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## LEGISLATORS' OATH: ALLOW CIRCUIT COURT JUDGES

House Bill 4317 (Substitute H-1)  
Revised First Analysis (2-13-04)

Sponsor: Rep. Lisa Wojno  
Committee: Government Operations

### ***THE APPARENT PROBLEM:***

The Revised Statutes of 1846 say: "The oath of office of any member or officer of the [State] Senate or House of Representatives may be administered by . . . the chancellor, a justice of the supreme court, the lieutenant governor, the president pro tempore of the Senate, or the Speaker of the House of Representatives." Legislation has been introduced to add circuit court judges. This would provide another option for newly elected members of the legislature, in recognition of the fact that the other eligible officeholders may not always be available, particularly if an individual desires to be sworn in before coming to Lansing. Further, the office of "chancellor" cited in the statute was abolished in 1847! That title appears to apply to an officer presiding over a court of chancery (a court of equity as opposed to a court of law), and Michigan constitutions since 1850 have directed the legislature to abolish distinctions between law and equity proceedings and have prohibited the office of master in chancery.

### ***THE CONTENT OF THE BILL:***

The bill would amend the Revised Statutes of 1846 to allow a judge of the circuit court to administer the oath of office for members of the state House of Representatives or State Senate. The bill would also delete the reference to "the chancellor", an office abolished in 1847.

MCL 4.84

### ***BACKGROUND INFORMATION:***

Another related act, Public Act 67 of 1877, dealing with the organization of the Legislature, allows the Clerk of the House or the Secretary of the Senate to administer the oath of office to members of their respective houses, "in case the president of the senate or one of the judges of the supreme court cannot attend." This is found at MCL 4.46.

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency reports that the bill would have no fiscal impact on the state or on local units of government. (1-26-04)

### ***ARGUMENTS:***

#### ***For:***

Allowing circuit court judges to administer the oath of office to individuals elected as members of the House of Representatives and Senate simply provides an additional option in those cases where other eligible state officers are not available. The bill also would delete a reference to a court-related office long since abolished. There is no longer a "chancellor" to swear in legislators. Circuit court judges are logical successors.

#### ***POSITIONS:***

There are no positions at present.

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Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.