

No. 41
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Tuesday, May 15, 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—excused
Emerson—present
Emmons—present
Garcia—present
Gast—present
Goschka—present

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

Peters—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 Valde Garcia of the 26th District offered the following invocation:

Our Heavenly Father, we thank You for this day You've given to us. We thank You for the rain, and we thank You for the sunshine that You give to all of us. Lord, we just ask that You provide us with wisdom today. You know we have some things that we have to deal with this week. We ask that You provide guidance, and lead us in all that we do to do what is right. For it is in Jesus' name we pray. Amen.

Motions and Communications

The following communications were received:
Department of Consumer and Industry Services

May 7, 2001

Pursuant to Section 314 of P.A. 293 of 2000, we are enclosing copies of the following report:

<u>Type of Report</u>	<u>Facility</u>	<u>Report #</u>	<u>License #</u>
Special Investigation	Olympic Center	2001C0201011	CS470201339

These reports were 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.

May 10, 2001

Pursuant to Section 314 of P.A. 293 of 2000, we are enclosing copies of the following reports:

<u>Type of Report</u>	<u>Facility</u>	<u>Report #</u>	<u>License #</u>
Special Investigation	Olympic Center	2001C0201012	CS470201339
Special Investigation	Olympic Center	2001C0201013	CS470201339

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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 communications were referred to the Secretary for record.

The following communication was received:
Office of Auditor General

May 9, 2001

Enclosed is a copy of the following audit report and/or executive digest:
Performance Audit of the Baraga Maximum Correctional Facility and Camp Kitwen, Department of Corrections, May 2001.

Sincerely,

Thomas H. McTavish, C.P.A.

Auditor General

The communication was referred to the Secretary for record.

The Secretary announced that the following House bills were received in the Senate and filed on Thursday, May 10:
House Bill Nos. 4708 4709 4710 4711 4712 4713 4714 4715 4716 4717 4718

The Secretary announced the printing and placement in the members' files on Thursday, May 10, of:

Senate Bill Nos. 461 462 463 465 466 467
House Bill No. 4753

The Secretary announced the printing and placement in the members' files on Friday, May 11, of:

Senate Bill Nos. 464 468 469 470
House Bill Nos. 4754 4755 4756 4757 4758 4759 4760 4761

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

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

Senators Byrum, Scott, Young, Miller, Cherry, Murphy and Hart entered the Senate Chamber.

Senator Emerson moved that Senator Vaughn be excused from this week's sessions. The motion prevailed.

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

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

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

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

Recess

Senator Emmons moved that the Senate recess subject to the call of the President. The motion prevailed, the time being 10:06 a.m.

10:26 a.m.

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

During the recess, Senators Goschka and Hammerstrom introduced to the Senate the American Cancer Society Relay for Life cancer survivors and volunteers.

Senator Hammerstrom responded briefly.

Dave and Barb Mitzel responded briefly.

A moment of silence was observed in memory of those who have lost their lives to cancer.

The Secretary announced that the Majority Leader has made the appointment of the following standing committee: **Natural Resources and Environmental Affairs** - Senator Bennett temporarily replacing Senator Dunaskiss as a member.

The standing committee appointment was approved, a majority of the members serving voting therefor.

Messages from the Governor

The following message from the Governor was received and read:

May 10, 2001

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

State Boundary Commission

Mr. Jeffrey A. Ishbia, 1106 Charrington, Bloomfield Hills, Michigan 48301, county of Oakland, as a member representing the general public, succeeding Mr. David E. Rutledge of Ypsilanti, who has resigned, for a term expiring on November 15, 2001.

Sincerely,
John Engler
Governor

The appointment was referred to the Committee on Government Operations.

Messages from the House

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

Senate Joint Resolution D

The motion prevailed.

Third Reading of Bills

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

Senate Bill No. 431, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 115 (MCL 500.115), as added by 1992 PA 182, and by adding chapter 5.

The above bill was read a third time.

The President pro tempore, Senator Schwarz, assumed the Chair.

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. 98

Yeas—34

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

Nays—0

Excused—4

Dunaskiss	McManus	Stille	Vaughn
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Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

By unanimous consent the Senate proceeded to the order of

General Orders

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

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

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

Senate Bill No. 333, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 710d (MCL 257.710d), as amended by 1999 PA 29.

Substitute (S-1).

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

1. Amend page 2, line 9, after "shall" by inserting "not".

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:

Senate Bill No. 334, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 710e (MCL 257.710e), as amended by 1999 PA 29.

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:

Senate Bill No. 184, entitled

A bill to amend 1963 PA 17, entitled "An act to relieve certain persons from civil liability when rendering emergency care, when rendering care to persons involved in competitive sports under certain circumstances, or when participating in a mass immunization program approved by the department of public health," by amending sections 1 and 2 (MCL 691.1501 and 691.1502), section 1 as amended by 1987 PA 30.

Substitute (S-1).

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

1. Amend page 1, line 3, after "care" by inserting "WITHOUT COMPENSATION".

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

Resolutions

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

Senate Concurrent Resolution No. 11

The motion prevailed.

Senator Stille entered the Senate Chamber.

Senator Gast offered the following concurrent resolution:

Senate Concurrent Resolution No. 22.

A concurrent resolution approving the conveyance of property to the State Building Authority and approving a lease among the State of Michigan, the State Building Authority, and the Board of Governors of Wayne State University relative to the Wayne State University Pharmacy Building Replacement.

Whereas, Section 5 of 1964 PA 183, as amended, being MCL § 830.415, requires the approval of the Board of Governors of Wayne State University (the "Educational Institution"), the State Administrative Board, and the Michigan Legislature by concurrent resolution concurred in by a majority of the members elected to and serving in each house, with the votes and names of the members voting thereon entered in the journal, before land owned by the Educational Institution may be conveyed to the State Building Authority (the "Authority"); and

Whereas, The site for the Wayne State University Pharmacy Building Replacement (the "Facility") is currently owned by the Educational Institution; and

Whereas, Section 7 of 1964 PA 183, as amended, being MCL § 830.417, requires the approval of the State Administrative Board and the Michigan Legislature by concurrent resolution concurred in by a majority of the

members elected to and serving in each house, with the votes and names of the members voting thereon entered in the journal, before the State of Michigan (the "State") may enter into a lease with the Authority upon a showing of a public purpose; and

Whereas, Providing additional space to be used by the Educational Institution pursuant to the lease for the Facility is a recognized public purpose; and

Whereas, A lease among the Authority, the State, and the Educational Institution has been prepared providing for the leasing of the Facility by the Authority to the State and the Educational Institution (the "Lease"); and

Whereas, The Executive Director of the Authority has furnished the Joint Capital Outlay Subcommittee of the Legislature with information and documents relative to the Lease; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Total Facility Cost for the Wayne State University Pharmacy Building Replacement shall not exceed \$66,600,000 (the Authority share is \$48,224,900, the State General Fund/General Purpose share is \$100, and the Educational Institution share is \$18,375,000), plus interest charges on monies advanced by the State to meet the construction cash flow requirements of the Facility, if any, of which not more than \$48,224,900, plus interest charges on monies advanced by the State to meet the construction cash flow requirements of the Facility, if any, shall be financed from bonds issued by the Authority, exclusive of amounts necessary for reserves, interest, or other nonconstruction costs; and be it further

Resolved, That the Legislature hereby approves the necessary conveyances of property to the Authority as more particularly described in the Lease and attachments thereto; and be it further

Resolved, That the Legislature hereby approves the Authority acquiring the Facility and leasing it to the State and the Educational Institution and hereby determines that the leasing of the Facility from the Authority is for a public purpose as authorized by 1964 PA 183, as amended; and be it further

Resolved, That the annual amounts of "True Rental" for the Facility shall be within or below the range of \$4,070,000 and \$5,088,000, as shall reflect variations that may occur in the components upon which the appraisal of true rental was based, which amounts shall be certified by the appraiser and thereafter approved by the State Administrative Board and the Authority as authorized by 1964 PA 183, as amended; and be it further

Resolved, That the Lease is hereby approved by this concurrent resolution, and the Governor and the Secretary of State are authorized and directed to execute the Lease for and on behalf of the State; and be it further

Resolved, That, by hereby approving the Lease among the State, the Educational Institution, and the Authority, the Legislature agrees to appropriate annually sufficient amounts to pay the rent as obligated pursuant to the Lease; and be it further

Resolved, That a copy of this concurrent resolution be transmitted to the Governor, the Secretary of State, the Authority, the Board of Governors of Wayne State University, and the State Budget Director.

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

Senator Emmons moved that the rule be suspended.

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

The question being on the adoption of the concurrent resolution,

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

The motion prevailed.

Senator Dingell offered the following resolution:

Senate Resolution No. 61.

A resolution commemorating May 15, 2001, as Peace Officers' Memorial Day.

Whereas, It is a privilege to join together in honoring the lives of fallen peace officers across Michigan. Since 1864, the state of Michigan has lost 480 law enforcement officers in the line of duty. We join with family, friends, and colleagues in remembrance of the men and women who lost their lives in the spirit of protecting Michigan citizens; and

Whereas, More than 500,000 men and women across the country serve their communities at great risk to their personal safety. To date, approximately 14,000 officers nationwide have made the supreme sacrifice to their nation; and

Whereas, The state of Michigan will observe May 13-19, 2001, as Michigan Peace Officers' Memorial Week. A statewide ceremony will commence at the State Capitol, and candlelight ceremonies will be held in cities throughout Michigan. This week is an annual time of healing for victims' family members as they celebrate the careers of loved ones and honor their memory; now, therefore, be it

Resolved by the Senate, That we hereby commemorate May 15, 2001, as Peace Officers' Memorial Day. We encourage citizens across our state to take a moment to reflect upon the losses of the men and women in uniform who dedicated their lives to protect and uphold the law; and be it further

Resolved, That a copy of this resolution be transmitted to various law enforcement agencies and organizations in Michigan as we honor the memories of their fallen comrades.

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

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

The resolution was adopted by a unanimous standing vote of the Senate.

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

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

A moment of silence was observed in memory of peace officers who have lost their lives in the line of duty.

Senator McManus entered the Senate Chamber.

By unanimous consent the Senate proceeded to the order of
Statements

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

The motion prevailed.

Senator Emerson's statement is as follows:

In light of the fact that we are going to be dealing with revenue consensus, I think we need to consider that time and time again this administration has made claims that Michigan should provide a world-class education for our children and should provide families with health care they deserve. I agree with that notion. However, during the last couple of weeks, we have heard reports the administration has proposed cuts to vital initiatives such as summer school, health care, and higher education. Apparently, by requesting cuts in these vital areas, the Governor must believe that the sky is falling. If cuts must be made, why must we do it on the backs of our children and the needy?

Through careful research, we have found that the administration has had a consistent pattern of "low-balling" during revenue estimates to control the spending process. Since at least the 1993-94 fiscal year, the administration has predicted lower revenues than have actually occurred at the conclusion of that fiscal year. To me, this would not be a problem if it were not done on such a consistent basis. But for fiscal years 1993-94 through 1997-98, we have underestimated by a grand total of just over a billion dollars. Obviously, this is more than enough money to fund the essential education and health care programs the Governor has requested to be cut this year.

While we are not experiencing the economic windfalls we had during the Clinton Administration, I do not believe that the present situation is so drastic that we need to sacrifice our children's education and the health of Michigan families. True, we are in a tight budget this year. However, if there is money that needs to be cut, it should not come from the backs of the children's education and the health of families, but be shared by all.

Senate Democrats believe that these education and health care programs should be our top priority and should not fall victim to the budget axe. We are asking the Legislature to think about their priorities. We are asking the Governor and the Legislature to think about the thousands of children set to attend summer school, the thousands who depend on health care programs we may cut, and the thousands of students who may not be able to afford the tuition hikes this fall. Think about our priorities. These proposed cuts affect people, not just programs.

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

Senators Leland, Garcia, Peters, Bullard, Goschka, Dingell, Sikkema, North, Miller, Emerson, Shugars, Scott and Young introduced

Senate Bill No. 471, entitled

A bill to amend 1987 PA 173, entitled "Mortgage brokers, lenders, and servicers licensing act," by amending section 2 (MCL 445.1652), as amended by 1996 PA 210.

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

Senator Johnson introduced

Senate Bill No. 472, entitled

A bill to amend 1982 PA 249, entitled "An act to establish the state children's trust fund in the department of treasury; and to provide certain powers and duties of the department of treasury with respect to the trust fund," by amending section 1 (MCL 21.171), as amended by 2000 PA 72.

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

Senators Stille, Bennett, Johnson and Emerson introduced

Senate Bill No. 473, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 373, 502, 506, 507, and 1280 (MCL 380.373, 380.502, 380.506, 380.507, and 380.1280), section 373 as amended by 2000 PA 230, sections 502 and 507 as amended by 1995 PA 289, section 506 as added by 1993 PA 362, and section 1280 as amended by 1997 PA 180, and by adding sections 506a and 1206 and part 15a.

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

Senators Johnson, Bennett, Stille and Emerson introduced

Senate Bill No. 474, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 269.

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

Senators Bennett, Johnson, Stille and Emerson introduced

Senate Bill No. 475, entitled

A bill to amend 1975 PA 228, entitled "Single business tax act," (MCL 208.1 to 208.145) by adding section 39d.

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

Senators Emerson, Bennett, Johnson and Stille introduced

Senate Bill No. 476, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding sections 641, 1198, and 1206a.

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

House Bill No. 4708, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 78o (MCL 211.78o), as added by 1999 PA 123.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4709, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 78f (MCL 211.78f), as added by 1999 PA 123.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4710, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 78g (MCL 211.78g), as added by 1999 PA 123.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4711, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 78h (MCL 211.78h), as added by 1999 PA 123.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4712, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 124 (MCL 211.124); and to repeal acts and parts of acts.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4713, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 59 (MCL 211.59), as amended by 1999 PA 123.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4714, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 78k (MCL 211.78k), as added by 1999 PA 123.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4715, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 106 (MCL 211.106).

The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4716, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 78m (MCL 211.78m), as added by 1999 PA 123.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4717, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 60 (MCL 211.60), as amended by 1999 PA 123.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4718, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 78i (MCL 211.78i), as added by 1999 PA 123.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

Committee Report**COMMITTEE ATTENDANCE REPORT**

The Subcommittee on Higher Education submits the following:

Meeting held on Friday, May 11, 2001, at 9:00 a.m., Lake Superior State University, Cisler Center, Sault Ste. Marie
Present: Senators Schwarz (C), McManus, Koivisto and Smith

Excused: Senator Hoffman

Scheduled Meetings

Appropriations - Tuesday, May 22, and Wednesday, May 23, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

Subcommittees -

Capital Outlay, Joint - Thursday, May 17, 8:45 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

Community Colleges - Wednesday, May 16, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

Corrections - Wednesday, May 16, 1:00 p.m., Room 210, Farnum Building (373-2413)

Department of Education - Wednesday, May 16, 9:15 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1635)

Environmental Quality - Wednesday, May 16, 8:30 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-7350) (CANCELED)

Natural Resources - Wednesday, May 16, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

Banking and Financial Institutions - Thursday, May 17, 9:00 a.m., Room 210, Farnum Building (373-2420)

Education - Wednesday, May 16, 3:00 p.m., Room 810, Farnum Building and Thursday, May 17, 3:00 p.m., Room 210, Farnum Building (373-7350)

Michigan Capitol Committee - Wednesday, May 16, 12:00 noon, Room 405, Capitol Building (373-0289)

Qualifications of Senator Jaye Select Committee (SR 42) - Recessed until Wednesday, May 16, 12:00 noon, Senate Hearing Room, Ground Floor, Michigan National Tower (373-1707)

Senator Emmons moved that the Senate adjourn.
The motion prevailed, the time being 11:01 a.m.

The President pro tempore, Senator Schwarz, declared the Senate adjourned until Wednesday, May 16, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.