

No. 52
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Thursday, June 7, 2001.

10:00 a.m.

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

The roll was called by the Assistant 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—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 John J.H. Schwarz of the 24th District offered the following invocation:

Lord, we ask that as the elected representatives of the people of this state, we have the wisdom to recognize the true needs of Michigan and act upon them. We ask that You give us the ability to speak honestly, negotiate in good faith, act wisely, and to keep it all together in this budget season. We ask this in Your name. Amen.

Motions and Communications

The following communication was received:
Office of the Auditor General

June 6, 2001

Enclosed is a copy of the following audit report and/or executive digest:

Financial Audit, Including the Provisions of the Single Audit Act, of the Library of Michigan, October 1, 1998 through September 30, 2000.

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 Wednesday, June 6:
House Bill Nos. 4507 4548 4596 4597 4757 4776 4792 4813

The Secretary announced the enrollment printing and presentation to the Governor on Wednesday, June 6, for his approval the following bill:

Enrolled Senate Bill No. 431 at 4:08 p.m.

The Secretary announced the printing and placement in the members' files on Wednesday, June 6, of:

Senate Bill No. 522
House Bill No. 4912

Senator Emmons moved that Senators Bullard, DeGrow, Garcia, Schuette and Sikkema be temporarily excused from today's session.

The motion prevailed.

Senator Young entered the Senate Chamber.

Messages from the House

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

Senate Joint Resolution D

Senate Bill No. 283

Senate Bill No. 232

Senate Bill No. 233

Senate Bill No. 234

Senate Bill No. 235

Senate Bill No. 239

The motion prevailed.

Senate Bill No. 56, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 2891 (MCL 333.2891), as amended by 1992 PA 78.

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.

Senator Schuette entered the Senate Chamber.

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, Lieutenant Governor Posthumus, designated Senator Smith 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 with a substitute therefor, the following bill:

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.

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.

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

Resolutions

House Concurrent Resolution No. 29.

A concurrent resolution to urge the Federal Communications Commission to approve the Michigan Public Service Commission's request for telecommunications number conservation techniques.

Whereas, Many of Michigan's area codes are quickly exhausting available phone numbers due to the lack of efficient number distribution and the lack of FCC approval for the Public Service Commission to institute 1,000 block number distribution and number pooling; and

Whereas, Currently numbers are distributed in blocks of 10,000 numbers, with some carriers utilizing a very small portion of allocated numbers. As a result, there are currently some 70 million phone numbers allocated for Michigan's 9 million residents, with many numbers remaining unused; and

Whereas, Unused numbers become "stranded" and unavailable for public distribution and contribute greatly to the fact that Michigan has seen the addition of more than five new area codes since 1994; and

Whereas, The creation of additional area codes and overlays is costly and confusing to state and local governments, businesses, and citizens; and

Whereas, The Public Service Commission was granted authority by the Legislature to exercise authority and implement area code relief on July 17, 2000; and

Whereas, The Michigan Public Service Commission has sought approval from the FCC to institute number conservation techniques, such as 1,000 block number distribution and number pooling. These changes would greatly alleviate the need for new area codes; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we urge the Federal Communications Commission to grant the Michigan Public Service Commission's request to institute number conservation techniques that can extend the life of current area codes and minimize the further addition of new area codes and overlays; and be it further

Resolved, That copies of this resolution be transmitted to the Federal Communications Commission, the Michigan Public Service Commission, and the Michigan congressional delegation.

The House of Representatives has adopted the concurrent resolution.

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 Technology and Energy.

The motion prevailed.

Senators Gast and Johnson offered the following concurrent resolution:

Senate Concurrent Resolution No. 26.

A concurrent resolution approving the conveyance of property to the State Building Authority and approving a lease between the State of Michigan and the State Building Authority relative to the Hall of Justice Facility for the State Judiciary.

Whereas, 1998 PA 538 established a new office facility and parking structure for the judiciary, now entitled the Hall of Justice (the "Facility") at a Total Facility Cost of \$87,800,000, the total of which was to be funded by the state's General Fund; and

Whereas, It has now been determined to fund the final design and construction of the Facility through the State Building Authority (the "Authority"); and

Whereas, Section 5 of 1964 PA 183, as amended, being MCL § 830.415, requires the approval of the State Administrative Board, the Attorney General, 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 State of Michigan (the "State") may be conveyed to the Authority; and

Whereas, The site for the Facility is currently owned by the State; 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 State pursuant to the lease for the Facility is a recognized public purpose; and

Whereas, A lease between the Authority and the State has been prepared providing for the leasing of the Facility by the Authority to the State (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 Hall of Justice for the State Judiciary shall not exceed \$87,800,000 (the Authority share is \$87,799,900 and State General Fund/General Purpose share is \$100) 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 \$87,799,900, 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 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 \$7,410,000 and \$9,263,000, 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 between the State 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 Attorney General, 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.

By unanimous consent the Senate returned to the order of

Third Reading of Bills

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

Senate Bill No. 473

Senate Bill No. 476

Senate Bill No. 474

Senate Bill No. 475

Senate Bill No. 437

Senate Bill No. 490

Senate Bill No. 434

House Bill No. 4166

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 473, entitled

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

The question being on the passage of the bill,

Senator Leland offered the following amendment:

1. Amend page 25, line 16, after “REQUESTED.” by inserting “THIS STATE SHALL BEAR ALL COSTS OF THIS COMPREHENSIVE EVALUATION, AND THE SCHOOL DISTRICT IS NOT REQUIRED TO PAY FOR ANY OF THE EXPENSES OF THIS COMPREHENSIVE EVALUATION.”.

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

Senator Emerson 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. 169

Yeas—15

Byrum
Cherry
DeBeaussiaert
Dingell

Emerson
Goschka
Hart
Koivisto

Leland
Miller
Murphy
Peters

Scott
Smith
Young

Nays—20

Bennett
Bullard
DeGrow
Dunaskiss
Emmons

Garcia
Gast
Gougeon
Hammerstrom
Hoffman

Johnson
McCotter
McManus
North
Schuette

Schwarz
Shugars
Steil
Stille
Van Regenmorter

Excused—2

Sikkema

Vaughn

Not Voting—0

In The Chair: Schwarz

Senator Peters offered the following amendments:

1. Amend page 9, line 22, after “ACADEMIES” by striking out the balance of the line through “(3)” on line 22.
2. Amend page 9, line 27, after “ACADEMIES” by striking out the balance of the line through “(3)” on page 10, line 1.

3. Amend page 10, line 4, by striking out all of subsection (3) and renumbering the remaining subsections.
4. Amend page 13, line 8, after "SUBSECTION" by striking out "(7)" and inserting "(6)".
5. Amend page 15, line 8, after "SECTION" by striking out "502(6)" and inserting "502(5)".
6. Amend page 27, line 21, after "SECTION" by striking out "502(7)" and inserting "502(6)".
7. Amend page 28, line 1, by striking out all of subdivision (H) and relettering the remaining subdivision.

The amendments were not adopted, a majority of the members serving not voting therefor.

Senator Emerson requested the yeas and nays.

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

The amendments were not adopted, a majority of the members serving not voting therefor, as follows:

Roll Call No. 170

Yeas—14

Byrum	Emerson	Miller	Scott
Cherry	Hart	Murphy	Smith
DeBeaussaert	Koivisto	Peters	Young
Dingell	Leland		

Nays—21

Bennett	Gast	Johnson	Schwarz
Bullard	Goschka	McCotter	Shugars
DeGrow	Gougeon	McManus	Steil
Dunaskiss	Hammerstrom	North	Stille
Emmons	Hoffman	Schuetz	Van Regenmorter
Garcia			

Excused—2

Sikkema	Vaughn
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Not Voting—0

In The Chair: Schwarz

Protest

Senator Emmons, under her constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendments offered by Senator Peters to Senate Bill No. 473 and moved that the statement she made during the discussion of the amendments be printed as her reasons for voting "no."

The motion prevailed.

Senator Emmons' statement is as follows:

I'm always surprised that we don't choose to give poor kids choices. Why do we continually think that because parents are poor, they don't want choices in education? Every time they have been given an opportunity to use a choice they have—but no—we want to trap them in the school. These priorities in schools are not the best. In fact, they might be the worst, and yet, poor kids should have to go there. They can't move. I just don't understand why we want to hold them hostage. I will not support this amendment at all.

Senator Leland offered the following amendments:

1. Amend page 4, line 20, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
2. Amend page 10, line 6, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".

3. Amend page 13, line 22, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
4. Amend page 13, line 24, after the second "THE" by striking out the balance of the line through "BOARD" on line 25 and inserting "STATE BOARD".
5. Amend page 15, line 3, after "THE" by striking out the balance of the line through "BOARD" on line 4 and inserting "STATE BOARD".
6. Amend page 16, line 4, by striking out all of subdivision (E).
7. Amend page 16, line 6, by striking out all of section 1192.
8. Amend page 18, line 3, after "THE" by striking out the balance of the line through "BOARD" on line 4 and inserting "STATE BOARD".
9. Amend page 18, line 7, by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
10. Amend page 20, line 8, after "THE" by striking out the balance of the line through "BOARD" on line 9 and inserting "STATE BOARD".
11. Amend page 20, line 12, by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
12. Amend page 23, line 9, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
13. Amend page 23, line 14, after the first "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
14. Amend page 23, line 17, by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
15. Amend page 23, line 21, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
16. Amend page 23, line 26, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
17. Amend page 24, line 3, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
18. Amend page 24, line 5, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
19. Amend page 24, line 8, after "THE" by striking out the balance of the line through "BOARD" on line 9 and inserting "STATE BOARD".
20. Amend page 24, line 11, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
21. Amend page 24, line 21, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
22. Amend page 25, line 7, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
23. Amend page 25, line 9, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
24. Amend page 25, line 25, after the second "THE" by striking out the balance of the line through "BOARD" on line 26 and inserting "STATE BOARD".
25. Amend page 26, line 12, after the first "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
26. Amend page 26, line 23, after the third "THE" by striking out the balance of the line through the first "BOARD" on line 24 and inserting "STATE BOARD".
27. Amend page 26, line 25, after "THE" by striking out the balance of the line through "BOARD" on line 26 and inserting "STATE BOARD".
28. Amend page 28, line 7, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
29. Amend page 28, line 8, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
30. Amend page 28, line 13, after "THE" by striking out the balance of the line through "BOARD" on line 14 and inserting "STATE BOARD".
31. Amend page 28, line 20, after the first "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
32. Amend page 28, line 24, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".
33. Amend page 29, line 1, after "THE" by striking out "STATE EDUCATIONAL IMPROVEMENT BOARD" and inserting "STATE BOARD".

The amendments were not adopted, a majority of the members serving not voting therefor.

Senator Leland requested the yeas and nays.

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

The amendments were not adopted, a majority of the members serving not voting therefor, as follows:

Roll Call No. 171

Yeas—15

Byrum	Emerson	Leland	Scott
Cherry	Goschka	Miller	Smith
DeBeaussaert	Hart	Murphy	Young
Dingell	Koivisto	Peters	

Nays—20

Bennett	Garcia	Johnson	Schwarz
Bullard	Gast	McCotter	Shugars
DeGrow	Gougeon	McManus	Steil
Dunaskiss	Hammerstrom	North	Stille
Emmons	Hoffman	Schuette	Van Regenmorter

Excused—2

Sikkema	Vaughn
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Not Voting—0

In The Chair: Schwarz

Senator Peters offered the following amendment:

1. Amend page 37, following line 8, by inserting:

“Sec. 1703. (1) Special education personnel shall meet the qualifications and requirements of rules promulgated by the ~~state board~~ SUPERINTENDENT OF PUBLIC INSTRUCTION.

(2) Curriculum, eligibility of specific persons for special education programs and services and for each particular program or service, review procedures regarding the placement of persons in the programs or services, size of classes, size of programs, quantity and quality of equipment, supplies and housing, adequacy of methods of instruction, and length and content of school day shall be in accordance with rules promulgated by the ~~state board~~ SUPERINTENDENT OF PUBLIC INSTRUCTION relative to special education programs and services. IF THE SUPERINTENDENT OF PUBLIC INSTRUCTION PROMULGATES REVISIONS TO THESE RULES, THE RULES SHALL MAINTAIN REFERENCES TO STATE FUNDING FOR SPECIAL EDUCATION AND SPECIAL EDUCATION TRANSPORTATION, AND THE RULES SHALL CONTINUE TO ADDRESS CASELOAD AND CLASS SIZE REQUIREMENTS, TEACHER QUALIFICATIONS, APPROPRIATE MAXIMUM AGE SPANS, DISABILITY SPECIFIC AND CATEGORICAL PROGRAMS, THE PUPIL MAXIMUM POTENTIAL STANDARD, AND REGULAR REVIEW OF INTERMEDIATE SCHOOL DISTRICT PLANS.

~~(3) Not later than September 30, 1996, the state board shall conduct a review of all rules promulgated by the state board or department pertaining to special education. The review shall consider at least all of the following:~~

~~(a) The need to eliminate unnecessary separation and duplication between regular education and special education facilities, staff, programs, services, and pupils.~~

~~(b) Potential benefits from coordination between all relevant federal, state, regional, and local organization services, including public and private organization services, for pupils with special needs, and encouragement of the provision of comprehensive necessary services delivered by the most appropriate organization or person in the most cost effective and programmatically effective manner.~~

~~(c) The advisability of simplification of rules or regulations and processes relating to identification of need and provision of services to special needs pupils, avoidance of barriers and cost and other penalties or discouragements to effective programming, and avoidance of requirements as to staff or program criteria that are not research based; allowing and encouraging reasonably flexible, workable, and, if appropriate, cooperatively operated comprehensive services, including reasonable endorsement or other qualification categories for personnel, to be delivered to pupils with related or similar special needs, as may be consistent with research.~~

~~(d) A goal of providing educational and training services in a manner that maximizes for the benefit of the pupil the combination of the provisions of this act and federal law relating to inclusion, while avoiding, to the degree reasonably possible, requiring by rule an overall increase in a program or service beyond that required before December 23, 1978.”.~~

The question being on the adoption of the amendment,

Senator Sikkema entered the Senate Chamber.

Point of Order

Senator Emmons raised the Point of Order that the amendment was not germane to the bill because it dealt with special education and the bill dealt with the subject of school district accountability.

The President pro tempore, Senator Schwarz, ruled that the amendment was germane because it dealt with The Revised School Code. Section 402 of *Mason’s Manual of Legislative Procedure* requires that an amendment “must be germane to the subject of the proposition...relevant, appropriate, and in a natural and logical sequence to the subject matter of the original proposal.”

Senator Emmons appealed the decision of the Chair.

The question being shall the decision of the Chair stand as the judgment of the Senate,

The decision of the Chair did not stand as the judgment of the Senate, a majority of the members not voting therefor.

Senator Peters requested the yeas and nays.

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

The decision of the Chair did not stand as the judgment of the Senate, a majority of the members not voting therefor, as follows:

Roll Call No. 172

Yeas—15

Byrum	Emerson	Miller	Scott
Cherry	Hart	Murphy	Smith
DeBeaussaert	Koivisto	Peters	Young
Dingell	Leland	Schwarz	

Nays—21

Bennett	Gast	Johnson	Shugars
Bullard	Goschka	McCotter	Sikkema
DeGrow	Gougeon	McManus	Steil
Dunaskiss	Hammerstrom	North	Stille
Emmons	Hoffman	Schuette	Van Regenmorter
Garcia			

Excused—1

Vaughn

Not Voting—0

In The Chair: Schwarz

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

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. 173**Yeas—20**

Bennett	Gast	McCotter	Shugars
Bullard	Gougeon	McManus	Sikkema
DeGrow	Hammerstrom	North	Steil
Dunaskiss	Hoffman	Schuette	Stille
Emmons	Johnson	Schwarz	Van Regenmorter

Nays—15

Byrum	Emerson	Leland	Scott
Cherry	Goschka	Miller	Smith
DeBeaussaert	Hart	Murphy	Young
Dingell	Koivisto	Peters	

Excused—2

Garcia	Vaughn
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Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Senator Emerson moved that his name be removed as co-sponsor of the following bill:

Senate Bill No. 473

The motion prevailed.

The following bill was read a third time:

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 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. 174**Yeas—35**

Bennett	Emmons	Leland	Scott
Bullard	Gast	McCotter	Shugars
Byrum	Goschka	McManus	Sikkema
Cherry	Gougeon	Miller	Smith
DeBeaussaert	Hammerstrom	Murphy	Steil

DeGrow
Dingell
Dunaskiss
Emerson

Hart
Hoffman
Johnson
Koivisto

North
Peters
Schuette
Schwarz

Stille
Van Regenmorter
Young

Nays—0

Excused—2

Garcia

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

The following bill was read a third time:

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 question being on the passage of the bill,

Senator Peters offered the following amendments:

1. Amend page 2, line 19, after “EACH” by striking out “TAXPAYER” and inserting “JOINT FILER”.

2. Amend page 2, line 19, after “OF” by striking out “SUBSECTION (5)(B)(i)” and inserting “THIS SUBPARAGRAPH”.

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. 175

Yeas—28

Bennett
Bullard
DeGrow
Dunaskiss
Emerson
Emmons
Gast

Goschka
Gougeon
Hammerstrom
Hart
Hoffman
Johnson
Koivisto

Leland
McCotter
McManus
Miller
North
Peters
Schuette

Schwarz
Shugars
Sikkema
Steil
Stille
Van Regenmorter
Young

Nays—7

Byrum
Cherry

DeBeaussaert
Dingell

Murphy
Scott

Smith

Excused—2

Garcia

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

The following bill was read a third time:

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 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. 176

Yeas—27

Bennett	Goschka	Leland	Schwarz
Bullard	Gougeon	McCotter	Shugars
DeGrow	Hammerstrom	McManus	Sikkema
Dunaskiss	Hart	Miller	Steil
Emerson	Hoffman	North	Stille
Emmons	Johnson	Peters	Van Regenmorter
Gast	Koivisto	Schuette	

Nays—8

Byrum	DeBeaussaert	Murphy	Smith
Cherry	Dingell	Scott	Young

Excused—2

Garcia	Vaughn
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Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Protest

Senator Dingell, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill Nos. 474 and 475 and moved that the statement he made during the discussion of Senate Bill No. 474 be printed as his reasons for voting “no.”

The motion prevailed.

Senator Dingell’s statement is as follows:

I rise in opposition to both this bill, Senate Bill No. 474, and the succeeding bill, Senate Bill No. 475. Children from the area I represent go to many private, religious, and other schools that would be unfairly discriminated against by these two bills.

Raising the funds to keep these private and religious schools open is tough. The Christian denominations in the district I represent that run schools are Catholic, Lutheran, Methodist, Baptist, and other Christians. We even have Islamic schools serving the area I represent. I am most closely associated with two parishes in the district I represent, both of which run schools—one where my daughter goes to school and one where I go to church. I frequently get the feeling that Fathers Pete and Wally spend more time fund-raising than anything else in order to keep these schools open. Their jobs are tough now, and if Senate Bill Nos. 474 and 475 become law, I believe their jobs would become tougher still.

Tax incentives are intended to encourage individuals and businesses to send their money to certain places and not send their money to other places. Republicans usually complain when the Legislature picks winners and losers, and yet, that is exactly what these two bills will do. These bills will encourage money to be sent only to certain public schools and not to any other public schools and not to any other private or religious schools. Therefore, I encourage my colleagues to vote “no” on both these bills.

Senator Hoffman moved that he be named co-sponsor of the following bills:

Senate Bill No. 473

Senate Bill No. 476

Senate Bill No. 474

Senate Bill No. 475

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 437, entitled

A bill to amend 1933 PA 167, entitled “General sales tax act,” by amending section 4x (MCL 205.54x), as added by 2000 PA 204.

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. 177

Yeas—34

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

Nays—1

Gast

Excused—2

Garcia

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 490, entitled

A bill to amend 1975 PA 228, entitled “Single business tax act,” by amending section 35 (MCL 208.35), as amended by 2000 PA 429.

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. 178**Yeas—35**

Bennett
Bullard
Byrum
Cherry
DeBeaussaert
DeGrow
Dingell
Dunaskiss
Emerson

Emmons
Gast
Goschka
Gougeon
Hammerstrom
Hart
Hoffman
Johnson
Koivisto

Leland
McCotter
McManus
Miller
Murphy
North
Peters
Schuette
Schwarz

Scott
Shugars
Sikkema
Smith
Steil
Stille
Van Regenmorter
Young

Nays—0**Excused—2**

Garcia

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 434, entitled

A bill to amend 1975 PA 238, entitled “Child protection law,” by amending section 3 (MCL 722.623), as amended by 1994 PA 177.

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. 179**Yeas—35**

Bennett
Bullard
Byrum
Cherry
DeBeaussaert
DeGrow
Dingell
Dunaskiss
Emerson

Emmons
Gast
Goschka
Gougeon
Hammerstrom
Hart
Hoffman
Johnson
Koivisto

Leland
McCotter
McManus
Miller
Murphy
North
Peters
Schuette
Schwarz

Scott
Shugars
Sikkema
Smith
Steil
Stille
Van Regenmorter
Young

Nays—0**Excused—2**

Garcia

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

The following bill was read a third time:

House Bill No. 4166, entitled

A bill to amend 1953 PA 181, entitled “An act relative to investigations in certain instances of the causes of death within this state due to violence, negligence or other act or omission of a criminal nature or to protect public health; to provide for the taking of statements from injured persons under certain circumstances; to abolish the office of coroner and to create the office of county medical examiner in certain counties; to prescribe the powers and duties of county medical examiners; to prescribe penalties for violations of the provisions of this act; and to prescribe a referendum thereon,” by amending section 2 (MCL 52.202).

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. 180**Yeas—35**

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

Nays—0**Excused—2**

Garcia

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.

The Senate agreed to the title of the bill.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator Emmons moved that the Committee on Transportation and Tourism be discharged from further consideration of the following bill:

Senate Bill No. 513, entitled

A bill to designate the overpass located at the intersection of highway I-75 and highway M-57 as the “Bernie Borden Memorial Overpass”; and to prescribe the duties of the state transportation department.

The motion prevailed, a majority of the members serving voting therefor, and the bill was placed on the order of General Orders.

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

By unanimous consent the Senate proceeded to the order of
Statements

Senators Hart, Bennett, Van Regenmorter and DeBeaussaert asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Hart's statement is as follows:

Today I would like to announce that I'm reintroducing legislation that would protect Michigan's nursing homes and especially the senior citizens. The legislation requires that the Department of Community Health issue a safety alert to every health facility that has hospital beds with safety rails. The safety alert will warn residents and workers of the dangers surrounding hospital bed rails.

On another item, on Tuesday we discussed a very important issue as it relates to slant drilling in the Great Lakes. I made it abundantly clear that on the shores of Lake Erie in the cities of Kingsville and Leamington, all you have to do is walk out a few feet and, lo and behold, you see this type of drilling taking place on the shores of Ontario. I want to take this opportunity to compliment a Republican member of the Michigan congressional delegation for introducing a resolution calling on Ontario to cease and desist offshore drilling for gas and oil in Lake Erie, and that's exactly what we were preaching here Tuesday.

Senator Bennett's statement is as follows:

Now that we have passed the package of bills for the priority school district on to the House, I'd like to recap the work that has been done on that. On February 7, 21, and 28, the committee held hearings to try to get input from people around the state. Unfortunately, the other side of the aisle choose to be less than full participants in the process. I was very frustrated at the time but said nothing in hopes of trying to preserve the bipartisan nature of the process.

I then personally asked both Senators from the other side of the aisle, before any decision-making was done, for their input so they could help shape these bills into something that they thought was appropriate—something they could endorse. I got no input whatsoever. I was frustrated but said nothing because I wanted to maintain bipartisan support for the bills.

At the committee hearing when we tried to put the bills out, I was asked for more time because they wanted to be able to come back with suggestions. I was accommodating. We did allow more time. In fact, some amendments came back that tweaked it a little bit, but certainly, did not change it in any way, shape, or form. I was frustrated, but I said nothing because I wanted to maintain the bipartisan nature of the process.

Something that may have been lost in today's process was that there were three bills of the package that were voted "yes." The main bill passed but along straight party lines. All the other bills are tie-barred to that first one, so unless that first one ultimately passed, the other three would not. What I saw going on the floor today was amendment after amendment voting for the status quo. That tremendously frustrates me, and I suspect that frustrates the parents in those areas because what do we say to the parents whose children are in the underperforming schools? We wind up condemning them to a life of possibly poverty or imprisonment because we are not providing the education.

I am very disappointed that there was no input, and at the end of the day, they voted for the status quo.

Senator Van Regenmorter's statement is as follows:

This is as much to correct the record as it is to request any immediate action. Senator Hart in his comments during Statements a few minutes ago, among other things, referred to the nursing home bed rail issue. It is important to understand—we did that. We did that last year with a solid statute that passed here last year, I think unanimously, and is now law. Nursing home patients or their guardians have access to bed rails when they are in hospital-type beds. They can accept them or reject them. There are standards in the law. There is a physician involvement process as well in the law, and it is important to understand that this is something that has been done. Even more importantly, for those who advocate for our elderly, particularly our elderly in nursing homes, they should know this is in the law currently.

Senator DeBeaussaert's statement is as follows:

I think it's regrettable that the majority today refused to allow the consideration of the Peters amendment which would have given some legislative direction on the issue of special education rules that may be promulgated by the superintendent of public instruction in this state. It's ironic, last week, this side of the aisle was charged with playing partisan politics on an issue. Today we were chastised for not being partisan and simply deferring to a superintendent of public instruction who has been appointed by a board who is controlled by members of our party. I would suggest that both last week and this week members on this side of the aisle have proved that our concern is about good public policy, regardless of the partisan implications. I think the Peters amendment gave us an opportunity to address an issue of great importance to our constituents. We expressed those concerns when we had a superintendent who was not an appointee from our party, and we have those same concerns now that we have a new superintendent of public instruction. We are concerned because the administration has long held the hope that we would, in fact, remove many of the mandates for special education that provide important services to some of the special children in this state.

The Peters amendment would not have specifically set in place what the rules should include in specifics but gave some broad parameters on what those rules should include and address: maintaining references to state funding for special education and special education transportation, caseload and class size requirements, teacher qualifications, and appropriate maximum age spans. All these kinds of issues I heard and I am sure a number of the members of the Senate heard about when those first rules were being discussed in public hearings across this state.

As I said, parents and those involved in special education were very concerned. They may be a bit paranoid, but like the old saying, "Just because you're paranoid, doesn't mean they're not out to get you." In fact, since we have on record an administration that has wanted to remove any of these mandates, I think they had good cause to be concerned about those rules. We have a legitimate reason as a legislative body to express our concerns about making sure that if new rules are to be promulgated, they do include some of those specific concerns.

We do, I think, as the Senate Education Committee chair suggested, have a shared responsibility with the department, with the State Board of Education, and the Legislature on the issue of education. The Peters amendment would have appropriately given the direction. Of course, it's even more important, now that the Legislature has lost its ability to reject rules that are promulgated by those departments through the administrative rules process, to in advance give some direction so that we make sure we have rules in place that protect special education, the children, and the families who are concerned about this in this state.

I think we lost an important opportunity today in that regard. We lost the opportunity to stand up for the special education students and their families. It is a regrettable day.

By unanimous consent the Senate returned to the order of

Introduction and Referral of Bills

Senator Gougeon introduced

Senate Bill No. 528, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9948) by adding section 2972.

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

House Bill No. 4507, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by amending section 5 (MCL 205.95).

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 Finance.

House Bill No. 4548, entitled

A bill to amend 1992 PA 147, entitled "Neighborhood enterprise zone act," by amending section 10 (MCL 207.780).

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. 4596, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 626c; 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 Judiciary.

House Bill No. 4597, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 12 of chapter XVII (MCL 777.12), as amended by 2000 PA 459.

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 Judiciary.

House Bill No. 4757, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 24 of chapter VII (MCL 767.24), as amended by 2001 PA 6.

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 Judiciary.

House Bill No. 4776, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16131, 16263, and 21720 (MCL 333.16131, 333.16263, and 333.21720), sections 16131 and 16263 as amended by 2000 PA 11, and by adding section 16328 and part 173; 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 Health Policy.

House Bill No. 4792, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 5522 (MCL 324.5522), as amended by 1998 PA 245.

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 Natural Resources and Environmental Affairs.

House Bill No. 4813, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 319 and 732 (MCL 257.319 and 257.732), as amended by 2000 PA 460.

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 Judiciary.

Scheduled Meetings

Appropriations - Wednesday, June 13, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

Subcommittee -

Capital Outlay, Joint - Wednesday, June 13, 8:45 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

Detroit Metro Airport Review - Wednesday, June 13, 2:00 p.m. or later immediately following session, Room 810, Farnum Building (373-1801)

Natural Resources and Environmental Affairs - Tuesday, June 12, 1:00 p.m., 8th Floor Conference Room, Farnum Building (373-0797)

Senator Emmons moved that the Senate adjourn.

The motion prevailed, the time being 11:32 a.m.

The Assistant President pro tempore, Senator Hoffman, declared the Senate adjourned until Tuesday, June 12, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.