

No. 70
STATE OF MICHIGAN
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98th Legislature
REGULAR SESSION OF 2016

Senate Chamber, Lansing, Thursday, November 10, 2016.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor Brian N. Calley.

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

Ananich—present
Bieda—present
Booher—present
Brandenburg—present
Casperson—present
Colbeck—present
Emmons—present
Green—present
Gregory—present
Hansen—present
Hertel—present
Hildenbrand—present
Hood—present

Hopgood—present
Horn—present
Hune—present
Johnson—present
Jones—present
Knezek—present
Knollenberg—present
Kowall—present
MacGregor—present
Marleau—present
Meekhof—present
Nofs—present

O'Brien—present
Pavlov—present
Proos—present
Robertson—present
Rocca—present
Schmidt—present
Schuitmaker—present
Shirkey—present
Stamas—present
Warren—present
Young—present
Zorn—present

Pastor Rosalinda Hernandez of I Am Ministries of Lansing offered the following invocation:

Father, we thank You for this time. We ask You to bless our time here together. We ask, Father, for You to protect our city, our state, and our nation. We ask You, God, to be with our military and to protect those that protect our country. And we pray most of all God, for peace here in our city, in our nation, and within the government and within the people that establish the laws here in our city, Father.

We thank You for it. In Jesus' name I pray. Amen.

The President, Lieutenant Governor Calley, led the members of the Senate in recital of the *Pledge of Allegiance*.

Motions and Communications

Senators Knollenberg and Nofs entered the Senate Chamber.

Senator Kowall moved that Senators Hansen, Hildenbrand and Schmidt be temporarily excused from today's session. The motion prevailed.

Senator Hood moved that Senators Ananich and Johnson be temporarily excused from today's session. The motion prevailed.

Senator Kowall moved that rule 3.902 be suspended to allow the guests of Senator Meekhof admittance to the Senate floor. The motion prevailed, a majority of the members serving voting therefor.

Senator Meekhof asked and was granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Meekhof's first statement is as follows:

I think it's important as we go through this journey the staff members that help us do a great job here in the Michigan Senate and we have the privilege today of honoring one of those folks.

Jan Thompson is retiring after 21 years working for the Michigan Senate. During her time, she has worked as a resolutions clerk, a journal clerk, and most notably as a bill clerk. As a bill clerk, she managed the House and Senate bills throughout the legislative process as well as maintained the daily calendar for the Senate. Jan has been a tireless worker and shown true devotion to her job, to the Michigan Senate, to us whom she serves, and the people of Michigan.

She and her husband Dave will be missed and she'll be missed by her co-workers, and they're planning to spend their retirement at their cabin on Lake Huron enjoying the beautiful sunrises.

I would like the members to rise and thank Jan for her service to the state of Michigan.

Senator Meekhof's second statement is as follows:

It's a privilege to honor one of the members of my staff and someone who has served this body so well. If you could see the overwhelming amount of cuteness back here, it's just really quite something and I think all of us agree that we work to make the future better for these young people right here, and their mom has done some incredible work and I want to mention a few things about that.

Today I rise to recognize a member of my staff and wish her well as she moves on to the next chapter in her career.

In this era of term limits, legislative staff people are a source of institutional knowledge and great insight, and Jennifer Dettloff is no exception to that. As Senate Majority Counsel, Jennifer is regarded as knowledgeable, friendly, assertive, and determined.

Jennifer began her career in the Legislature in 2004 after graduation from Michigan State University. Jennifer's first position was in the office of Representative Sandy Caul. From there, she was hired as legislative assistant for then-Representative David Hildenbrand, and Representative Hildenbrand later promoted her to chief of staff.

In 2010, Jennifer successfully completed her juris doctorate degree from Thomas M. Cooley Law School. Jennifer continued in the role of chief of staff for Senator Hildenbrand when he was first elected to the Senate, and later transitioned to deputy majority counsel. Jennifer has served as majority counsel for two majority leaders: Senator Richardville and myself. Jennifer is always willing to be part of a team, to offer her opinion, and to pass on her experience to her colleagues.

Today, we have on the floor Jen's husband, Rob Snyder, and the triplets—you're going to have to tell us which one is which—William, Jack, and Madelyn. I guess we can figure out who Madelyn is.

Please join me in thanking Jen for her service, for the work for the Legislature that she's been so helpful with and wish her well as she moves on to a new opportunity.

for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 2a of chapter IV (MCL 764.2a), as amended by 2002 PA 483.

The question being on the passage of the bill,
Senator Hildenbrand offered the following amendments:

1. Amend page 3, line 11, after "110" by inserting "OR A REGIONAL AUTHORITY CREATED UNDER SECTION 139".

2. Amend page 3, line 12, after "MCL 259.110" by inserting "AND 259.139".

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. 617

Yeas—36

Ananich	Hansen	Knollenberg	Robertson
Bieda	Hertel	Kowall	Rocca
Booher	Hildenbrand	MacGregor	Schmidt
Brandenburg	Hood	Marleau	Schuitmaker
Casperson	Hopgood	Meekhof	Shirkey
Colbeck	Horn	Nofs	Stamas
Emmons	Hune	O'Brien	Warren
Green	Jones	Pavlov	Young
Gregory	Knezek	Proos	Zorn

Nays—0

Excused—1

Johnson

Not Voting—0

In The Chair: President

Recess

Senator Kowall moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 10:24 a.m.

2:31 p.m.

The Senate was called to order by the President pro tempore, Senator Schuitmaker.

During the recess, Senator Johnson entered the Senate Chamber.

By unanimous consent the Senate returned to the order of
Messages from the Governor

The following message from the Governor was received and read:

October 14, 2016

I respectfully submit to the Senate the following appointment to office:

Commission on Community Action and Economic Opportunity

Gregg P. Iddings of 4853 Waynick Drive, Britton, Michigan 49229, county of Lenawee, representing elected public officials, succeeding himself, is reappointed for a term expiring June 21, 2019.

Sincerely,
 Rick Snyder
 Governor

The appointment was referred to the Committee on Government Operations.

By unanimous consent the Senate returned to the order of
Messages from the House

Senate Bill No. 885, entitled

A bill to amend 1998 PA 58, entitled “Michigan liquor control code of 1998,” by amending section 545 (MCL 436.1545), as added by 2010 PA 213.

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.

Senate Bill No. 597, entitled

A bill relating to certain trusts; to provide for the powers and procedures of the court that has jurisdiction of certain trusts; to provide for the validity and effect of certain transfers and contracts that relate to certain trusts; to provide remedies; and to provide procedures to facilitate enforcement of certain trusts.

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

The House of Representatives has passed the bill as substituted (H-1) and ordered that it be given immediate effect.

Pending the order that, under rule 3.202, the bill be laid over one day,

Senator Kowall moved that the rule be suspended.

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

The question being on concurring in the substitute made to the bill by the House,

The substitute was concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 618

Yeas—37

Ananich	Hertel	Knollenberg	Robertson
Bieda	Hildenbrand	Kowall	Rocca
Booher	Hood	MacGregor	Schmidt
Brandenburg	Hopgood	Marleau	Schuitmaker
Casperson	Horn	Meekhof	Shirkey
Colbeck	Hune	Nofs	Stamas
Emmons	Johnson	O’Brien	Warren
Green	Jones	Pavlov	Young
Gregory	Knezek	Proos	Zorn
Hansen			

Nays—0

Excused—0

Not Voting—0

In The Chair: Schuitmaker

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

Senate Bill No. 995, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” by amending sections 2b, 204a, 602b, 643, 643a, and 665 (MCL 257.2b, 257.204a, 257.602b, 257.643, 257.643a, and 257.665), sections 2b and 665 as added, section 204a as amended by 2004 PA 362, and section 602b as amended by 2013 PA 231, and by adding sections 40c, 606b, and 665a; and to repeal acts and parts of acts.

The House of Representatives has substituted (H-4) the bill.

The House of Representatives has passed the bill as substituted (H-4), ordered that it be given immediate effect and amended the title to read as follows:

A bill to amend 1949 PA 300, entitled “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 manufacturers, the manufacturers of certain devices, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to regulate and certify the manufacturers of certain devices; to provide for approval and certification of installers and servicers of certain devices; 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 provide appropriations for certain purposes; 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,” by amending sections 2b, 204a, 602b, 643, 643a, and 665 (MCL 257.2b, 257.204a, 257.602b, 257.643, 257.643a, and 257.665), sections 2b and 665 as added and section 602 as amended by 2013 PA 231 and section 204a as amended by 2004 PA 362, and by adding sections 40c, 606b, and 665a; and to repeal acts and parts of acts.

Pending the order that, under rule 3.202, the bill be laid over one day,

Senator Kowall moved that the rule be suspended.

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

The question being on concurring in the substitute made to the bill by the House,

The substitute was concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 619

Yeas—37

Ananich	Hertel	Knollenberg	Robertson
Bieda	Hildenbrand	Kowall	Rocca
Booher	Hood	MacGregor	Schmidt
Brandenburg	Hopgood	Marleau	Schuitmaker
Casperson	Horn	Meekhof	Shirkey
Colbeck	Hune	Nofs	Stamas
Emmons	Johnson	O’Brien	Warren
Green	Jones	Pavlov	Young
Gregory	Knezek	Proos	Zorn
Hansen			

Nays—0

Excused—0

Not Voting—0

In The Chair: Schuitmaker

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

Senate Bill No. 996, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” (MCL 257.1 to 257.923) by adding section 665b.
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.

Pending the order that, under rule 3.202, the bill be laid over one day,

Senator Kowall moved that the rule be suspended.

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

The question being on concurring in the substitute made to the bill by the House,

The substitute was concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 620

Yeas—37

Ananich	Hertel	Knollenberg	Robertson
Bieda	Hildenbrand	Kowall	Rocca
Booher	Hood	MacGregor	Schmidt
Brandenburg	Hopgood	Marleau	Schuitmaker
Casperson	Horn	Meekhof	Shirkey
Colbeck	Hune	Nofs	Stamas
Emmons	Johnson	O’Brien	Warren
Green	Jones	Pavlov	Young
Gregory	Knezek	Proos	Zorn
Hansen			

Nays—0

Excused—0

Not Voting—0

In The Chair: Schuitmaker

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.

Senate Bill No. 997, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” by amending sections 2b and 601a (MCL 257.2b and 257.601a), section 2b as added by 2013 PA 231 and section 601a as amended by 2011 PA 115, and by adding section 665a.

The House of Representatives has substituted (H-4) the bill.

The House of Representatives has passed the bill as substituted (H-4), ordered that it be given immediate effect and amended the title to read as follows:

A bill to amend 1949 PA 300, entitled “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 manufacturers, the manufacturers of certain devices, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to regulate and certify the manufacturers of certain devices; to provide for approval and certification of installers and servicers of certain devices; 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 provide appropriations for certain purposes; 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,” by amending section 601a (MCL 257.601a), as amended by 2011 PA 115.

Pending the order that, under rule 3.202, the bill be laid over one day,

Senator Kowall moved that the rule be suspended.

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

The question being on concurring in the substitute made to the bill by the House,

The substitute was concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 621

Yeas—35

Ananich	Hertel	Kowall	Rocca
Bieda	Hildenbrand	MacGregor	Schmidt
Booher	Hood	Marleau	Schuitmaker
Casperson	Hopgood	Meekhof	Shirkey
Colbeck	Horn	Nofs	Stamas
Emmons	Hune	O’Brien	Warren
Green	Johnson	Pavlov	Young
Gregory	Jones	Proos	Zorn
Hansen	Knollenberg	Robertson	

Nays—0

Excused—0

Not Voting—2

Brandenburg Knezek

In The Chair: Schuitmaker

Senator Kowall moved to reconsider the vote by which the House substitute was concurred in.

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

The question being on concurring in the substitute made to the bill by the House,

The substitute was concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 622**Yeas—37**

Ananich	Hertel	Knollenberg	Robertson
Bieda	Hildenbrand	Kowall	Rocca
Booher	Hood	MacGregor	Schmidt
Brandenburg	Hopgood	Marleau	Schuitmaker
Casperson	Horn	Meekhof	Shirkey
Colbeck	Hune	Nofs	Stamas
Emmons	Johnson	O'Brien	Warren
Green	Jones	Pavlov	Young
Gregory	Knezek	Pros	Zorn
Hansen			

Nays—0**Excused—0****Not Voting—0**

In The Chair: Schuitmaker

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

Senate Bill No. 998, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2949b (MCL 600.2949b), as added by 2013 PA 251.

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 returned to the order of

Third Reading of Bills

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

Senate Bill No. 1089**House Bill No. 5215****Senate Bill No. 1084****House Bill No. 5656****House Bill No. 5657****House Bill No. 5447**

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 1089, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 710e (MCL 257.710e), as amended by 2008 PA 43.

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. 623**Yeas—37**

Ananich	Hertel	Knollenberg	Robertson
Bieda	Hildenbrand	Kowall	Rocca
Booher	Hood	MacGregor	Schmidt
Brandenburg	Hopgood	Marleau	Schuitmaker
Casperson	Horn	Meekhof	Shirkey
Colbeck	Hune	Nofs	Stamas
Emmons	Johnson	O'Brien	Warren
Green	Jones	Pavlov	Young
Gregory	Knezek	Proos	Zorn
Hansen			

Nays—0**Excused—0****Not Voting—0**

In The Chair: Schuitmaker

The Senate agreed to the title of the bill.

The following bill was read a third time:

House Bill No. 5215, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 70a.

The question being on the passage of the bill,

Senator Bieda offered the following amendment:

1. Amend page 1, line 5, after "**COLLAR**" by inserting "**OR A MICROCHIP**".

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. 624**Yeas—36**

Ananich	Hansen	Knezek	Proos
Bieda	Hertel	Knollenberg	Robertson
Booher	Hildenbrand	Kowall	Rocca
Brandenburg	Hood	MacGregor	Schmidt
Casperson	Hopgood	Marleau	Schuitmaker
Colbeck	Horn	Meekhof	Stamas
Emmons	Hune	Nofs	Warren
Green	Johnson	O'Brien	Young
Gregory	Jones	Pavlov	Zorn

Nays—1

Shirkey

Excused—0

Not Voting—0

In The Chair: Schuitmaker

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, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at criminal trials; to provide for liability for damages; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act.”

The Senate agreed to the full title.

The following bill was read a third time:

Senate Bill No. 1084, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” by amending section 698 (MCL 257.698), as amended by 2016 PA 161.

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. 625

Yeas—37

Ananich	Hertel	Knollenberg	Robertson
Bieda	Hildenbrand	Kowall	Rocca
Booher	Hood	MacGregor	Schmidt
Brandenburg	Hopgood	Marleau	Schuitmaker
Casperson	Horn	Meekhof	Shirkey
Colbeck	Hune	Nofs	Stamas
Emmons	Johnson	O’Brien	Warren
Green	Jones	Pavlov	Young
Gregory	Knezek	Proos	Zorn
Hansen			

Nays—0

Excused—0

Not Voting—0

In The Chair: Schuitmaker

The Senate agreed to the title of the bill.

The following bill was read a third time:

House Bill No. 5656, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” (MCL 257.1 to 257.923) by adding section 312j.

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. 626**Yeas—37**

Ananich	Hertel	Knollenberg	Robertson
Bieda	Hildenbrand	Kowall	Rocca
Booher	Hood	MacGregor	Schmidt
Brandenburg	Hopgood	Marleau	Schuitmaker
Casperson	Horn	Meekhof	Shirkey
Colbeck	Hune	Nofs	Stamas
Emmons	Johnson	O'Brien	Warren
Green	Jones	Pavlov	Young
Gregory	Knezek	Proos	Zorn
Hansen			

Nays—0**Excused—0****Not Voting—0**

In The Chair: Schuitmaker

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 manufacturers, the manufacturers of certain devices, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to regulate and certify the manufacturers of certain devices; to provide for approval and certification of installers and servicers of certain devices; 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 provide appropriations for certain purposes; 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. 5657, entitled

A bill to amend 2006 PA 384, entitled “Driver education provider and instructor act,” by amending section 55 (MCL 256.675).

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. 627**Yeas—37**

Ananich	Hertel	Knollenberg	Robertson
Bieda	Hildenbrand	Kowall	Rocca
Booher	Hood	MacGregor	Schmidt

Brandenburg
Casperson
Colbeck
Emmons
Green
Gregory
Hansen

Hopgood
Horn
Hune
Johnson
Jones
Knezek

Marleau
Meekhof
Nofs
O'Brien
Pavlov
Proos

Schuitmaker
Shirkey
Stamas
Warren
Young
Zorn

Nays—0

Excused—0

Not Voting—0

In The Chair: Schuitmaker

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 certification of driver education providers; to prescribe certain record-keeping and program requirements for driver education providers; to provide for the certification of driver education instructors; to prescribe the powers and duties of certain persons and departments; to prescribe certain fees; to establish a fund in the state treasury; to prescribe remedies, sanctions, and penalties; and to rescind administrative rules.”.

The Senate agreed to the full title.

By unanimous consent the Senate proceeded to the order of

Resolutions

Senator Kowall moved that consideration of the following resolutions be postponed for today:

House Concurrent Resolution No. 3

Senate Resolution No. 76

Senate Resolution No. 75

The motion prevailed.

House Concurrent Resolution No. 27.

A concurrent resolution prescribing the legislative schedule.

Resolved by the House of Representatives (the Senate concurring), That when the House of Representatives adjourns on Thursday, November 10, 2016, it stands adjourned until Tuesday, November 29, 2016, at 1:30 p.m.; and be it further

Resolved, That when the Senate adjourns on Thursday, November 10, 2016, it stands adjourned until Tuesday, November 29, 2016, at 10:00 a.m.

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 Kowall moved that the rule be suspended.

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

The concurrent resolution was adopted.

Senators Booher, Brandenburg, Hansen, Jones, Knollenberg, Marleau, Proos and Zorn were named co-sponsors of the concurrent resolution.

Senator Casperson offered the following resolution:

Senate Resolution No. 219.

A resolution to recognize November 2016 as Epilepsy Awareness Month.

Whereas, Epilepsy is a neurological disorder where the brain's normal electrical pattern is disrupted by sudden and synchronized bursts of electrical energy that may affect consciousness, movement, or sensation, while creating long-term effects on the lifestyle of individuals with epilepsy; and

Whereas, 1 in 26 people will develop epilepsy and 150,000 new cases of epilepsy are diagnosed each year; and

Whereas, Epilepsy affects between 2.2-3 million people in the United States, and 65 million people worldwide; and

Whereas, Epilepsy is a complex neurological disorder that results in almost one-third of epilepsy patients living with uncontrolled seizures due to a lack of clinically available treatment that works for them; and

Whereas, The complexity of this disorder requires further research to find a cure and additional treatments for epilepsy patients; and

Whereas, Epilepsy Awareness Month is recognized each November to increase awareness of the disorder, highlight the need for further research, and demonstrate support for the millions of people living with epilepsy in the United States; and

Whereas, The state of Michigan joins the Epilepsy Foundation and other interested agencies and organizations in urging patients, supporters, health care providers, and the general public to share information about this disease and available treatments; giving hope of a better future for people with epilepsy; now, therefore, be it

Resolved by the Senate, That we hereby recognize the month of November 2016 as Epilepsy Awareness Month in Michigan and commend its observance to all citizens; and be it further

Resolved, That a copy of this resolution be transmitted to UCB Pharmaceuticals as evidence of our esteem.

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

Senator Kowall moved that the rule be suspended.

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

The resolution was adopted.

Senators Booher, Brandenburg, Hansen, Jones, Knollenberg, Marleau and Zorn were named co-sponsors of the resolution.

Introduction and Referral of Bills

Senator Brandenburg introduced

Senate Bill No. 1162, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 680 (MCL 206.680), as amended by 2012 PA 70.

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

Senator Brandenburg introduced

Senate Bill No. 1163, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending sections 117, 500, and 505 (MCL 208.1117, 208.1500, and 208.1505), section 117 as amended by 2011 PA 292, section 500 as amended by 2013 PA 233, and section 505 as amended by 2011 PA 305.

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

Senator Colbeck introduced

Senate Bill No. 1164, entitled

A bill to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," by amending section 10a (MCL 460.10a), as amended by 2008 PA 286; and to repeal acts and parts of acts.

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

Senator Colbeck introduced
Senate Bill No. 1165, entitled

A bill to create the Michigan parental choice in education program; to provide for education savings accounts; to prescribe the powers and duties of certain state agencies, boards, and departments; to allow certain tax credits or deductions; and to provide for penalties and remedies.

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

Senator Colbeck introduced
Senate Bill No. 1166, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending sections 6, 20, 22a, 31a, 41, 51a, 56, 61a, 62, 81, and 101 (MCL 388.1606, 388.1620, 388.1622a, 388.1631a, 388.1641, 388.1651a, 388.1656, 388.1661a, 388.1662, 388.1681, and 388.1701), sections 6, 22a, 31a, 41, 51a, 56, 62, 81, and 101 as amended by 2016 PA 249 and sections 20 and 61a as amended by 2016 PA 313, and by adding section 22e; and to repeal acts and parts of acts.

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

Senator Colbeck introduced
Senate Bill No. 1167, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 625a, 681, 705, 1211, 1611, 1612, 1613, and 1724a (MCL 380.625a, 380.681, 380.705, 380.1211, 380.1611, 380.1612, 380.1613, and 380.1724a), section 625a as added by 1994 PA 258, section 681 as amended by 2007 PA 45, section 705 as amended by 2016 PA 192, section 1211 as amended by 2012 PA 285, sections 1611 and 1612 as amended and section 1613 as added by 1982 PA 333, and section 1724a as amended by 2004 PA 415, and by adding section 1210; and to repeal acts and parts of acts.

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

Senator Colbeck introduced
Senate Bill No. 1168, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 30 (MCL 206.30), as amended by 2015 PA 161.

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

Senator Colbeck introduced
Senate Bill No. 1169, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending sections 43, 44a, 51, and 52 (MCL 211.43, 211.44a, 211.51, and 211.52), section 43 as amended by 1994 PA 253, section 44a as amended by 2012 PA 184, and section 51 as amended by 2012 PA 57.

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

Senator Jones introduced
Senate Bill No. 1170, entitled

A bill to amend 1985 PA 176, entitled "Child identification and protection act," by amending sections 2 and 4 (MCL 722.772 and 722.774).

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

Senator Jones introduced
Senate Bill No. 1171, entitled

A bill to amend 1935 PA 120, entitled "An act to prescribe a method for the fingerprinting of residents of the state; to provide for the recording and filing of the fingerprints by the central records division of the department of state police; and to impose a fee," by amending section 1 (MCL 28.271), as amended by 1985 PA 175, and by adding section 4.

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

Senators Horn, Shirkey, MacGregor, Stamas and Proos introduced
Senate Bill No. 1172, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by amending section 3f (MCL 205.93f), as amended by 2014 PA 161.

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

Senator Hopgood introduced
Senate Bill No. 1173, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 21720a (MCL 333.21720a).
The bill was read a first and second time by title and referred to the Committee on Health Policy.

Senator Hopgood introduced
Senate Bill No. 1174, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 20104 (MCL 333.20104), as amended by 2015 PA 155, and by adding section 20174.

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

Senator Jones introduced
Senate Bill No. 1175, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 7401 (MCL 333.7401), as amended by 2012 PA 183.

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

Senator Shirkey introduced
Senate Bill No. 1176, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 13m of chapter XVII (MCL 777.13m), as amended by 2016 PA 126.

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

Senator Pavlov introduced
Senate Bill No. 1177, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending section 147 (MCL 388.1747), as amended by 2016 PA 249.

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

Senator Pavlov introduced
Senate Bill No. 1178, entitled

A bill to amend 1965 PA 314, entitled "Public employee retirement system investment act," by amending section 20m (MCL 38.1140m), as amended by 2014 PA 185.

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

Senator Green introduced
Senate Bill No. 1179, entitled

A bill to amend 1941 PA 207, entitled "Fire prevention code," by amending section 5d (MCL 29.5d), as amended by 2006 PA 189.

The bill was read a first and second time by title.

Senator Kowall moved that rule 3.203 be suspended and that the bill be referred to the Committee of the Whole and placed on the order of General Orders.

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

Recess

Senator Kowall moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 3:27 p.m.

4:05 p.m.

The Senate was called to order by the President pro tempore, Senator Schuitmaker.

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

Senator Kowall 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 Schuitmaker, designated Senator Schmidt as Chairperson.

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

Senate Bill No. 438, entitled

A bill to amend 2008 PA 295, entitled "Clean, renewable, and efficient energy act," by amending the title, the headings of subparts B and C of part 2 and the heading of part 5, and sections 1, 3, 5, 7, 9, 11, 13, 29, 39, 41, 45, 47, 49, 71, 73, 75, 77, 81, 83, 85, 87, 89, 91, 93, 95, 97, 113, 173, 175, 177, and 179 (MCL 460.1001, 460.1003, 460.1005, 460.1007, 460.1009, 460.1011, 460.1013, 460.1029, 460.1039, 460.1041, 460.1045, 460.1047, 460.1049, 460.1071, 460.1073, 460.1075, 460.1077, 460.1081, 460.1083, 460.1085, 460.1087, 460.1089, 460.1091, 460.1093, 460.1095, 460.1097, 460.1113, 460.1173, 460.1175, 460.1177, and 460.1179), section 29 as amended by 2008 PA 295, section 93 as amended by 2010 PA 269, and by adding subpart B to part 2, sections 22, 28, 78, 99, 183, and 185, and part 7; and to repeal acts and parts of acts.

Substitute (S-7).

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

1. Amend page 19, line 8, after "**SUPPLIERS**" by striking out "**AND COOPERATIVE UTILITIES**".
2. Amend page 19, line 10, after "**FOR**" by inserting "**COOPERATIVE ELECTRIC UTILITIES AND**".
3. Amend page 20, line 7, after "**(5)**" by striking out "**THE**" and inserting "**FOR AN ELECTRIC PROVIDER WHOSE RATES ARE REGULATED BY THE COMMISSION, THE**".
4. Amend page 20, line 7, after "**APPROVE**" by striking out "**AN ELECTRIC PROVIDER'S**" and inserting "**THE**".
5. Amend page 20, line 21, after "**PORTFOLIO**" by striking out the balance of the subsection and inserting:
"AS FOLLOWS:
(A) IN 2016 THROUGH 2018, A RENEWABLE ENERGY CREDIT PORTFOLIO THAT CONSISTS OF AT LEAST THE SAME NUMBER OF RENEWABLE ENERGY CREDITS AS WERE REQUIRED UNDER FORMER SECTION 27.
(B) IN 2019 THROUGH 2021, A RENEWABLE ENERGY CREDIT PORTFOLIO OF AT LEAST 12.5%, AS CALCULATED UNDER SUBSECTION (2).
(C) IN 2021, A RENEWABLE ENERGY CREDIT PORTFOLIO OF AT LEAST 15%, AS CALCULATED UNDER SUBSECTION (2)."

6. Amend page 22, following line 5, by inserting:

"Sec. 29. (1) Subject to subsection (2), a renewable energy system that is the source of renewable energy credits used to satisfy the renewable energy standards shall be either located outside of this state in the retail electric customer service territory of any provider that is not an alternative electric supplier or located anywhere in this state. For the purposes of this subsection, a retail electric customer service territory shall be considered to be the territory recognized by the commission on January 1, 2008 and any expansion of retail electric customer service territory recognized by the commission after January 1, 2008 under 1939 PA 3, MCL 460.1 to ~~460.10e~~-**460.11**. The commission may also expand a service territory for the purposes of this subsection if a lack of transmission lines limits the ability to obtain sufficient renewable energy from renewable energy systems that meet the location requirement of this subsection.

(2) The renewable energy system location requirements in subsection (1) do not apply if 1 or more of the following requirements are met:

(a) The renewable energy system is a wind energy conversion system and the electricity generated by the wind energy system, or the renewable energy credits associated with that electricity, is being purchased under a contract in effect on January 1, 2008. If the electricity and associated renewable energy credits purchased under such a contract are used by an electric provider to meet renewable energy requirements established after January 1, 2008 by the legislature of the state in which the wind energy conversion system is located, the electric provider may, for the purpose of meeting the renewable energy credit standard under this act, obtain, by any means authorized under **FORMER** section 27, up to the same number of replacement renewable energy credits from any other wind energy conversion systems located in that state. This subdivision shall not be utilized by an alternative electric supplier unless the alternative electric supplier was licensed in this state on January 1, 2008. Renewable energy credits from a renewable energy system under a contract with an alternative electric supplier under this subdivision shall not be used by another electric provider to meet its requirements under this part.

(b) The renewable energy system is a wind energy conversion system that was under construction or operational and owned by an electric provider on January 1, 2008. This subdivision shall not be utilized by an alternative electric supplier.

(c) The renewable energy system is a wind energy conversion system that includes multiple wind turbines, at least 1 of the wind turbines meets the location requirements of this section, and the remaining wind turbines are within 15 miles of a wind turbine that is part of that wind energy conversion system and that meets the location requirements of this section.

(d) Before January 1, 2008, an electric provider serving not more than 75,000 retail electric customers in this state filed an application for a certificate of authority for the renewable energy system with a state regulatory commission in another state that is also served by the electric provider. However, renewable energy credits shall not be granted under this subdivision for electricity generated using more than 10.0 megawatts of nameplate capacity of the renewable energy system.

(e) Electricity generated from the renewable energy system is sold by a not-for-profit entity located in Indiana, **OHIO**, or Wisconsin to a municipally-owned electric utility in this state or cooperative electric utility in this state, ~~under a contract in effect on January 1, 2008,~~ and the electricity is not being used to meet another state's standard for renewable energy.

~~(f) Electricity generated from the renewable energy system is sold by a not-for-profit entity located in Ohio to a municipally-owned electric utility in this state under a contract approved by resolution of the governing body of the municipally-owned electric utility by January 1, 2008, and the electricity is not being used to meet another state's standard for renewable energy. However, renewable energy credits shall not be granted for electricity generated using more than 13.4 megawatts of nameplate capacity of the renewable energy system.~~

~~(F) (g)~~ All of the following requirements are met:

(i) The renewable energy system is a wind energy system, is interconnected to the electric provider's transmission system, and is located in a state in which the electric provider has service territory.

(ii) The electric provider competitively bid any contract for engineering, procurement, or construction of the renewable energy system, if the electric provider owns the renewable energy system, or for purchase of the renewable energy and associated renewable energy credits from the renewable energy system, if the provider does not own the renewable energy system, in a process open to renewable energy systems sited in this state.

(iii) The renewable energy credits from the renewable energy system are only used by that electric provider to meet the renewable energy standard.

(iv) The electric provider is not an alternative electric supplier.

(3) Advanced cleaner energy systems that are the source of the advanced cleaner energy credits used under **FORMER** section 27 shall be either located outside this state in the service territory of any electric provider that is not an alternative electric supplier or located anywhere in this state."

7. Amend page 24, line 15, after "**PROVIDER**" by inserting "**WHOSE RATES ARE REGULATED BY THE COMMISSION**".

8. Amend page 64, line 17, after "**PROVIDERS**" by inserting "**WHOSE RATES ARE REGULATED BY THE COMMISSION AND**".

9. Amend page 84, line 27, by striking out all of enacting section 1 and inserting:

"Enacting section 1. Sections 21, 23, 25, 27, 31, 33, 37, 43, 51, 53, 79, and 155 of the clean, renewable, and efficient energy act, 2008 PA 295, MCL 460.1021, 460.1023, 460.1025, 460.1027, 460.1031, 460.1033, 460.1037, 460.1043, 460.1051, 460.1053, 460.1079, and 460.1155, are repealed."

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. 437, entitled

A bill to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," by amending the title and sections 6a, 6j, 6k, 6l, 6m, 6s, 10, 10a, 10c, 10f, 10p, 10r, 10t, 10dd, and 11 (MCL 460.6a, 460.6j, 460.6k, 460.6l, 460.6m, 460.6s, 460.10, 460.10a, 460.10c, 460.10f, 460.10p, 460.10r, 460.10t, 460.10dd, and 460.11), the title as amended by 2005 PA 190, sections 6a, 10, 10a, 10p, and 10r as amended and sections 6s and 10dd as added by 2008 PA 286, section 6j as amended by 1987 PA 81, section 6k as added by 1982 PA 304, section 6l as amended and sections 10c, 10f, and 10t as added by 2000 PA 141, section 6m as amended by 2014

PA 170, and section 11 as amended by 2014 PA 169, and by adding sections 6t, 6u, 6v, 6w, 6x, 6y, 10ee, and 10ff; and to repeal acts and parts of acts.

Substitute (S-7).

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

1. Amend page 8, line 23, by striking out “retaining” and inserting “**SERVING**”.
2. Amend page 9, line 5, after “them” by striking out “to cease using” and inserting “**NOT TO USE**”.
3. Amend page 15, line 14, after “**SHALL**” by inserting “**BY DECEMBER 1, 2017,**”.
4. Amend page 16, line 9, after “**460.1211,**” by striking out the balance of the line through “**6T**” on line 10 and inserting “**BEFORE THE DATE THAT THE COMMISSION ESTABLISHES A GRID CHARGE UNDER THIS SUBSECTION**”.
5. Amend page 62, line 25, by striking out “**2019**” and inserting “**2022**”.
6. Amend page 62, line 27, after “**LEAST**” by striking out “**14%**” and inserting “**15%**”.
7. Amend page 81, line 25, after “**RESOURCE**” by inserting a comma and “**THAT MAY INCLUDE A RESOURCE ACQUIRED THROUGH A 3-YEAR CAPACITY AUCTION,**”.
8. Amend page 82, line 15, after “**RESOURCE**” by inserting a comma and “**THAT MAY INCLUDE A RESOURCE ACQUIRED THROUGH A 3-YEAR CAPACITY AUCTION,**”.
9. Amend page 83, line 7, after “**RESOURCE**” by inserting a comma and “**THAT MAY INCLUDE A RESOURCE ACQUIRED THROUGH A 3-YEAR CAPACITY AUCTION,**”.
10. Amend page 83, line 11, after the first “**OF**” by striking out “**THE COST OF NEW ENTRY**” and inserting “**AN AUCTION PRICE RELATED TO A CAPACITY DEFICIENCY**”.
11. Amend page 83, line 24, after “**RIGHTS**” by striking out the balance of the line through “**REQUIREMENT**” on line 26 and inserting “**TO SUFFICIENT DEDICATED AND FIRM ELECTRIC CAPACITY**”.
12. Amend page 83, line 24, after “**RESOURCE**” by inserting a comma and “**THAT MAY INCLUDE A RESOURCE ACQUIRED THROUGH A 3-YEAR CAPACITY AUCTION,**”.
13. Amend page 84, line 10, by striking out “**ELECTRIC PROVIDER**” and inserting “**ALTERNATIVE ELECTRIC SUPPLIER**”.
14. Amend page 84, line 13, after “**10A(1)(I).**” by inserting “**AN ELECTRIC PROVIDER MAY MEET THE REQUIREMENTS OF THIS SUBDIVISION THROUGH ANY RESOURCE THAT THE APPROPRIATE INDEPENDENT SYSTEM OPERATOR ALLOWS TO QUALIFY FOR MEETING THE LOCAL CLEARING REQUIREMENT.**”.
15. Amend page 89, line 18, after “**COMMISSION**” by striking out “**MAY, IF NECESSARY,**” and inserting “**SHALL**”.
16. Amend page 89, line 26, after “**OR**” by striking out the balance of the subdivision and inserting “**IS A RESOURCE, THAT MAY INCLUDE A RESOURCE ACQUIRED THROUGH A 3-YEAR CAPACITY AUCTION, THAT THE APPROPRIATE INDEPENDENT SYSTEM OPERATOR ALLOWS TO QUALIFY FOR MEETING THE LOCAL CLEARING REQUIREMENT.**”.
17. Amend page 103, line 21, after “**ASSESSED.**” by striking out the balance of the line through “**(H).**” on line 25 and inserting “**THE GENERATION CAPACITY CHARGE ESTABLISHED UNDER THIS SUBDIVISION SHALL BE THE SAME FOR ALTERNATIVE ELECTRIC SUPPLIER SERVICE CUSTOMERS AS THE GENERATION CAPACITY CHARGE FOR CUSTOMERS ON STANDARD TARIFF SERVICE.**”.
18. Amend page 104, line 7, after “**DETERMINING**” by striking out the balance of the line through “**COSTS**” on line 9 and inserting “**THE GENERATION CAPACITY CHARGE UNDER THIS SUBDIVISION**”.
19. Amend page 105, following line 18, by inserting:
“(I) **PROVIDE THAT THE COMMISSION SHALL ENSURE IF A CUSTOMER IS NOTIFIED THAT THE CUSTOMER’S SERVICE FROM AN ALTERNATIVE ELECTRIC SUPPLIER WILL BE TERMINATED OR RESTRICTED EITHER UNDER SECTION 6W(2)(F) OR OTHERWISE AS A RESULT OF THE ALTERNATIVE ELECTRIC SUPPLIER LIMITING SERVICE IN THIS STATE, THE CUSTOMER HAS 60 DAYS TO ACQUIRE SERVICE FROM A DIFFERENT ALTERNATIVE ELECTRIC SUPPLIER. IF THE CUSTOMER IS A PUBLIC ENTITY, THE TIME TO ACQUIRE SERVICES FROM A DIFFERENT ALTERNATIVE ELECTRIC SUPPLIER SHALL NOT BE LESS THAN 180 DAYS.**” and relettering the remaining subdivision.

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.

By unanimous consent the Senate returned to the order of
Third Reading of Bills

Senator Kowall 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 at the head of the Third Reading of Bills calendar:

Senate Bill No. 438

Senate Bill No. 437

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

The following bill was read a third time:

Senate Bill No. 438, entitled

A bill to amend 2008 PA 295, entitled “Clean, renewable, and efficient energy act,” by amending the title, the headings of subparts B and C of part 2 and the heading of part 5, and sections 1, 3, 5, 7, 9, 11, 13, 29, 39, 41, 45, 47, 49, 71, 73, 75, 77, 81, 83, 85, 87, 89, 91, 93, 95, 97, 113, 173, 175, 177, and 179 (MCL 460.1001, 460.1003, 460.1005, 460.1007, 460.1009, 460.1011, 460.1013, 460.1029, 460.1039, 460.1041, 460.1045, 460.1047, 460.1049, 460.1071, 460.1073, 460.1075, 460.1077, 460.1081, 460.1083, 460.1085, 460.1087, 460.1089, 460.1091, 460.1093, 460.1095, 460.1097, 460.1113, 460.1173, 460.1175, 460.1177, and 460.1179), section 93 as amended by 2010 PA 269, and by adding subpart B to part 2, sections 22, 28, 78, 99, 183, and 185, and part 7; 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. 628

Yeas—26

Ananich	Horn	Marleau	Schmidt
Bieda	Hune	Meekhof	Schuitmaker
Booher	Johnson	Nofs	Stamas
Brandenburg	Jones	O’Brien	Warren
Gregory	Knezek	Proos	Young
Hertel	Knollenberg	Rocca	Zorn
Hopgood	Kowall		

Nays—10

Casperson	Green	MacGregor	Robertson
Colbeck	Hansen	Pavlov	Shirkey
Emmons	Hildenbrand		

Excused—0

Not Voting—1

Hood

In The Chair: Schuitmaker

Senator Proos offered to amend the title to read as follows:

A bill to amend 2008 PA 295, entitled “Clean, renewable, and efficient energy act,” by amending the title, the headings of subparts B and C of part 2 and the heading of part 5, and sections 1, 3, 5, 7, 9, 11, 13, 29, 39, 41, 45, 47, 49, 71, 73, 75, 77, 81, 83, 85, 87, 89, 91, 93, 95, 97, 113, 173, 175, 177, and 179 (MCL 460.1001, 460.1003, 460.1005, 460.1007, 460.1009, 460.1011, 460.1013, 460.1029, 460.1039, 460.1041, 460.1045, 460.1047, 460.1049, 460.1071, 460.1073, 460.1075, 460.1077, 460.1081, 460.1083, 460.1085, 460.1087, 460.1089, 460.1091, 460.1093, 460.1095, 460.1097, 460.1113, 460.1173, 460.1175, 460.1177, and 460.1179), section 29 as amended by 2008 PA 295, section 93 as amended by 2010 PA 269, and by adding subpart B to part 2, sections 22, 28, 78, 99, 183, and 185, and part 7; and to repeal acts and parts of acts.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

The following bill was read a third time:

Senate Bill No. 437, entitled

A bill to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," by amending the title and sections 6a, 6j, 6k, 6l, 6m, 6s, 10, 10a, 10c, 10f, 10p, 10r, 10t, 10dd, and 11 (MCL 460.6a, 460.6j, 460.6k, 460.6l, 460.6m, 460.6s, 460.10, 460.10a, 460.10c, 460.10f, 460.10p, 460.10r, 460.10t, 460.10dd, and 460.11), the title as amended by 2005 PA 190, sections 6a, 10, 10a, 10p, and 10r as amended and sections 6s and 10dd as added by 2008 PA 286, section 6j as amended by 1987 PA 81, section 6k as added by 1982 PA 304, section 6l as amended and sections 10c, 10f, and 10t as added by 2000 PA 141, section 6m as amended by 2014 PA 170, and section 11 as amended by 2014 PA 169, and by adding sections 6t, 6u, 6v, 6w, 6x, 6y, 10ee, and 10ff; and to repeal acts and parts of acts.

The question being on the passage of the bill,

Senator Colbeck offered the following amendment:

1. Amend page 140, following line 21, by inserting:

"SEC. 10GG. (1) A UTILITY CUSTOMER MAY CHOOSE BETWEEN THE PLACEMENT OR USE OF A TRADITIONAL METER OR AN ADVANCED METER REGARDLESS OF THE UTILITY THAT PROVIDES SERVICE TO THAT CUSTOMER.

(2) A UTILITY SHALL NOT DO ANY OF THE FOLLOWING:

(A) MAKE THE PROVISION OF ANY PORTION OF UTILITY SERVICE TO A CUSTOMER CONTINGENT UPON THE CUSTOMER'S RECEIVING SERVICE THROUGH ANY METER OR SIMILAR DEVICE OTHER THAN A TRADITIONAL METER. A UTILITY MAY PROHIBIT A CUSTOMER WITH A TRADITIONAL METER FROM PARTICIPATING IN CERTAIN TIME-OF-DAY TARIFF DISCOUNTS.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IMPOSE ANY FEE OR DISINCENTIVE ON A CUSTOMER FOR OPTING OUT OF OR NOT ACCEPTING THE INSTALLATION OF AN ADVANCED METER OR HUB METER OR USE OF AN ADVANCED METER FUNCTION.

(C) INSTALL AN ADVANCED METER OR UPGRADE THE FUNCTIONALITY OF THE ADVANCED METER AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION UNLESS THE CUSTOMER HAS BEEN PROPERLY NOTIFIED AND HAS NOT OPTED OUT OF THE INSTALLATION OR NEW FUNCTIONALITY. IF A CUSTOMER HAS NOT OPTED OUT OF THE INSTALLATION, AN ON-SITE UTILITY WORKER OR HIS OR HER AGENT SHALL NEVERTHELESS NOT INSTALL AN ADVANCED METER OR UPGRADE THE FUNCTIONALITY OF THE ADVANCED METER IF THE CUSTOMER HAS POSTED A SIGN ON THE CURRENT METER FORBIDDING INSTALLATION OF AN ADVANCED METER OR THE CUSTOMER VERBALLY INFORMS THE WORKER AT THE TIME OF INSTALLATION NOT TO INSTALL THE ADVANCED METER OR ADDITIONAL FUNCTIONALITY.

(3) A UTILITY SHALL NOTIFY A CUSTOMER IN WRITING OF THE UTILITY'S INTENTION TO INSTALL AN ADVANCED METER AT THE CUSTOMER'S ADDRESS OR TO UPGRADE THE FUNCTIONALITY OF A PREVIOUSLY INSTALLED ADVANCED METER. THE NOTICE SHALL BE SENT BY FIRST-CLASS MAIL, AND SHALL BE SEPARATE FROM ANY BILLING MAILING. THE UTILITY SHALL KEEP A COPY OF EACH MAILED NOTICE ON FILE FOR REVIEW BY THE CUSTOMER OR THE COMMISSION. EACH NOTICE SHALL DO ALL OF THE FOLLOWING:

(A) INCLUDE THE CUSTOMER'S NAME, SERVICE ADDRESS, AND ANTICIPATED DATE OF INSTALLATION.

(B) STATE THE UTILITY'S DESIRE TO INSTALL AN ADVANCED METER AT THE CUSTOMER'S ADDRESS, AS WELL AS THE FUNCTIONALITY OF THE ADVANCED METER, ITS METHOD OF COMMUNICATION, AND FREQUENCY OF DATA COMMUNICATION.

(C) IF THE ADVANCED METER THE CUSTOMER WOULD BE RECEIVING IS A HUB METER, EXPLAIN HOW A HUB METER DIFFERS FROM OTHER METERS.

(D) STATE THE CUSTOMER'S ABILITY TO CHOOSE A TRADITIONAL METER OR NONHUB METER AND THE CUSTOMER'S RIGHTS UNDER THIS SECTION.

(E) CLEARLY EXPLAIN THE PROCESS FOR A CUSTOMER TO OPT OUT OF INSTALLATION OF AN ADVANCED METER OR HUB METER OR THE USE OF AN ADVANCED METER FUNCTION.

(4) THE COMMISSION MAY PROMULGATE OPT-OUT PROCEDURES THAT SHALL BE COMPOSED OF SIMPLE, EASY-TO-UNDERSTAND STEPS THAT AN AVERAGE CUSTOMER CAN EASILY UNDERSTAND THAT DO NOT PLACE ANY UNDUE BURDEN ON THE CUSTOMER. AFTER BEING NOTIFIED THAT THEY CAN OPT OUT, CUSTOMERS MUST BE PROVIDED WITH AT LEAST 45 DAYS TO COMMUNICATE WITH THE UTILITY THEIR DESIRE TO OPT OUT, WITH A CLEAR DEADLINE LISTED ON THE NOTICE. OPT-OUT PROCEDURES SHALL BE FREE OF CHARGE OTHER THAN THE COST OF REGULAR MAILING. AN OPT-OUT PROCEDURE OR PROCESS SHALL BE NARROW IN CONSTRUCTION SO AS TO INFORM THE UTILITY OF THE CUSTOMER'S INTENTIONS AND NOT BE MADE CONTINGENT UPON OR CONTAIN LANGUAGE THAT WOULD REQUIRE THE CUSTOMER'S GIVING UP ANY RIGHTS OR MAKING ANY OTHER ANCILLARY AGREEMENTS. A CUSTOMER THAT DOES NOT OPT OUT WHEN FIRST NOTIFIED DOES NOT GIVE UP ANY RIGHTS REGARDING HAVING AN ADVANCED METER REMOVED IN THE FUTURE.

(5) WITHIN 30 DAYS AFTER RECEIVING A CUSTOMER'S REQUEST THAT AN ADVANCED METER BE REMOVED FROM THE CUSTOMER'S RESIDENCE OR BUSINESS, A UTILITY SHALL REMOVE THE ADVANCED METER AND REPLACE IT WITH A TRADITIONAL METER THAT IS NOT AN ADVANCED METER. LIMITED TO ACTUAL COSTS, A UTILITY MAY CHARGE A 1-TIME ALL-INCLUSIVE FEE, NOT TO EXCEED \$150.00, TO REMOVE THE ADVANCED METER AND TO PROVIDE AND INSTALL A TRADITIONAL METER. HOWEVER, A UTILITY SHALL NOT CHARGE A FEE IF THE UTILITY INSTALLED THE ADVANCED METER IN VIOLATION OF THE NOTICE REQUIREMENTS IN THIS SECTION OR BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION. A UTILITY SHALL NOT CHARGE A MONTHLY FEE FOR USING A TRADITIONAL METER UNLESS THE CUSTOMER IS OFFERED THE OPPORTUNITY, BUT IS UNWILLING, TO READ AND REPORT THE CUSTOMER'S USAGE UNDER SUBSECTION (6). ANY MONTHLY FEE FOR USING A TRADITIONAL METER SHALL NOT EXCEED \$5.00 PER MONTH.

(6) A UTILITY SHALL ALLOW EACH CUSTOMER TO READ AND REPORT THAT CUSTOMER'S SERVICE USAGE IF THE CUSTOMER REPORTS REASONABLY ACCURATE USAGE ON A REGULAR BASIS. A UTILITY SHALL PROVIDE A CUSTOMER WITH A PREAMBITTED ENVELOPE AND FORM UPON REQUEST OR PERMIT A CUSTOMER TO REPORT METER READINGS ON A SECURE WEBSITE, BY TELEPHONE, OR BY OTHER REASONABLE MEANS. AT LEAST ONCE EVERY 12 MONTHS, THE UTILITY SHALL OBTAIN AN ACTUAL METER READING OF A CUSTOMER'S ENERGY USAGE TO VERIFY THE ACCURACY OF READINGS REPORTED UNDER THIS SECTION. NOTWITHSTANDING THIS SUBSECTION, A REPRESENTATIVE OF A UTILITY MAY MANUALLY READ A CUSTOMER'S METER ON A REGULAR BASIS AS OTHERWISE PERMITTED BY LAW AND CORRECT A READING AS NECESSARY. IF A CUSTOMER FAILS TO REPORT USAGE OR THE UTILITY DOES NOT RECEIVE A CUSTOMER'S SERVICE USAGE ON TIME, THE UTILITY MAY MANUALLY READ A CUSTOMER'S METER OR CHARGE THAT CUSTOMER BASED ON AN ESTIMATE OF PRIOR ENERGY USE IN A MANNER APPROVED BY THE COMMISSION. A CUSTOMER THAT INTENTIONALLY REPORTS INACCURATE INFORMATION MAY BE ASSESSED A REASONABLE PENALTY UNDER RULES PROMULGATED BY THE COMMISSION AND MAY BE SUBJECT TO ANY OTHER PENALTIES PROVIDED BY LAW. AS USED IN THIS SUBSECTION:

(A) "INACCURATE INFORMATION" MEANS THE INTENTIONAL UNDERREPORTING OF METER DATA IN AN EFFORT TO NOT PAY FOR SERVICES. INACCURATE INFORMATION DOES NOT MEAN MINOR DIFFERENCES IN READINGS BY LESS THAN 5% TO ACCOUNT FOR VARIATIONS BASED ON THE TIME OF DAY THAT THE METER IS READ AND SIMILAR FACTORS.

(B) "REGULAR BASIS" MEANS ONCE PER BILLING CYCLE.

(7) SUBJECT TO SUBSECTION (2), THE COMMISSION SHALL NOT APPROVE A UTILITY TARIFF THAT ALTERS RATES FOR CUSTOMERS THAT DO NOT USE AN ADVANCED METER IF THE UTILITY'S COST ESTIMATES ARE BASED ON MORE THAN 1 MANUAL METER READING PER YEAR BY THE UTILITY. THE COMMISSION SHALL CONSIDER THE ABILITY TO SELF-READ METERS AS PART OF ANY PROCEEDING AND SHALL FULLY RECOGNIZE AND VALUE THAT CUSTOMERS HAVE A LEGITIMATE INTEREST IN CONTROLLING THIRD-PARTY EQUIPMENT PLACED ONTO THEIR PROPERTY THAT IS NOT INHERENTLY NECESSARY AS A CONDITION TO RECEIVING SERVICE.

(8) A CUSTOMER'S ENERGY USE DATA AND INTERNET USER INFORMATION ARE PRIVATE AND CONFIDENTIAL AND SHALL NOT BE SOLD, RENTED, OR SHARED BY A UTILITY OR ITS AGENTS EXCEPT AS PROVIDED BY COMPETENT COURT ORDER OR LAW. A UTILITY MAY REPORT DATA RELATING TO ELECTRIC OR COMPRESSED NATURAL GAS VEHICLE FUELING TO THE DEPARTMENT OF TREASURY. THAT INFORMATION SHALL BE USED BY THE STATE STRICTLY FOR TAXATION

PURPOSES, SHALL NOT BE SHARED WITH LAW ENFORCEMENT WITHOUT A WARRANT, AND IS NOT SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, EXCEPT FOR AGGREGATE DATA USED FOR RESEARCH PURPOSES IN A NONIDENTIFYING MANNER.

(9) A UTILITY SHALL ENSURE THAT ANY DATA FROM AN ADVANCED METER COMMUNICATED BY NETWORKING TECHNOLOGY IS SUFFICIENTLY ENCRYPTED SO THAT THE DATA CANNOT BE INTERCEPTED BY A DEVICE OTHER THAN A DEVICE USED BY THE UTILITY. A UTILITY SHALL NOT COMMUNICATE BY NETWORKING TECHNOLOGY METER USE DATA THAT INCLUDE A RESIDENTIAL CUSTOMER'S NAME, SOCIAL SECURITY NUMBER, ADDRESS, OR OTHER IDENTIFYING INFORMATION EXCEPT FOR AN INDEPENDENT AND UNIQUE CUSTOMER IDENTIFICATION NUMBER THAT IS ASSIGNED BY THE UTILITY. THE CUSTOMER IDENTIFICATION NUMBER SHALL BE ASSIGNED IN A MANNER THAT INCLUDES SAFEGUARDS TO PREVENT A DEVICE NOT OWNED BY THE UTILITY FROM ASSOCIATING THE NUMBER WITH A PARTICULAR CUSTOMER OR ADDRESS.

(10) A UTILITY SHALL NOT POST A CUSTOMER'S ENERGY USE DATA OR BILL ON THE INTERNET, EXCEPT OVER A SECURED TRANSFER PROTOCOL OR SIMILAR SECURED CONNECTION THAT USES 1 OR MORE ADDITIONAL SECURITY MEASURES, SUCH AS A CUSTOMER-SELECTED PASSWORD, TO ENSURE THAT ONLY THE CUSTOMER CAN ACCESS THE INFORMATION.

(11) A UTILITY SHALL NOT WIRELESSLY OR OTHERWISE REMOTELY SHUT OFF SERVICE TO A CUSTOMER UNLESS BOTH OF THE FOLLOWING REQUIREMENTS ARE MET:

(A) AT LEAST 48 HOURS BEFORE SHUTOFF, A UTILITY REPRESENTATIVE VISITS THE PROPERTY TO WHICH THE SERVICE IS TO BE SHUT OFF, VERIFIES THAT IT IS THE CORRECT ADDRESS, AND FOLLOWS ALL OTHER SHUTOFF PROCEDURES REQUIRED BY LAW.

(B) THE UTILITY HAS A COMMISSION-APPROVED, COMPREHENSIVE SECURITY PROGRAM THAT REASONABLY ENSURES THAT A CUSTOMER'S SERVICE WILL BE SHUT OFF ONLY THROUGH AUTHORIZED ACCESS TO THE UTILITY'S COMPUTER SYSTEM, THAT IS OPEN TO INSPECTION AND AUDIT BY THE COMMISSION, AND THAT IS DESIGNED TO PREVENT UNINTENTIONAL SHUTOFF DUE TO NETWORK HACKING OR TERRORISM.

(12) AS USED IN THIS SECTION:

(A) "ADVANCED METER" MEANS A METER OR METERING DEVICE SYSTEM THAT IS OWNED OR LEASED BY A UTILITY OR ITS AGENT AND THAT MEETS 1 OR MORE OF THE FOLLOWING REQUIREMENTS:

(i) IS A DEVICE THAT MEASURES, RECORDS, OR SENDS A CUSTOMER'S UTILITY USAGE OR OTHER DATA BY USE OF RADIO WAVES OR BROADBAND OVER POWER LINES.

(ii) ALLOWS FOR 2-WAY COMMUNICATION BETWEEN THE METER AND THE UTILITY OR ITS AGENT.

(iii) ALLOWS FOR A UTILITY OR ITS AGENT TO CONTROL A CUSTOMER'S THERMOSTAT, APPLIANCE, OR SERVICE.

(B) "HUB METER" MEANS AN ADVANCED METER THAT GENERATES STRONGER RADIO WAVES AS A RESULT OF THE METER SERVING AS A HUB FOR OTHER ADVANCED METERS IT COMMUNICATES WITH IN A GIVEN AREA.

(C) "TRADITIONAL METER" MEANS AN ANALOG OR SIMILAR METER THAT IS UNABLE TO TRANSMIT USAGE INFORMATION AND IS ONLY INTENDED TO BE READ BY AN INDIVIDUAL THROUGH A VISUAL DISPLAY. A TRADITIONAL METER IS NOT DESIGNED TO BE AND IS NOT CAPABLE OF TRANSMITTING USAGE DATA BY USING RADIO WAVES OR BROADBAND OVER POWER LINES, ALLOWING 2-WAY COMMUNICATION BETWEEN THE METER AND THE UTILITY OR ITS AGENTS, OR ALLOWING A UTILITY OR ITS AGENTS TO CONTROL A CUSTOMER'S THERMOSTAT, APPLIANCE, OR SERVICE. A TRADITIONAL METER DOES NOT INCLUDE AN ADVANCED METER THAT HAS CERTAIN FUNCTIONALITY TURNED OFF OR DEACTIVATED.

(D) "UTILITY" MEANS A PERSON THAT SELLS NATURAL GAS, ELECTRICITY, OR WATER TO RETAIL CUSTOMERS IN THIS STATE AND THAT EITHER SELLS THE NATURAL GAS, ELECTRICITY, OR WATER AT RATES REGULATED BY THE COMMISSION OR IS OWNED BY A MUNICIPALITY."

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

Senator Shirkey offered the following amendment:

1. Amend page 105, following line 20, by inserting:

"(M) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, PROVIDE THAT A CUSTOMER LOCATED AT AN OIL REFINERY IN A COUNTY WITH A POPULATION GREATER THAN 750,000 MAY PURCHASE ALL OR ANY PORTION OF ITS ELECTRICITY FROM AN ALTERNATIVE

ELECTRIC SUPPLIER, REGARDLESS OF WHETHER THE SALES EXCEED 10% OF THE SERVING ELECTRIC UTILITY’S AVERAGE WEATHER-ADJUSTED RETAIL SALES.”.

The amendment was not adopted, a majority of the members serving not 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. 629

Yeas—26

Ananich	Horn	Marleau	Schmidt
Bieda	Hune	Meekhof	Schuitmaker
Booher	Johnson	Nofs	Stamas
Brandenburg	Jones	O’Brien	Warren
Gregory	Knezek	Proos	Young
Hertel	Knollenberg	Rocca	Zorn
Hopgood	Kowall		

Nays—11

Casperson	Green	Hood	Robertson
Colbeck	Hansen	MacGregor	Shirkey
Emmons	Hildenbrand	Pavlov	

Excused—0

Not Voting—0

In The Chair: Schuitmaker

The Senate agreed to the title of the bill.

Protest

Senator Colbeck, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill Nos. 438 and 437 and moved that the statement he made during the discussion of Senate Bill No. 437 be printed as his reasons for voting “no.”

The motion prevailed.

Senator Colbeck’s statement is as follows:

I rise with my “no” vote explanation on this bill.

When this legislation started off, and I want to thank the good Senator from the 19th District for all the hard work on this. I know he’s been working to deal with a regulation infrastructure that’s difficult and complex with a lot of different considerations to put forward into legislation, and I feel for utilities that have had to deal with burdensome regulations coming out of the federal government, particularly the EPA. We currently have a President up in Washington, D.C. that made it a major policy thrust that he’s on record as saying that under my policies, electricity rates will necessarily skyrocket. Well that’s what’s happening and I understand that the utilities are having to make adjustments to their infrastructure to accommodate these regulations and its led to a lot of power plants being forced offline that shouldn’t be.

Well, we’ve got a new administration coming in and that new administration wants to grow our country and wants to grow our economy. Those regulations are not doing that, they’re actually stifling that. And so there’s a couple different options on how to go off and pursue some of the safeguards for reliable access to electricity that we’re talking about pursuing today, and I’m just here to say that I believe this approach, while it is addressing one element that needs to be

addressed in our community, is not addressing the key elements that I would like to see and we are elected representatives. We are elected to serve the best interests of our constituents, the people that elected us into office. What this legislation does not address are their best interests. We just saw an amendment voted down on one aspect that was a pretty reasonable, common-sense sign of respect for the people that put us into office, and that was rejected around personal property rights.

There's also no provisions in this current legislation that would actually encourage the reduction of rates or improvement of quality or customer service to consumers, and I have an issue with that. If we're going to go off and address how we're regulating our utility infrastructure, I think our constituents, I think our consumers, should be at the top of the priorities scale, not left off to the bottom, and, unfortunately, this legislation is driven by regulated utilities, it's not driven by the constituents that we represent and it's for that reason that I cannot support this legislation. I would like to go off and encourage things like renewable energy, but I'd like it to be a market-driven support. A lot of our consumers and customers would like to see that as well and there are some elements to that in here, but not enough for the consumers actually in the driver's seat for what these utilities would, supply for this electricity would look like. We're not taking care of their personal data protection, we're not taking care of reduced energy rates, and we're not taking care of people's desire for choice around alternative energy and actually seeing it put into action.

Senators Colbeck, Proos and Nofs asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Colbeck's statement is as follows:

If you are like my office, you have received a lot of complaints about smart meters. They're usually from our constituents, i.e., the people that we represent. A lot of these people feel that nobody in Lansing is listening to them on this issue.

Some are concerned about privacy. Some are concerned about health. Some are concerned about accurate pricing, and others are concerned about data hacking on their usage profiles.

Regardless, how we in the Legislature respond to our constituents' desire for choice and freedom, we should instead come down to personal private property rights. The core question we need to ask ourselves is: if a utility customer does not want one of these smart meters, regardless of the reason, do they have a private property right to be able to retain their analog meter? I say yes! These analog meters have worked well for decades; it was never an issue.

If we don't, we are saying that we're supposedly regulating a market that the only way that the customer can keep the lights on in their home is if they consent to a device on their property that causes them significant grief. That is stress every day, seven days a week, 24/7.

Let's think about that for a moment and put ourselves into their shoes. After all, we are their representatives. Their home is supposed to be their castle, yet they have no control over the devices to be placed there. What is the real, true, and substantial harm in letting these people keep their analog meters? For decades, this has worked just fine.

And let me emphasize these words. There is simply no substantial harm here in letting them have a real choice. So in a regulated environment and looking at property rights, we must let people have the freedom to make this choice for themselves, even if it is not the choice that we would make for ourselves. Otherwise, these people are made to feel like hostages in their own home. It is our role to make sure this is not the case.

My amendment today provides some measure of protection for our constituents. At its core, it does the following things. No. 1, it allows people to keep an analog meter, and expressly puts into statute that a utility cannot deny them power for refusing to take a smart meter. No. 2, it puts into statute an already-existing rule that MPSC has had for many, many years that allows a person to self-read their own meter. This already-existing system and my amendment have protections in place so that it cannot be gamed. But, it does allow people who opt out to self-read their meter, and thus only be charged \$5 per month for opting out instead of the \$10 that's currently being charged today. For those that want to use smart meters, which will be the vast majority of people, the amendment also requires, in statute, reasonable privacy protection regarding their power usage profile data that people deserve, as well as minimum security standards that protect all of us from hacking. Especially with smart meters allowing for remote controlled shutoff, this is a protection we all need in statute.

This amendment does not necessarily give those opposed to smart meters everything that they want, but I think it does a very good job here in creating balanced legislation that, at the end of the day, is simply ensuring true analog choice, codifying some existing MPSC rules, and putting into statute some common sense protections that I think we can all agree on. This amendment will not hurt the utilities in any real or substantial way, and we owe it to our constituents to offer them the freedom to make their own choices on their own property, even if they are not the choices we would make. I hope that you will join me in offering them a voice today here in Lansing by adopting this amendment.

Senator Proos' statement is as follows:

I appreciate the opportunity to take a moment in the chamber to talk about both Senate Bill No. 437 and Senate Bill No. 438.

As you know, a lot of time and effort has been put into the two bills that are before us, and with final passage of Senate Bill No. 437, it is well known by those in the chamber and members of the Senate that, in fact, these two speak very closely to each other and I'm not certain if there's a single member of the Legislature in the Senate that hasn't had something to say that has been addressed in this bill as it has wound its way through the legislative process with open hearings in a bipartisan fashion, constant and continual feedback from those interested parties who have an interest in the success of "Michigan First" energy proposals. That bipartisan input, by nearly every member in this chamber, has been diligently worked by the staff, the Legislative Service Bureau, and the chairman of the committee from the 19th District who it is a great honor to serve with, and I appreciate his very open process and his willingness to allow all parties to have something to say.

The principles with which this bill has been designed has given us the opportunity to seek investments here in the state of Michigan. It protects investments from the 2008 renewables that were included that were included in the 2008 energy act, and most importantly we begin to control our own Michigan energy future with the very topsy-turvy energy environment that we have from a public policy perspective. This allows consumers, for the first time in Michigan history, to control their own usage through demand response programs, allowing us the opportunity as consumers to manage our usage in a way that decreases our overall use and energy cost, getting us closer to that day when we have time of use pricing that allows for our consumers, our folks who utilize utility investments to best benefit their own pocketbooks here at home. Those demand response opportunities give us an opportunity for future investments here in the state of Michigan that is a Michigan investment.

Three individuals who have worked very hard on this also need to be noted and while we're not supposed to speak of the names of the members of the Senate, we can certainly mention a few of those staff members: Greg Moore, Rebecca O'Connell, and Dan Dundas, all three of which have been valiant in their effort and have worked tremendous hours to put together the package that you see before us today. Madam President, it's been an honor to work with the Senator from the 19th District, the chairman of the Energy and Technology Committee, and all those individuals who wanted to see a "Michigan First" energy plan that gives us the best opportunity for success in the future. I'd urge support of Senate Bill No. 437 and Senate Bill No. 438.

Senator Nofs' statement is as follows:

Colleagues, the legislation before you has been two years in the making. Obviously, we all know it's been discussed, debated, studied, and, as you saw today, significantly amended from when it was first introduced.

Those of you who have worked on major pieces of legislation before know how difficult it can be to find consensus on your issue which affects a number of different interest groups. Now, imagine if that touches every interest group, every person, every business, governmental entity, and institution in this state. Finding consensus on that scale has, without a doubt, been challenging.

And while I love to say no one is getting 100% of what they want—including the bill sponsors—I believe we have crafted a policy that balances a broad and wide range of interests and addresses the key elements that will serve our state well for many years to come.

There have been many charges and counter charges about what the bill does or does not do, and questions raised about my rationale on various provisions.

But what is not in question is that the energy sector is changing rapidly. Technological advances, fuel costs, customer preferences, and the onslaught of regulation by the federal government have all converged, resulting in one of the largest upheavals in the energy industry in my lifetime.

Yet we take for granted that a steady supply of energy will always be there when we need it, mostly because historically it has been. But these industry changes are starting to call into question that blind confidence. We've had dozens of power plant closures across the Midwest—including over 2,000 megawatts worth of it alone in Michigan—which will impact the availability of capacity to serve our state. Many of you may not be aware that on at least two occasions this past summer, MISO, the organization charged with managing our energy grid, issued Maximum Generation Warnings to providers due to energy demand getting dangerously close to available supply. Folks, this issue is real. And, if you don't believe me, reports this year from both MISO and our own Public Service Commission point to concerns about the availability of capacity to serve our state as early as 2018, just two years from now, which is why we as policymakers need to be deliberate and purposeful about taking the steps necessary to ensure the continued availability of clean, reliable, and affordable energy for our citizens and businesses, and why energy resource adequacy is such a major element of this legislation.

The fallback provisions contained in Senate Bill No. 437 ensure that if MISO's proposed revenue adequacy tariff is not approved or fails to deliver the reliability we need, we as a state have a mechanism to take action. It keeps us in control of our own energy future.

This legislation also provides for a more thorough, forward-looking process to help ensure that future utility investments represent the best, most cost-effective mix of options for our ratepayers and for our state and businesses. The process involves multiple layers of competitive bidding, cost-containment provisions, as well as opportunities for parties to intervene in cases and offer alternatives to our own Public Service Commission.

It provides incentives for further energy waste reduction while also providing for a more gradual phase-out of our RPS standard which will ultimately give way to allow resources to compete directly as part of the Integrated Resource Planning process.

It helps ensure that all customers who utilize the energy grid pay their fair share of its upkeep and maintenance, which is only fair.

Despite what you have heard, my bill maintains the 10% choice program and even allows it to expand.

It provides more resources to the Public Service Commission, the Attorney General, and the Utility Consumer Participation Board for their oversight and respective enforcement roles on behalf of all ratepayers.

It provides for new value-added programs and services to aid utilities in transitioning their business model while protecting ratepayer assets and private sector competition.

It establishes a task force to identify issues affecting the availability, the reliability, and the affordability of electricity in the Upper Peninsula and northern lower Michigan, as well as potential options and cost estimates to resolve those issues, something that I know is of critical importance to the residents and businesses contained in those areas.

In closing, I just want to say that I've done my best throughout this two-year journey to listen to all sides and address as many issues raised as I could. The good Senator from the 21st District and I have done our best to forge compromise on key issues and I think the final language in this bill reflects that. This legislation is not about what's best for a few companies or organizations or even individuals. It's about what's best for the entire state of Michigan. That has been and always will be my focus.

I know it's been a little frustrating working through the multiple drafts and substitutes. Frankly, it's been frustrating to me too. But I've said repeatedly that I will continue to listen and make improvements to the bills right up to until the end and I think I've fulfilled that promise today.

I want to thank the good Senator from the 21st District for working alongside me to craft this package and for the tremendous amount of work he and his staff have done on their key piece of it.

I also want to thank the many other people who have been involved in this process, and there are way too many to name individually and we would be here all night. They were committed and they worked so diligently to find answers to some very difficult and challenging proposals. There were literally tens of thousands of hours committed to this process, and I am grateful to each and every one of you who helped me on this journey.

So, colleagues, after 12 years of working on energy policy between the House and the Senate, there's no way I would stand here and ask for your vote for this piece of legislation if I didn't sincerely believe it was the right policy for Michigan.

I do believe that, and I respectfully request and ask for your support.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator Kowall moved that, pursuant to rule 1.114, upon receipt of Senate bills returned from the House of Representatives, the Secretary of the Senate be directed to proceed with the enrollment printing and presentation of the bills to the Governor.

The motion prevailed.

By unanimous consent the Senate proceeded to the order of

Statements

Senators Colbeck, Warren and Horn asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Colbeck's statement is as follows:

I know we're all anxious to get back to the ranch, but as we go back to our homes over this break, can I just please encourage every member of this Chamber to remember one of the key messages that came out of this last election which was that there's a lot of people out there, including me right now, that feel like we're not being listened to by the people that make policies. There's a lot of legislation that serves a broad interest of the average citizen that is not getting addressed. It seems like the only legislation that is getting pushed through this body and the body across the hall is legislation that has some sort of lobbying group to go off and promote it inside this body. I want to remind each and every one of us that we were elected to be the lobbyists for the people that elected us into office.

Senator Warren's statement is as follows:

I wanted to take a few moments one day before we commemorate Veterans Day to offer a special recognition for one of my constituents who truly exemplifies the spirit of service.

Lieutenant Colonel Charles Kettles retired from the United States Army after a long and dedicated career. Earlier this year and at the age of 86, he was awarded the Medal of Honor, our nation's highest military honor, on July 18, which was presented to him by President Barack Obama.

He was born in Ypsilanti in 1930 and graduated from Edison Institute High in Dearborn. He went on to study engineering at the Michigan State Normal College, which is now known as Eastern Michigan University.

However, he was drafted into the Army at age 21. After completing basic training at Fort Breckinridge and Officer Candidate School at Fort Knox, he earned his commission as an armored officer in the U.S. Army Reserve. He went on to graduate from Army Aviation School and to serve active tours of duty in Korea, Japan, and Thailand.

Even after leaving active duty and establishing a Ford dealership in DeWitt, Lieutenant Colonel Kettles continued to serve through the Army Reserve.

However, after the Vietnam War broke out, he volunteered to return to active duty. He became a helicopter pilot and was assigned as a flight commander on the 176th Assault Helicopter Company, 14th Combat Aviation Battalion.

I would like to tell one particularly remarkable story of his courage. On May 15, 1967, American soldiers became stranded in combat near Duc Pho. Lieutenant Colonel Kettles piloted his helicopter through intense army fire several times on missions to evacuate them. He is credited with saving the lives of over 40 soldiers and his four crew members.

In addition to the Medal of Honor, he also received the Distinguished Service Cross, the Legion of Merit, and the Distinguished Flying Cross.

Tomorrow, as we celebrate Veterans Day, Eastern Michigan University will welcome Lieutenant Colonel Kettles back to campus for a ceremony in which they will name their Military and Veterans Resource Center in his honor.

EMU has already been recognized as among the top military-friendly schools in 2016, and was awarded a Gold Standard by the Michigan Veterans Affairs Agency. So, it is fitting that Lieutenant Colonel Kettles' legacy of service will be continued through the university's Military and Veterans Resource Center, where highly-qualified veterans and staff advise and mentor veterans and military students by providing both academic advising, tutoring, and VA benefit support.

I am tremendously proud to not only represent Lieutenant Colonel Kettles, but all the other men and women in my district and around this state and nation who have shown their bravery and self-sacrifice through their service in our nation's armed forces.

Senator Horn's statement is as follows:

I don't come with written remarks today, but I want to just springboard and echo the sentiments of our colleague from the 18th District. We're going to be going back to our districts, and we're going to be visiting with folks back home. Veterans Day is a very special day to a whole lot of people. About 1 percent of Americans ever join the military. These are the "one-percenters." These are people that are very special. As the son of immigrants and a first-generation American, I never served. I'm one of the 99 percent, Madam President, but I'll tell you, my parents came here from a Communist country, fleeing the Berlin Wall. They came to America with one very big hope: the hope of freedom. And it was a promise that America made to my parents and one that our veterans and the people that are serving currently in our Armed Forces, they kept that promise that America made to my parents. So while we go back and we enjoy the last warm days of this fall and visit with our neighbors, remember the veterans that served us.

Committee Reports

The Committee on Regulatory Reform reported

Senate Bill No. 973, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 537 (MCL 436.1537), as amended by 2013 PA 101.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

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

Tory Rocca
Chairperson

To Report Out:

Yeas: Senators Rocca, Knollenberg, Kowall, MacGregor, Warren and Hertel

Nays: None

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

COMMITTEE ATTENDANCE REPORT

The Committee on Regulatory Reform submitted the following:

Meeting held on Wednesday, November 9, 2016, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower

Present: Senators Rocca (C), Knollenberg, Kowall, MacGregor, Warren and Hertel

Excused: Senators Jones, Hune and Johnson

The Committee on Appropriations reported

House Bill No. 5128, entitled

A bill to amend 1943 PA 240, entitled "State employees' retirement act," by amending section 68c (MCL 38.68c), as amended by 2015 PA 20.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

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

David S. Hildenbrand
Chairperson

To Report Out:

Yeas: Senators Hildenbrand, MacGregor, Hansen, Stamas, Schuitmaker, Knollenberg, Booher, Shirkey, Proos, Nofs, Marleau, Gregory, Hopgood, Hertel, Knezek and Young

Nays: None

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

COMMITTEE ATTENDANCE REPORT

The Committee on Appropriations submitted the following:

Meeting held on Wednesday, November 9, 2016, at 3:00 p.m., Harry T. Gast Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Hildenbrand (C), MacGregor, Hansen, Stamas, Schuitmaker, Knollenberg, Booher, Shirkey, Proos, Nofs, Marleau, Gregory, Hopgood, Hertel, Knezek and Young

Excused: Senator Green

COMMITTEE ATTENDANCE REPORT

The Legislative Council submitted the following:

Meeting held on Wednesday, November 9, 2016, at 11:30 a.m., House Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Meekhof (C), Rocca, Schmidt, Schuitmaker (Alternate), Ananich and Hood

Excused: Senators Stamas, Horn (Alternate) and Bieda (Alternate)

Scheduled Meetings

Michigan State Capitol Commission - Monday, November 14, 11:00 a.m., Room H-65, Capitol Building (373-0184)

Senator Kowall moved that the Senate adjourn.

The motion prevailed, the time being 5:06 p.m.

Pursuant to House Concurrent Resolution No. 27, the President pro tempore, Senator Schuitmaker, declared the Senate adjourned until Tuesday, November 29, 2016, at 10:00 a.m.

JEFFREY F. COBB
Secretary of the Senate

