking out "Unless dispensed directly by a" and inserting "A".

5. Amend page 4, line 17, after "practitioner," by striking out the balance of the line through "user," on line 18 and inserting "IN GOOD FAITH, MAY DISPENSE".

6. Amend page 4, line 19, after "3" by striking out "or" and inserting a comma.

7. Amend page 4, line 19, after "4" by inserting a comma and "OR 5".

8. Amend page 4, line 22, after "17708," by striking out the balance of the line through "oral" on line 23 and inserting "UPON RECEIPT OF A PRESCRIPTION ON A PRESCRIPTION FORM OR AN ORAL".

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
House Bill No. 5261, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 16315 (MCL 333.16315), as added by 1993 PA 138.

Substitute (S-1).

The following is the amendment to the substitute recommended by the Committee of the Whole:

1. Amend page 5, following line 10, by inserting:

"(a) Senate Bill No. 827." and relettering the remaining subdivisions.

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
House Bill No. 5262, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7104, 7107, and 7109 (MCL 333.7104, 333.7107, and 333.7109), section 7104 as amended by 1994 PA 38 and sections 7107 and 7109 as amended by 1993 PA 80.

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. 5263, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 16204a (MCL 333.16204a), as amended by 1998 PA 421.

Substitute (S-2).

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
House Bill No. 5273, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2950a (MCL 600.2950a), as amended by 1999 PA 268.

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. 5275, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9948) by adding sections 2950h, 2950i, 2950j, 2950k, and 2950l.

Substitute (S-2).

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
House Bill No. 5276, entitled

A bill to amend 1961 PA 44, entitled "An act to provide for the release of misdemeanor prisoners by giving bond to the arresting officer in certain circumstances not inconsistent with public safety; and to repeal certain acts and parts of acts," by amending section 2a (MCL 780.582a), as added by 1990 PA 308.

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. 5278, 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 or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act," by amending section 2b (MCL 28.422b), as added by 1994 PA 338.

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. 5281, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 81 (MCL 750.81), as amended by 2000 PA 462.

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. 5299, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2950 (MCL 600.2950), as amended by 1999 PA 268.

Substitute (S-2).

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
House Bill No. 5300, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2950a (MCL 600.2950a), as amended by 1999 PA 268.

Substitute (S-2).

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
House Bill No. 5303, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2529 (MCL 600.2529), as amended by 1999 PA 268.

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. 5304, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 22 of chapter XVI (MCL 776.22), as amended by 1994 PA 418.

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.

During the Committee of the Whole, Senators Garcia and McCotter entered the Senate Chamber.

By unanimous consent the Senate returned to the order of

Messages from the House

Senator Emmons moved that consideration of the following bills be postponed temporarily:

Senate Bill No. 729

Senate Bill No. 735

Senate Bill No. 736

Senate Bill No. 753

Senate Bill No. 754

Senate Bill No. 757

The motion prevailed.

Senate Bill No. 76, entitled

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

The House of Representatives has amended the bill as follows:

1. Amend page 1, line 8, after "votes" by striking out the balance of the sentence and inserting "in the November 2002 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years."
2. Amend page 2, line 6, by striking out all of subdivision (c) and relettering the remaining subdivisions.

The House of Representatives has passed the bill as amended, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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

Senate Bill No. 109, entitled

A bill to amend 1964 PA 170, entitled "An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers and paying damages sought or awarded against them; to provide for the legal defense of public officers and employees; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal certain acts and parts of acts," (MCL 691.1401 to 691.1415) by adding section 16.

The House of Representatives has substituted (H-5) the bill.

The House of Representatives has passed the bill as substituted (H-5), ordered that it be given immediate effect and amended the title to read as follows:

A bill to amend 1964 PA 170, entitled "An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers and paying damages sought or awarded against them; to provide for the legal defense of public officers and employees; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal certain acts and parts of acts," (MCL 691.1401 to 691.1415) by adding sections 16, 17, 18, and 19.

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

Senate Bill No. 674, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding section 221.

The House of Representatives has substituted (H-1) the bill.

The House of Representatives has passed the bill as substituted (H-1) and inserted the full title.

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

Senate Bill No. 677, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 629e (MCL 257.629e), as amended by 2000 PA 268.

The House of Representatives has substituted (H-1) the bill.

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

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

Senate Bill No. 764, entitled

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

The House of Representatives has amended the bill as follows:

1. Amend page 2, line 26, by striking out all of line 26.
2. Amend page 3, line 16, after "~~years.~~" by inserting "THE FOLLOWING NUMBER OF JUDGES OF PROBATE:
(A) UNTIL SUBDIVISION (B) TAKES EFFECT, THE COUNTY OF WAYNE SHALL HAVE 9 JUDGES OF PROBATE.

(B) THE COUNTY OF WAYNE SHALL HAVE 8 JUDGES OF PROBATE BEGINNING ON THE EARLIEST OF THE FOLLOWING DATES:

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

(ii) UPON THE EXPIRATION OF THE TERM OF AN INCUMBENT PROBATE JUDGE WHO IS NOT ELIGIBLE TO SEEK REELECTION TO THAT OFFICE.”.

3. Amend page 5, line 11, by striking out all of subdivision (c) and relettering the remaining subdivisions.

The House of Representatives has passed the bill as amended, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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

Senate Bill No. 765, entitled

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

The House of Representatives has amended the bill as follows:

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

2. Amend page 2, line 6, by striking out all of subdivision (c) and relettering the remaining subdivisions.

The House of Representatives has passed the bill as amended, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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

Senate Bill No. 786, entitled

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

The House of Representatives has amended the bill as follows:

1. Amend page 5, line 3, by striking out all of subdivision (d) and relettering the remaining subdivisions.

The House of Representatives has passed the bill as amended, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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

Senate Bill No. 808, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” by amending section 907 (MCL 257.907), as amended by 1998 PA 103.

The House of Representatives has substituted (H-1) the bill.

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

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

Senate Bill No. 825, entitled

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

The House of Representatives has amended the bill as follows:

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

“Sec. 522. ~~(1) Except as provided in subsection (2), the twenty-first judicial circuit consists of the counties of Clare, Isabella, and Gladwin and has 2 judges.~~

~~(2) If the county of Isabella approves the reformation of the twenty-first judicial circuit pursuant to law and the counties of Clare and Gladwin approve the creation of the fifty-fifth judicial circuit pursuant to law, the~~ THE twenty-first judicial circuit consists of the county of Isabella and has 1 judge. ~~effective January 1, 1982.~~ SUBJECT TO SECTION 550, THIS JUDICIAL CIRCUIT MAY HAVE 1 ADDITIONAL JUDGE EFFECTIVE JANUARY 1, 2005. IF A NEW OFFICE OF JUDGE IS ADDED TO THIS CIRCUIT BY ELECTION IN 2004, THE CANDIDATE RECEIVING THE HIGHEST NUMBER OF VOTES IN THE NOVEMBER 2004 GENERAL ELECTION SHALL BE ELECTED FOR A TERM OF 8 YEARS.”.

2. Amend page 2, line 19, by striking out all of subdivision (d) and relettering the remaining subdivisions.

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

A bill to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 518, 521, and 522 (MCL 600.518, 500.521, and 600.522), section 518 as amended by 1988 PA 134, section 521 as amended by 1990 PA 54, and section 522 as amended by 1981 PA 182.

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

House Bill No. 5189, entitled

A bill to enter into the interstate emergency management assistance compact.

The House of Representatives has substituted (H-3) the Senate substitute (S-1).

The House of Representatives has concurred in the Senate substitute (S-1) as substituted (H-3).

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

Senate Bill No. 819, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 9101 (MCL 324.9101), as amended by 2000 PA 504.

The House of Representatives has passed the bill, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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

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

The Senate agreed to the full title.

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

By unanimous consent the Senate proceeded to the order of

Third Reading of Bills

Senator Emmons moved that the rules be suspended and that the following bills, now on the order of Third Reading of Bills, be placed on their immediate passage:

House Bill No. 5148

House Bill No. 5255

House Bill No. 5258

House Bill No. 5259

House Bill No. 5260

House Bill No. 5261

House Bill No. 5262

House Bill No. 5263

House Bill No. 5313

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

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

House Bill No. 5148

House Bill No. 5255

House Bill No. 5258

House Bill No. 5259

House Bill No. 5260

House Bill No. 5261

House Bill No. 5262

House Bill No. 5263

House Bill No. 5313

Senate Bill No. 358

Senate Bill No. 670

House Bill No. 4042
House Bill No. 4154
House Bill No. 4250
House Bill No. 4631
House Bill No. 4632
House Bill No. 4647
House Bill No. 5317
Senate Bill No. 451
Senate Bill No. 452
House Bill No. 5357
 The motion prevailed.

The following bill was read a third time:

House Bill No. 5148, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 310 (MCL 257.310), as amended by 1998 PA 226.

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. 546

Yeas—36

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

Nays—0

Excused—2

Hoffman

Vaughn

Not Voting—0

In The Chair: Schwarz

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

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

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

"An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe

the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date.”.

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5255, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” (MCL 333.1101 to 333.25211) by adding section 21534.

The question being on the passage of the bill,

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

Roll Call No. 547

Yeas—36

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

Nays—0

Excused—2

Hoffman

Vaughn

Not Voting—0

In The Chair: Schwarz

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

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

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

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

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5258, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending sections 5652, 5653, 5654, and 5655 (MCL 333.5652, 333.5653, 333.5654, and 333.5655), sections 5652 and 5655 as added by 1996 PA 594 and sections 5653 and 5654 as amended by 2000 PA 58.

The question being on the passage of the bill,

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

Roll Call No. 548

Yeas—36

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

Nays—0

Excused—2

Hoffman Vaughn

Not Voting—0

In The Chair: Schwarz

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

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

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

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

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5259, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending section 20201 (MCL 333.20201), as amended by 1998 PA 88.

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. 549**Yeas—36**

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

Nays—0**Excused—2**

Hoffman	Vaughn
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Not Voting—0

In The Chair: Schwarz

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

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

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

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

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5260, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending sections 7333, 7401, 7403, 7407, 7521, 16204b, 16204c, and 16204d (MCL 333.7333, 333.7401, 333.7403, 333.7407, 333.7521, 333.16204b, 333.16204c, and 333.16204d), section 7333 as amended by 1993 PA 138, sections 7401 and 7403 as amended by 2000 PA 314, section 7407 as amended by 1993 PA 80, section 7521 as amended by 2000 PA 302, section 16204b as added by 1998 PA 422, and sections 16204c and 16204d as added by 1998 PA 423, and by adding section 7333a; and to repeal acts and parts of acts.

The question being on the passage of the bill,

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

Roll Call No. 550**Yeas—29**

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

Nays—7

DeBeaussaert	Leland	Scott	Young
Emerson	Peters	Smith	

Excused—2

Hoffman	Vaughn
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Not Voting—0

In The Chair: Schwarz

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

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

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

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

The Senate agreed to the full title.

Protest

Senator DeBeaussaert, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of House Bill No. 5260 and moved that the statement he made during the discussion of the bill be printed as his reasons for voting “no.”

The motion prevailed.

Senator DeBeaussaert's statement is as follows:

I have supported the other bills in this package, but I intend to vote "no" on this bill because I think it does threaten to turn back the clock in Michigan to a day when we had serious problems with forgery and diversion of Schedule II drugs. The discussion of that problem back in the '80s started, in large part, in my area, and ultimately, a statewide coalition of substance abuse individuals in the profession, the coordinating council, individuals involved in the pharmacy business, and law enforcement individuals was formed to address the problem. They came forward with a package, or a proposal, that was included in an anti-crime package at that time to deal with this issue of diversion of Schedule II drugs, what was then called the Triple Prescription Program, now called the Official Prescription Program, and now being eliminated by this bill. As I said, they came together because Michigan had one of the worst records in the country in terms of the diversion of these illegal drugs, and after the establishment of this official program, Michigan went to having one of the best records in that same regard. In fact, by 1977 CIS found that the forged prescription issue had practically disappeared in Michigan, compared to a time before the passage of the program when 104,000 pills a year were illegally being diverted.

It seems wrong to me to suggest that in order to deal with the issue of those who are suffering from great pain and terminal illness that we have to choose between providing comfort and assistance to those individuals and eliminating a program designed to end the illegal diversion of drugs that creates another kind of serious pain in our society. I think that if you look at other states that have gone to an electronic tracking system without an official program, they have found that they still have problems with forgeries.

I have distributed on your desks a letter from a Macomb County prosecuting attorney who suggests that in the state of Kentucky they have a serious problem with a drug called Oxycontin. Because of their lack of having an official form and as other states, I think to try to crack down on the problem and tighten the loopholes they may have, I fear that Michigan's lessening our restrictions and our controls in this area may open an opportunity for that trade to move in this direction. I think that would be a serious mistake and turn back the clock again to a day when Michigan did not have much to be proud of in this respect. While I appreciate the good work of the commission, in other respects and in support of the other bills, I intend to vote "no" on this bill.

The following bill was read a third time:

House Bill No. 5261, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 16315 (MCL 333.16315), as added by 1993 PA 138.

The question being on the passage of the bill,

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

Roll Call No. 551

Yeas—36

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

Nays—0

Excused—2

Hoffman

Vaughn

Not Voting—0

In The Chair: Schwarz

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

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

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

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5262, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending sections 7104, 7107, and 7109 (MCL 333.7104, 333.7107, and 333.7109), section 7104 as amended by 1994 PA 38 and sections 7107 and 7109 as amended by 1993 PA 80.

The question being on the passage of the bill,

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

Roll Call No. 552

Yeas—36

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

Nays—0

Excused—2

Hoffman Vaughn

Not Voting—0

In The Chair: Schwarz

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

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

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

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5263, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending section 16204a (MCL 333.16204a), as amended by 1998 PA 421.

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. 553

Yeas—36

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

Nays—0

Excused—2

Hoffman

Vaughn

Not Voting—0

In The Chair: Schwarz

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

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

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

“An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils,

committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates.”.

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5313, entitled

A bill to amend 1956 PA 218, entitled “The insurance code of 1956,” by amending sections 1201, 1202, 1203, 1204, 1204c, 1205, 1206, 1209, 1214, 1224, 1234, 1242, 1243, 1244, 1905, and 3310 (MCL 500.1201, 500.1202, 500.1203, 500.1204, 500.1204c, 500.1205, 500.1206, 500.1209, 500.1214, 500.1224, 500.1234, 500.1242, 500.1243, 500.1244, 500.1905, and 500.3310), section 1201 as amended by 1980 PA 340, sections 1204 and 1214 as amended by 1986 PA 173, section 1204c as amended by 1998 PA 540, section 1206 as amended by 1992 PA 1, section 1209 as amended by 1980 PA 461, section 1224 as amended by 2000 PA 35, section 1234 as amended by 1981 PA 1, section 1243 as added by 1994 PA 409, section 1244 as amended by 1984 PA 7, section 1905 as amended by 1996 PA 548, and section 3310 as amended by 1986 PA 10, and by adding sections 1201a, 1204e, 1206a, 1206b, 1208a, 1208b, 1211, 1211a, 1211b, 1239, 1240, 1246, and 1247.

The question being on the passage of the bill,

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

Roll Call No. 554

Yeas—36

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

Nays—0

Excused—2

Hoffman

Vaughn

Not Voting—0

In The Chair: Schwarz

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

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

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

“An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign

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

The Senate agreed to the full title.

The following bill was read a third time:

Senate Bill No. 358, entitled

A bill to amend 1937 PA 306, entitled “An act to promote the safety, welfare and educational interests of the people of the state of Michigan by regulating the construction, reconstruction and remodeling of certain public or private school buildings or additions thereto, by regulating the construction, reconstruction and remodeling of buildings leased or acquired for school purposes, and to define the class of buildings affected by this act; to prescribe the powers and duties of the superintendent of public instruction, the state fire marshal, architects, engineers and school board members with respect thereto; to prescribe penalties for the violation of this act; and to repeal all acts and parts of acts, general, local and special, inconsistent with or contrary to the provisions of this act,” by amending the title and section 1 (MCL 388.851) and by adding section 1b.

The question being on the passage of the bill,

Senator Stille offered the following substitute:

Substitute (S-3).

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

Senator Stille requested the yeas and nays.

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

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

Roll Call No. 555

Yeas—17

Bennett	Garcia	McManus	Sikkema
Bullard	Gast	Sanborn	Steil
DeGrow	Gougeon	Schuette	Stille
Dunaskiss	McCotter	Shugars	Van Regenmorter
Emmons			

Nays—18

Byrum	Goschka	Miller	Schwarz
Cherry	Hammerstrom	Murphy	Scott

DeBeaussaert
Dingell
Emerson

Hart
Koivisto
Leland

North
Peters

Smith
Young

Excused—2

Hoffman

Vaughn

Not Voting—1

Johnson

In The Chair: Schwarz

Senator Hammerstrom offered the following amendments:

1. Amend page 4, line 25, after “SUBSECTION” by striking out “(5)” and inserting “(6)”.
2. Amend page 5, line 3, after “SUBSECTION” by striking out “(5)” and inserting “(6)”.
3. Amend page 6, line 15, after “SUBSECTION” by striking out “(5)” and inserting “(6)”.
4. Amend page 6, line 16, after “SUBSECTION” by striking out “(5)” and inserting “(6)”.

The amendments were adopted, a majority of the members serving voting therefor.

The question being on the passage of the bill,

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

Roll Call No. 556

Yeas—21

Bullard
Byrum
Cherry
DeBeaussaert
Dingell
Emerson

Garcia
Goschka
Hammerstrom
Hart
Koivisto

Leland
Miller
Murphy
North
Peters

Schuette
Schwarz
Scott
Smith
Young

Nays—14

Bennett
DeGrow
Dunaskiss
Emmons

Gast
Gougeon
McCotter
McManus

Sanborn
Shugars
Sikkema

Steil
Stille
Van Regenmorter

Excused—2

Hoffman

Vaughn

Not Voting—1

Johnson

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Protests

Senators DeGrow, Emmons, Stille, Dunaskiss, Shugars, Bennett, McCotter, McManus, Steil, Van Regenmorter, Gougeon, Sanborn and Gast, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 358.

Senator DeGrow's statement, in which Senators Emmons, Stille, Shugars, Bennett, McCotter, McManus, Steil, Van Regenmorter, Gougeon, Sanborn and Gast concurred, is as follows:

I voted "no" on the previous bill because I felt that allowing no cost walk-through safety inspections all the way back to 1978 was just too far back in time, and because of that, I felt the bill was bad public policy.

Senator Stille's statement, in which Senators Dunaskiss, McCotter, McManus, Steil, Van Regenmorter, Gougeon, Sanborn and Gast concurred, is as follows:

Seems to me that what we've done with this is erode drastically what we did back in 1995, which was return general powers to schools. General powers typically refers primarily to the curriculum side of it and the code side of it, but quite honestly, we have just taken away a substantial responsibility for school boards. They are privately elected boards that have the responsibility of hiring professional people and overseeing construction. What we've just done is stuck our nose in their business drastically. I think that's wrong.

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

The following bill was read a third time:

Senate Bill No. 670, entitled

A bill to amend 1937 PA 306, entitled "An act to promote the safety, welfare and educational interests of the people of the state of Michigan by regulating the construction, reconstruction and remodeling of certain public or private school buildings or additions thereto, by regulating the construction, reconstruction and remodeling of buildings leased or acquired for school purposes, and to define the class of buildings affected by this act; to prescribe the powers and duties of the superintendent of public instruction, the state fire marshal, architects, engineers and school board members with respect thereto; to prescribe penalties for the violation of this act; and to repeal all acts and parts of acts, general, local and special, inconsistent with or contrary to the provisions of this act," by amending section 2 (MCL 388.852).

The question being on the passage of the bill,

Senator Hammerstrom offered the following amendment:

1. Amend page 2, line 11, after "THE" by striking out "DESIGN PROFESSIONAL" and inserting "LICENSED ARCHITECT OR ENGINEER".

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

The question being on the passage of the bill,

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

Roll Call No. 557

Yeas—35

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

Nays—0

Excused—3

Hoffman

Johnson

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Senator Garcia moved to reconsider the vote by which the following bill was passed:

Senate Bill No. 358, entitled

A bill to amend 1937 PA 306, entitled “An act to promote the safety, welfare and educational interests of the people of the state of Michigan by regulating the construction, reconstruction and remodeling of certain public or private school buildings or additions thereto, by regulating the construction, reconstruction and remodeling of buildings leased or acquired for school purposes, and to define the class of buildings affected by this act; to prescribe the powers and duties of the superintendent of public instruction, the state fire marshal, architects, engineers and school board members with respect thereto; to prescribe penalties for the violation of this act; and to repeal all acts and parts of acts, general, local and special, inconsistent with or contrary to the provisions of this act,” by amending the title and section 1 (MCL 388.851) and by adding section 1b.

On which motion Senator Garcia requested the yeas and nays.

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

The motion did not prevail, a majority of the members serving not voting therefor, as follows:

Roll Call No. 558**Yeas—18**Bennett
DeGrow
Dunaskiss
Emmons
GarciaGast
Goschka
Gougeon
Koivisto
McCotterMcManus
Sanborn
Schuette
ShugarsSikkema
Steil
Stille
Van Regenmorter**Nays—17**Bullard
Byrum
Cherry
DeBeaussaert
DingellEmerson
Hammerstrom
Hart
LelandMiller
Murphy
North
PetersSchwarz
Scott
Smith
Young**Excused—3**

Hoffman

Johnson

Vaughn

Not Voting—0

In The Chair: Schwarz

Senator Johnson entered the Senate Chamber.

The following bill was read a third time:

House Bill No. 4042, entitled

A bill to amend 1971 PA 227, entitled “An act to prescribe the rights and duties of parties to home solicitation sales,” by amending the title and sections 1, 1a, 2, 3, 4, 5, 6, and 7 (MCL 445.111, 445.111a, 445.112, 445.113, 445.114, 445.115, 445.116, and 445.117), section 1 as amended by 1999 PA 18 and sections 2 and 3 as amended by 2000 PA 15.

The question being on the passage of the bill,

Senator Dunaskiss offered the following amendment:

1. Amend page 5, line 11, after “PERMISSION.” by inserting “THE TERM DOES NOT INCLUDE A VOICE COMMUNICATION TO A RESIDENTIAL TELEPHONE SUBSCRIBER WHO HAS AN EXISTING RELATIONSHIP OR WHO IS AN EXISTING CUSTOMER OF THE TELEPHONE SOLICITOR.”.

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

Senator Dunaskiss 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. 559

Yeas—16

Bennett
Bullard
Dunaskiss
Emmons

Garcia
Gugeon
Johnson
Koivisto

McCotter
McManus
North
Schuette

Schwarz
Shugars
Stille
Van Regenmorter

Nays—20

Byrum
Cherry
DeBeaussiaert
DeGrow
Dingell

Emerson
Gast
Goschka
Hammerstrom
Hart

Leland
Miller
Murphy
Peters
Sanborn

Scott
Sikkema
Smith
Steil
Young

Excused—2

Hoffman

Vaughn

Not Voting—0

In The Chair: Schwarz

Senator Byrum offered the following amendment:

1. Amend page 5, line 11, after “PERMISSION.” by inserting “THE TERM DOES NOT INCLUDE A VOICE COMMUNICATION TO A RESIDENTIAL TELEPHONE NUMBER BY A HEALTH CARE PROVIDER WHO PROVIDES OR HAS PROVIDED CARE TO AN INDIVIDUAL AT THAT TELEPHONE NUMBER. AS USED IN THIS SUBDIVISION, “HEALTH CARE PROVIDER” MEANS THAT TERM AS DEFINED IN SECTION 3 OF THE PATIENT’S RIGHT TO INDEPENDENT REVIEW ACT, 2000 PA 251, MCL 550.1903.”.

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

Senator Stille offered the following amendment:

1. Amend page 7, line 10, after “LIST.” by inserting “THIS SUBSECTION DOES NOT APPLY TO A TELEPHONE SOLICITOR WHO MEETS BOTH OF THE FOLLOWING:

(A) HAS 25 OR FEWER EMPLOYEES AT THE TIME OF THE SOLICITATION.

(B) IS NOT ENGAGED IN TELEPHONE SOLICITATION AS ITS PRIMARY BUSINESS.”.

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

Senator Stille 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. 560**Yeas—14**

Bennett
Byrum
Dunaskiss
Emmons

Garcia
Gougeon
Hammerstrom
McCotter

McManus
North
Schuette

Schwarz
Shugars
Stille

Nays—22

Bullard
Cherry
DeBeaussaert
DeGrow
Dingell
Emerson

Gast
Goschka
Hart
Johnson
Koivisto
Leland

Miller
Murphy
Peters
Sanborn
Scott

Sikkema
Smith
Steil
Van Regenmorter
Young

Excused—2

Hoffman

Vaughn

Not Voting—0

In The Chair: Schwarz

Senator Stille offered the following amendment:

1. Amend page 5, line 11, after "PERMISSION." by inserting "THE TERM DOES NOT INCLUDE A TELEPHONE CALL BY AN INSURANCE PRODUCER LICENSED BY THE COMMISSIONER OF THE OFFICE OF FINANCIAL AND INSURANCE SERVICES IN CONNECTION WITH A SALE OR OFFER FOR SALE OF INSURANCE.".

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

Senator Stille 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. 561**Yeas—19**

Bennett
Byrum
Dunaskiss
Emmons
Garcia

Gast
Gougeon
Hammerstrom
Johnson
Leland

McCotter
McManus
North
Sanborn
Schuette

Schwarz
Shugars
Stille
Van Regenmorter

Nays—17

Bullard
Cherry
DeBeaussaert
DeGrow
Dingell

Emerson
Goschka
Hart
Koivisto

Miller
Murphy
Peters
Scott

Sikkema
Smith
Steil
Young

Excused—2

Hoffman

Vaughn

Not Voting—0

In The Chair: Schwarz

The Assistant Associate President pro tempore, Senator Miller, assumed the Chair.

Senator Smith offered the following amendments:

1. Amend page 5, line 14, after “MAKES” by inserting “OR CAUSES TO BE MADE”.
2. Amend page 7, line 14, after “COMMISSION” by inserting “OR THE PRIVATE VENDOR WITH WHOM THE COMMISSION MAY CONTRACT WITH TO ACT AS THE LIST MANAGER”.

The amendments were adopted, a majority of the members serving voting therefor.

Senator Shugars offered the following substitute:

Substitute (S-7).

The question being on the adoption of the substitute,

Senator Schwarz offered the following amendment to the substitute:

1. Amend page 7, line 13, after “signs.” by inserting “THIS SECTION DOES NOT APPLY TO A TELEPHONE SOLICITATION SALE MADE PURSUANT TO THE MICHIGAN TELECOMMUNICATIONS ACT, 1991 PA 179, MCL 484.2505 TO 484.2507.”.

The amendment to the substitute was adopted.

The question being on the adoption of the substitute,

Senator Shugars moved that further consideration of the substitute be postponed temporarily.

The motion prevailed.

Senator Schwarz offered the following amendment:

1. Amend page 9, line 27, after “signs.” by inserting “THIS SECTION DOES NOT APPLY TO A TELEPHONE SOLICITATION SALE MADE PURSUANT TO THE MICHIGAN TELECOMMUNICATIONS ACT, 1991 PA 179, MCL 484.2505 TO 484.2507.”.

The question being on the adoption of the amendment,

Senator Cherry moved that further consideration of the amendment be postponed temporarily.

The motion prevailed.

Senator Schuette offered the following amendment:

1. Amend page 5, line 11, after “PERMISSION.” by inserting “THE TERM DOES NOT INCLUDE A TELEPHONE CALL THAT IS MADE BY A REAL ESTATE BROKER OR SALESPERSON LICENSED BY THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES.”.

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

Senator Schuette requested the yeas and nays.

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

The amendment was adopted, a majority of the members serving voting therefor, as follows:

Roll Call No. 562**Yeas—33**

Bennett
Bullard
Byrum
Cherry
DeBeaussiaert
DeGrow
Dingell
Dunaskiss
Emerson

Emmons
Garcia
Gast
Gugeon
Hammerstrom
Hart
Johnson
Koivisto

Leland
McCotter
McManus
Miller
Murphy
North
Sanborn
Schuette

Schwarz
Scott
Shugars
Sikkema
Smith
Stille
Van Regenmorter
Young

Nays—3

Goschka

Peters

Steil

Excused—2

Hoffman

Vaughn

Not Voting—0

In The Chair: Miller

Protests

Senators Peters and Steil, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senator Schuette to House Bill No. 4042.

Senator Peters' statement is as follows:

I voted down this amendment even though I certainly am sympathetic to the arguments made by the Senator as to allowing realtors to be exempt from the no-call list. I couldn't in good conscience vote "yes" because, to me, if you exempt one organization, you're going to have to exempt other organizations. How can we determine one organization is more worthy than another organization, one industry is more worthy than another industry? You need to be consistent. If consumers do not want to be called with an unsolicited sales call, they do not want to be called regardless of the industry—they simply don't want to be called. I would hope that this bill would be consistent and we would not have exemptions, that this bill would treat all industries fairly, and that we wouldn't be voting to exempt certain industries that may have a very active political action committee involved in the re-election or the election of officials; but instead, we're consistent and treat everybody fairly, and that's why I voted "no."

Senator Steil's statement is as follows:
Consistency.

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

The motion prevailed.

Senator Schuette's statement is as follows:

This bill concerns the realtors of the state of Michigan. I think this is a real litmus test and a gut check in terms of your local realtor with whom you'll see at your grocery store, church, and walking down the street in a parade. The local realtor is not the problem on this telemarketing issue. At six o'clock in the evening, at dinner time, the call that comes is not from Bill Britz Realty in Osceola County. It's not from your local agents who you see. It's from MBNA calling from Delaware. It's from Chase. It's from American Express. It's not from a member of the Michigan Association of Realtors. They're not the problem on this. We ought to recognize it.

The broader issue here is that we will be stopping legitimate businesses in the state of Michigan from doing their work, all under the guise of protecting consumers. The fact is that MBNA that called Monday night in Midland, Michigan, at six o'clock in the evening, wanting to talk to me about a credit card, or this, that, or the other, on whom I politely hung up the phone—they're still going to be free to do their menacing, predatory tactics and antics with this bill. The local realtor gets caught in the net, and I think that's unfair. It's wrong, and they're not the problem.

I would direct our fury not at those who we see at your local Meijer. Let's not penalize legitimate businesses like the association of realtors in this dragnet that only catches Michigan folks while the out-of-state people continue to make their calls.

I would urge the adoption of this amendment. It would not penalize, punish, or otherwise inhibit the work of the legitimate businesses of the realtors. Pass this amendment.

Senator Garcia's statement is as follows:

I rise to concur with the previous speaker. Again, most of the phone calls we get are not from our local realtors. One of the problems that I have with this bill is that we prevent those who are trying to make a living from continuing the practice, such as your local realtor, and yet we exempt ourselves from that same provision. I just don't think it makes sense, I don't think it is right, and I'm going to be supporting the Schuette amendment.

Senator Sanborn offered the following amendment:

1. Amend page 4, line 18, after “SELLER” by inserting “A TELEPHONE SOLICITATION SALE DOES NOT INCLUDE THE SALE OF SECURITIES, COMMODITIES OR INVESTMENTS SUBJECT TO LICENSE OR REGISTRATION BY THE UNITED STATES SECURITIES DEALERS, OR AN ORGANIZATION AS DEFINED BY 15 U.S.C. SECTION 781, OR BY AN AGENCY OF THIS STATE, SOLICITING WITHIN THE SCOPE OF SUCH LICENSE OR REGISTRATION.”.

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

Senator Sanborn requested the yeas and nays.

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

The amendment was adopted, a majority of the members serving voting therefor, as follows:

Roll Call No. 563

Yeas—23

Bennett	Emmons	Leland	Schuette
Byrum	Garcia	McCotter	Schwarz
Cherry	Gougeon	McManus	Scott
Dingell	Hart	Murphy	Shugars
Dunaskiss	Johnson	North	Stille
Emerson	Koivisto	Sanborn	

Nays—13

Bullard	Goschka	Peters	Steil
DeBeaussiaert	Hammerstrom	Sikkema	Van Regenmorter
DeGrow	Miller	Smith	Young
Gast			

Excused—2

Hoffman	Vaughn
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Not Voting—0

In The Chair: Miller

Senator Shugars offered the following amendment:

1. Amend page 3, line 12, after “(e)” by striking out the balance of the line through ““GOODS” on line 13 and inserting ““Goods”.

The question being on the adoption of the amendment,

Senator Shugars 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. 564

Yeas—17

Bennett	Johnson	Miller	Schwarz
Dunaskiss	Leland	North	Shugars
Emmons	McCotter	Sanborn	Stille
Garcia	McManus	Schuette	Van Regenmorter
Gougeon			

Nays—19

Bullard	Dingell	Hart	Sikkema
Byrum	Emerson	Koivisto	Smith
Cherry	Gast	Murphy	Steil
DeBeaussaert	Goschka	Peters	Young
DeGrow	Hammerstrom	Scott	

Excused—2

Hoffman	Vaughn
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Not Voting—0

In The Chair: Miller

Senators Schuette, Sanborn, Shugars and Gougeon asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Schuette's first statement is as follows:

I support the Shugars amendment, and again, this is the same rationale as the realtors. Your hometown banker, your community banker, whether that's in Three Rivers or the Bank of Honor, or someplace in Owosso, are not the ones who are harassing you at 6:00 p.m. at the dinner hour. Nope, it's the companies from Delaware or New York or South Dakota who are the folks who are trying to subvert and telemarket and harass you at the dinner hour.

So this is something the Michigan Bankers Association, the community bankers, feel strongly about, so that their way of doing business is not prohibited. They're legitimate means, but at the same time, the out-of-state folks, the big boys, are free to roam, poach, and cherry pick in any way they want. I encourage you to support the amendment.

Senator Schuette's second statement is as follows:

I just wanted to make a couple of follow-up remarks here. If the effort of this bill is to target the Shelby State Bank in Oceana County or the Community State Bank in Saginaw, well, we are doing that. We are punishing the local bankers. If the effort is to catch the big boys—the out-of-state boys—with this bill, well, we've missed it in our sunsights because the MBNA is in Delaware and will still make their calls if this bill is passed. All it will do is inhibit the local Michigan bankers. So when we say to the banks let's make sure, the big boys out of state will still make their calls into Michigan and cherry pick and select and do what they wish.

Your local bankers and the Michigan Bankers Association support the amendment before us today. They will be punished unless the amendment is passed. I do believe that 88 percent of the folks of this state want to have us do something about telemarketing, but we don't want to perpetrate something that is toothless and in essence a sham because the calls will still come in because they are originating from out of state, not Michigan.

I think Ronald Reagan, a great president who has been talked about a lot and he did own that microphone, he also said, "Trust and verify." The verification of this bill is such that the big boys—out-of-state folks—will still make the calls and will punish the Michigan banks unless this amendment is adopted.

Senator Sanborn's statement is as follows:

I rise out of concern that we're creating more and more regulation that would really chase business out of Michigan. I wish we could do things to entice more and more businesses into Michigan. It's a bit disingenuous to think that this is going to prevent these types of phone calls.

If you look at your bills on your credit card statements, for example, and you look at the bottom of them, you are seeing that these things are being headquartered in Columbus, Ohio, for example.

We have created so much regulation on our businesses that we are chasing them out of the state of Michigan. I would love to open it and entice some of these businesses to come back here, but these phone calls are going to continue because they are going to be coming from other states. To think that they are going to stop because we are creating this regulation is a bit disingenuous.

Senator Shugars' first statement is as follows:

What this amendment does is it just restores the current exemption that legitimate financial institutions already currently have in statute. Maybe more importantly, if we pass this bill without this exemption, what we're going to do is promote financial institutions to leave Michigan and their jobs and go to other states so they can call into our state. I urge my colleagues to support this amendment.

Senator Shugars' second statement is as follows:

First of all, the section that we're amending doesn't deal directly with the three-day cancellation that one of the speakers dealt with.

To the questions and the points, I find it a little disingenuous of individuals who are pushing more regulation and more government. Banks, lending institutions, and realtors are all businesses that are paying taxes. On the other hand, we're exempting people who do not pay taxes—people who are running for office and people who are in nonprofit organizations. AARP takes their list, and they sell it to make money to organizations that use it for their products and services.

So I find it totally disingenuous that we sit here and say “no” to bankers and credit unions but say it's okay for nonprofit organizations and for people who are running for political office.

Senator Shugars' third statement is as follows:

For the third and hopefully last time, my telephone may be different than other people's telephones. I have, in my case, an answering device that I can listen to the people who call in. If it's a constituent, I pick it up and talk to them. But if it's a telemarketer and I don't want to talk to them, I don't talk to them. Typically, they don't leave a message on my answering device. In some cases, they do

My wife has been very creative with our telephone. When she says, “Hello, Shugars' residence,” and hears a pause, she hangs up because it's from a computer system. Also I just found this out that there is what they call telezappers. For less than \$50, you can have your name removed from the telemarketers' call lists. This is a new technology. It's an identification of the person who calls in. You can see their phone number, and if you don't want to accept the call, you don't have to.

I just think that we can do a better job than having all these regulations and all this time that we're putting in. A year or two years from now, people are still going to get phone calls. This isn't going to prevent people from calling people's homes. It just prevents getting on lists and that type of thing. They will find ways to get around this. We will still have people calling, especially during election year. People call between 5 and 7 o'clock getting the vote, surveying, polling, and those types of things because those are all exempt.

So I urge my colleagues to support this amendment.

Senator Schuette offered the following amendment:

1. Amend page 5, line 7, after “STATE” by inserting “THAT IS NOT USED AS THE PRIMARY TELEPHONE NUMBER FOR A COMMERCIAL VENTURE”.

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

Senator Stille offered the following amendment:

1. Amend page 5, line 11, after “PERMISSION.” by inserting “THE TERM DOES NOT INCLUDE A TELEPHONE CALL BY AN INSURANCE AGENT LICENSED BY THE COMMISSIONER OF THE OFFICE OF FINANCIAL AND INSURANCE SERVICES IN CONNECTION WITH A SALE OR OFFER FOR SALE OF INSURANCE.”.

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

Senator Stille requested the yeas and nays.

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

The amendment was adopted, a majority of the members serving voting therefor, as follows:

Roll Call No. 565

Yeas—20

Bennett	Gast	McCotter	Schuette
Byrum	Gougeon	McManus	Schwarz
Dunaskiss	Hammerstrom	Miller	Shugars
Emmons	Johnson	North	Stille
Garcia	Leland	Sanborn	Van Regenmorter

Nays—16

Bullard
Cherry
DeBeaussiaert
DeGrow

Dingell
Emerson
Goschka
Hart

Koivisto
Murphy
Peters
Scott

Sikkema
Smith
Steil
Young

Excused—2

Hoffman

Vaughn

Not Voting—0

In The Chair: Miller

Senator Leland moved to reconsider the vote by which the amendment offered by Senator Dunaskiss was not adopted.
The motion prevailed.
The question being on the adoption of the amendment,

Recess

Senator Emmons moved that the Senate recess subject to the call of the President.
The motion prevailed, the time being 1:34 p.m.

1:46 p.m.

The Senate was called to order by the Assistant Associate President pro tempore, Senator Arthur J. Miller, Jr.

Committee Reports

The Committee on Judiciary reported

House Bill No. 4140, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9948) by adding chapter 80.

With the recommendation that the bill pass.

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

William Van Regenmorter
Chairperson

To Report Out:

Yeas: Senators Van Regenmorter, Bullard, Schuette and Dingell

Nays: Senator Peters

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submits the following:

Meeting held on Tuesday, December 11, 2001, at 1:00 p.m., Rooms 402 and 403, Capitol Building

Present: Senators Van Regenmorter (C), Bullard, Schuette, Peters, Dingell and Scott

Excused: Senator McCotter

The Committee on Financial Services reported

House Bill No. 5313, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 1201, 1202, 1203, 1204, 1204c, 1205, 1206, 1209, 1214, 1224, 1234, 1242, 1243, 1244, 1905, and 3310 (MCL 500.1201, 500.1202, 500.1203, 500.1204, 500.1204c, 500.1205, 500.1206, 500.1209, 500.1214, 500.1224, 500.1234, 500.1242, 500.1243, 500.1244, 500.1905, and 500.3310), section 1201 as amended by 1980 PA 340, sections 1204 and 1214 as amended by 1986 PA 173, section 1204c as amended by 1998 PA 540, section 1206 as amended by 1992 PA 1, section 1209 as amended by 1980 PA 461, section 1224 as amended by 2000 PA 35, section 1234 as amended by 1981 PA 1, section 1243 as added by 1994 PA 409, section 1244 as amended by 1984 PA 7, section 1905 as amended by 1996 PA 548, and section 3310 as amended by 1986 PA 10, and by adding sections 1201a, 1204e, 1206a, 1206b, 1208a, 1208b, 1211, 1211a, 1211b, 1239, 1240, 1246, and 1247.

With the recommendation that the bill pass.

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

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Dunaskiss, Garcia, Sanborn and Leland

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Financial Services submits the following:

Meeting held on Tuesday, December 11, 2001, at 3:00 p.m., Room 110, Farnum Building

Present: Senators Bullard (C), Dunaskiss, Garcia, Sanborn and Leland

Excused: Senators Shugars and Miller

Scheduled Meetings

Appropriations -

Subcommittee -

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

Senator Emmons moved that the Senate adjourn.

The motion prevailed, the time being 1:47 p.m.

The Assistant Associate President pro tempore, Senator Miller, declared the Senate adjourned until Thursday, December 13, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.