

No. 75
STATE OF MICHIGAN
Journal of the Senate
91st Legislature
REGULAR SESSION OF 2002

Senate Chamber, Lansing, Friday, December 13, 2002.

10:00 a.m.

The Senate was called to order by the Assistant President pro tempore, Senator Philip E. Hoffman.

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

Bennett—present
Bullard—present
Byrum—present
Cherry—present
DeBeaussaert—present
DeGrow—present
Dingell—present
Dunaskiss—present
Emerson—present
Emmons—present
Garcia—present
Gast—present
Goschka—present

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

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

Senator Loren N. Bennett of the 8th District offered the following invocation:

Lord, we come before You today as imperfect individuals—some of us more imperfect than others. We have worked very hard these many years to do Your will and Your bidding in this chamber. I am confident we have not always gotten it right, but we have tried. Please bless every member here, every family member, and all the staff. Please forgive us all those times we got it wrong. Amen.

The Assistant President pro tempore, Senator Hoffman, led the members of the Senate in recital of the *Pledge of Allegiance*.

Motions and Communications

Senators Miller, Byrum, DeGrow and Sikkema entered the Senate Chamber.

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

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

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

Senator Emerson moved that Senators Hart, Koivisto and Murphy be excused from today's session.
The motion prevailed.

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

House Bill No. 5523, entitled

A bill to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending sections 10c, 10h, 10l, and 10n (MCL 247.660c, 247.660h, 247.660l, and 247.660n), sections 10c and 10h as amended by 2002 PA 498, section 10l as amended by 1987 PA 234, and section 10n as amended by 2002 PA 329.

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

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

House Bill No. 5523

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

Recess

Senator Hoffman moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 10:09 a.m.

10:13 a.m.

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

During the recess, Senators Smith and Leland entered the Senate Chamber.

The Secretary announced that the following House bill was received in the Senate and filed on Thursday, December 12:
House Bill No. 6556

By unanimous consent the Senate proceeded to the order of
Conference Reports

House Bill No. 5705, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2002 and the fiscal year ending September 30, 2003; to provide for the expenditure of the appropriations; and to repeal acts and parts of acts.

The House of Representatives has adopted the report of the Committee of Conference.

The Conference Report was read as follows:

FIRST CONFERENCE REPORT

The Committee of Conference on the matters of difference between the two Houses concerning
House Bill No. 5705, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2002 and the fiscal year ending September 30, 2003; to provide for the expenditure of the appropriations; and to repeal acts and parts of acts.

Recommends:

First: That the House recede from its amendment numbered 2 to the Substitute of the Senate as passed by the Senate, which reads as follows:

2. Amend page 38, following line 13, by inserting:

MISCELLANEOUS

Sec. 1850. The appropriations in sections 153(3), 157(3) through (20), and 1275 and the appropriation for at-risk student success program in section 153(2) are not appropriated and shall not be expended unless, pursuant to state statute enacted into law by January 15, 2003 and effective prior to January 1, 2004, the election of the members of the board of trustees for Michigan State University, the board of regents for the University of Michigan, and the board of governors for Wayne State University shall be by the electors from districts that are numbered and constituted the same as the 4 judicial districts for the election of judges of the court of appeals set forth in section 302 of the revised judicature act of 1961, 1961 PA 236, MCL 600.302.”.

Second: That the Senate agree to the House amendment numbered 1 to the Substitute of the Senate as passed by the Senate, which reads as follows:

1. Amend page 38, following line 9, following subsection (3), by inserting:

DEPARTMENT OF STATE POLICE

Sec. 1651. It is the intent of the legislature that up to 10% of federal funds received by the state of Michigan for homeland security equipment upgrade grants to local units be allocated for construction of an upgraded Detroit crime lab.”.

Third: That the House and Senate agree to the title of the bill to read as follows:

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2002 and the fiscal year ending September 30, 2003; to provide for the expenditure of the appropriations; and to repeal acts and parts of acts.

Mark Shulman
Rick Johnson
A.T. Frank
Conferees for the House

Harry Gast
Dan L. DeGrow
Alma Wheeler Smith
Conferees for the Senate

Pending the order that, under joint rule 9, the conference report be laid over one day,
Senator Emmons moved that the rule be suspended.

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

The question being on the adoption of the conference report,

The first conference report was adopted, a majority of the members serving voting therefor, as follows:

Roll Call No. 1044

Yeas—31

| | | | |
|--------------|-------------|----------|-----------------|
| Bennett | Emerson | Leland | Scott |
| Bullard | Emmons | McCotter | Shugars |
| Byrum | Garcia | McManus | Sikkema |
| Cherry | Gast | Miller | Smith |
| DeBeaussaert | Goschka | North | Steil |
| DeGrow | Hammerstrom | Peters | Stille |
| Dingell | Hoffman | Sanborn | Van Regenmorter |
| Dunaskiss | Johnson | Schwarz | |

Nays—0

Excused—7

| | | | |
|---------|----------|----------|-------|
| Gougeon | Koivisto | Schuette | Young |
| Hart | Murphy | Vaughn | |

Not Voting—0

In The Chair: Hoffman

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

House Bill No. 5468, entitled

A bill to amend 1982 PA 432, entitled “Motor bus transportation act,” by amending section 4 (MCL 474.104), as amended by 1989 PA 233.

(This bill was returned from the House as requested on November 14 and consideration postponed. See Senate Journal No. 68, p. 2205.)

Senator Emmons moved that rule 3.311 be suspended to permit reconsideration of the vote by which the bill was passed.

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

Senator Emmons moved to reconsider the vote by which the bill was passed.

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

The bill was placed on the order of Third Reading of Bills.

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

Senators Young and Schuette entered the Senate Chamber.

The following bill was announced:

House Bill No. 5468, entitled

A bill to amend 1982 PA 432, entitled “Motor bus transportation act,” by amending section 4 (MCL 474.104), as amended by 1989 PA 233.

The question being on the passage of the bill,

Senator Steil offered the following amendment:

- 1. Amend page 3, following line 12, by inserting:

“Enacting section 1. Section 375 of the revised school code, 1976 PA 451, MCL 380.375, is repealed.” and renumbering the remaining enacting section.

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

Senator Smith requested the yeas and nays.

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

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

Roll Call No. 1045

Yeas—22

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

Nays—11

| | | | |
|--------------|---------|--------|-------|
| Byrum | Dingell | Miller | Smith |
| Cherry | Emerson | Peters | Young |
| DeBeaussaert | Leland | Scott | |

Excused—5

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | | | |

Not Voting—0

In The Chair: Hoffman

Protests

Senators Cherry, Smith, Young, Leland and Scott, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senator Steil to House Bill No. 5468 and moved that the statements they made during the discussion of the amendment be printed as their reasons for voting “no.”

The motion prevailed.

Senator Cherry's statement is as follows:

I share the impression that the good Senator from the 27th District, the Majority Leader, has about how it's worked that the schools are better now, but I do not share his support for this amendment. If, in fact, there has been an improvement, then the voters of Detroit can make that assessment, and that was the purpose of the selection to put this system in place. Allow it to operate, and allow the citizens of Detroit to make a determination as to whether the new reform system works. That is what we are about to undo—their opportunity to make that assessment.

At some point, Mr. President, we have to learn to trust democracy, and that is basically what our system is all about; that ultimately state government—whether it is state government or, in this case, the local governing of the school system. How these institutions get their credibility ultimately and their legitimacy is through a public vote by the people, the citizens. In this case, it's the citizens of Detroit. If, in fact, the school system is better, the citizens of Detroit will recognize it by allowing a vote to occur. As initially put forth in statute, we give this system credibility.

Perhaps one of the reasons that you see the sensationalism with the negative stuff is because we haven't allowed the credibility to come by a public vote. This system has now had a chance to operate without interference, and it's produced results. Let's allow the citizens of Detroit to measure these results by the vote that we had previously scheduled. I would urge that we reject this amendment and that we put some faith in democracy and put some recognition that the people who live in the largest city of this state enjoy the same democratic rights as the people in every other community in this state. I would urge a “no” vote on this amendment.

Senator Smith's first statement is as follows:

I rise to oppose the amendment. I've been asked if this isn't about politics, and what's it doing in the DARTA bill? You know, there are many of us over here on this side of the aisle who were prepared and more than delighted to vote for DARTA. Along comes an amendment that is totally irrelevant to the bill before us that would put an issue in front of us that will cause a number of us to vote “no” on the bill that we were supporting and that we were arguing for, that we see is a great advantage for the metropolitan area of Detroit. If this isn't about politics, I don't know what it's about. Let's put on an amendment that will force the Detroit delegation in the House to negotiate on yet another issue. If this isn't about politics, then where is the study that shows that we have made academic and educational progress for the students in the city of Detroit? Where is the study that shows us that we have improved grades and lessened the drop-out rate? Where is the study that shows us that the reform board doesn't do the same kind of business practices that the old board did?

Let's look at the fairgrounds purchase—that aborted process that was just anathema to using the dollars that people worked hard to put in place so that they could have decent schools in their district. This is about politics. This is a Trent Lott amendment, and this is despicable. I urge my colleagues to reject it.

Senator Smith's second statement is as follows:

You know the reason the provision was put in place. One of the reasons the provision was put in place was to allow the citizens to vote on whether or not the reform board was working for their children; to make the reform board prove that it had indeed made significant changes and significant improvements to education, to the process of spending money, and administering the largest school district in the state of Michigan. There has not been a study conducted that would show that improvements have been made on any of those levels. We are getting the same story on the Detroit reform board that we have gotten on charter schools. Let's lift the cap because it is wonderful. It's made great academic progress when report after report after report from nonengaged and engaged universities show that the charter schools have not been effective in an overall change of academic performance in the state of Michigan.

We are supposed to buy this amendment. This Legislature had the opportunity to put many incremental steps in place before it took away the power of a community to control its school district, but we chose to strip the people of the opportunity that every other school district has. That is, to elect and dis-elect its school board.

Is this about academic performance? Yes it is, and we have studies that show that where parents are involved and parents are engaged is where students do better. When they feel disenfranchised and not a part of the process, they don't participate and their children are not stimulated to learn as much as they would be if they had an active engagement of the parents in the schools.

Let's just take one more step to alienate a community from its school district; one more step to alienate a community from the electoral process; and one more step to alienate a community from government. This is a great step if this is what you want to accomplish. I urge my colleagues to vote “no.”

Senator Young's statement is as follows:

I rise to oppose this amendment, and I will tell you why. We are forgetting, I think, the important significance of the information that should be gathered before we even attempt to begin to solve problems. Now I have heard a whole lot about whether the system is better or not. Well, I will tell you I am in and out of the schools, and the system is not better. What we have actually done here is we have said that we will give you a different model without correcting the problems of past models. So those errors have been brought forth to the new models, and the system is not working any better. Now we are also beginning to complicate this with not giving parents, concerned ones and guardians and trustees the ability to demonstrate to these young people the connection between what school means, what productive

life means, and what full employment means because they are taking it away. We are coming forward with the old adage of if you have a problem in your household, don't you fix it; someone else will. I say to you how do children learn how to begin to take care of their own problems if it is always being interfered with and others are seeming to want to come to their rescue? Again, I say to you, it probably wouldn't be bad if the rescue was working, but the rescue is not working.

Now I think we also have to understand a little bit of the history of why this is such a major issue in the city of Detroit. The city of Detroit is comprised of a lot of individuals who came from the South because they were seeking freedom; they were seeking education; they were seeking the opportunity to read something they could not do just because they were in the South at that time. Now I am a 1950s baby, and I remember my dad saying to me that he left the South to go to the military to come to Detroit because Detroit had the only free adult education program of which he could put forth and provide to us a better standard of living. None of these ingredients have been put into the so-called solutions that we are trying to attempt here to legislate. I contend to you what we are doing is the connection between the legislation. I believe that the goodheartedness is to solve the problem, but the connection between the legislation and those who need to benefit from the legislation is nonexistent, and that creates a major, major problem.

In looking at this, I think it is important to say what the ingredients are for success. I have heard many here talk about it because they are key buzz words, and many of them are getting old. They are referred to as partnerships; they are referred to as stakeholders; and they involve those in decision-making so they will feel that they share a sense of pride and also ownership. Well, ladies and gentlemen, today we are taking away that with this amendment—the ownership. We are taking away the ability to hold parents, guardians, trustees, and other individuals—teachers and administrators—in the system accountable for doing what it is that I believe we actually want them to do, and that is to present young people with an opportunity to be productive and constructive citizens in their future.

You don't do that by taking away the ownership, and you don't do that by making a situation where people can no longer control their destiny. You certainly don't do it by restricting their freedom. Out of all the history that we have seen and read, regardless of what country, what race, or where people thrive on their ability to be free to take care of themselves, their friends, their loved ones, and their community, I would ask that you think about this because I've seen it in the schools. I've seen the disconnection. I've seen those who want to do good in the schools saying that they can't do good because they don't control the system. Then we confuse them with words like “empowerment” and confuse them with saying that they should be empowered when, in fact, they aren't empowered when, in fact, they don't have the ability like many of us have. I do with my grandchildren now—before my children—where I believe I go to the schools, and I tell the schools what product I want delivered, not what they think they should deliver.

In doing this, we are also taking away that connection where parents feel empowered. They have the ability to say what they want for their children, and that is not taking place. The question does not just become whether the system is working; the question becomes how do we achieve the ownership in the system where people have pride and take responsibility where we can hold each stakeholder and partner in that accountable to make sure that our children learn and that they have a future to pass on to their own children, as many of us have done with our children? That becomes the question.

So I would hope we would think of this in this perspective, forget about the politics, and look at whether or not this legislation makes a connection because I firmly believe we do want to do the right thing. But it's the connection we are missing, and legislation has got to start helping those we legislate for. I would hope we would oppose this. There needs to be a different approach. We have to have ownership. We have to have true stakeholders, and we have to have true partnerships if we want the children to learn in any system because as we debate this, believe me, with the diverse district that I have—from the rich to the middle class to the poor—there are a lot of systems not working.

Senator Leland's first statement is as follows:

My colleague just stated that this amendment is just simple. This amendment is not just simple. What happened when we passed the school reform package in 1999 is it that created a new reform board, but we also gave the people of Detroit the ability to go back to the ballot five years in November 1999 to decide if the reform was working and if they wanted to keep the reform board. I believe that many of the members in 1999 who passed this legislation did so because it made it acceptable with the possibility of a referendum in 2004. I just don't think that it is fair to come back a few years later and undo what was in the legislation. I think the people of Detroit want to decide if this board is acceptable, and they should have the opportunity to keep it or throw them out. I would hope that you would reject this amendment. It really isn't fair, and it doesn't belong here. I hope we vote “no” on this.

Senator Leland's second statement is as follows:

What bothers me mostly about this amendment is it's very antagonistic to Detroiters, and it's very offensive. We went through this a few years ago. If you can remember what happened in the Capitol, we had a lot of people from Detroit come in here. The Gallery was filled, and the halls were filled. They came up in buses, and they felt that this violated their Voting Rights Act. It brought out some real ugly issues. It just didn't make Detroiters feel real good about what we do to them in the Capitol. I don't know why we have to raise this ugly issue again. We did it three years ago, and we antagonized many of my constituents. I don't think that they have ever been as energized and angry about something in the years I've been in Lansing as they were over that school reform bill.

As my leader said, if the people in Detroit want to keep the system as it is, then they will go and make that decision. Why not give them the opportunity to decide if they want to keep the reform board or if they want to replace the board? It should be up to Detroit. It shouldn't be up to us here in Lansing. Again, I really would hope that we would reject this very anti-Detroit, very antagonist to my constituents amendment.

Senator Scott's statement is as follows:

I also rise to ask my colleagues to vote "no" on this amendment. I just want to reiterate what my colleague from Detroit said. We went round and round for many weeks on this. It was stated that we would be able to come back and that Detroiters would be able to vote on this as to whether or not this was working. I think you know that it's not working, and that's why you are using this DARTA bill to do this. This is irresponsible for us to do this at this time with this bill. It was just last week that I called Haveman in the Community Health Department telling him what I had read in the newspaper. It was an article that Bill Johnson had wrote about how our schools were just deplorable; how children were living in these schools with an infestation of bugs and things in the schools that they have not dealt with; and that these schools are old, and they have not done the job they said they were going to do. I think this is just terrible, so I ask my colleagues to vote this amendment down. This is unfair. Everything that you have done recently for Detroit, you are renegeing on it. This is wrong, Mr. President.

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. 1046

Yeas—20

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

Nays—13

| | | | |
|--------------|---------|---------|-------|
| Byrum | Emerson | North | Scott |
| Cherry | Leland | Peters | Smith |
| DeBeaussaert | Miller | Sanborn | Young |
| Dingell | | | |

Excused—5

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | | | |

Not Voting—0

In The Chair: Hoffman

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

A bill to amend 1982 PA 432, entitled "An act to regulate persons who transport passengers by motorbus; to prescribe powers and duties for the state transportation department; to impose certain fees; and to impose penalties," by amending section 4 (MCL 474.104), as amended by 1989 PA 233; and to repeal acts and parts of acts.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

Protests

Senators Smith, Young, Leland and Scott, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of House Bill No. 5468.

Senator Smith's statement, in which Senator Scott concurred, is as follows:

I voted "no" on the DARTA bill not because I objected to the provisions of a regional transportation authority and the goals that it hoped to achieve, but because we had a reprehensible amendment attached to that bill that made it impossible for me to support it.

Senator Young's statement, in which Senator Scott concurred, is as follows:

It's obvious that the traditional approach in solving problems is not solving problems at all. We had a piece of legislation of which many of us had been fighting for mass transportation for the poor, for the disabled, and for those for many, many, many years. In an effort to get that legislation was to amend it again not only give those people an opportunity to have mass transportation to find employment away from their home, but it was used as a way of taking away the ability of those to elect their own school board members to be empowered and to be in trust stakeholders in a public system. Now what we are trying to create is a system by which people will not really have true mass transportation because, obviously, those from the outside want to continue to manipulate that as an indication of the amendment that takes away forever the right of people to be true stakeholders; to be true missionaries; and to be true individuals for their own piece of legislation and for their children's education. For that reason, I voted "no."

Senator Leland's statement is as follows:

I also voted "no" against House Bill No. 5468, the DARTA bill, because the amendment that was slapped on that would have prevented my constituents from the ability to have an election in November 2004.

By unanimous consent the Senate proceeded to the order of

General Orders

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

The motion prevailed, and the Assistant President pro tempore, Senator Hoffman, designated Senator Peters as Chairperson.

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

House Bill No. 5523, entitled

A bill to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending sections 10c, 10h, 10l, and 10n (MCL 247.660c, 247.660h, 247.660l, and 247.660n), sections 10c and 10h as amended by 2002 PA 498, section 10l as amended by 1987 PA 234, and section 10n as amended by 2002 PA 329.

The bill 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 Emmons moved that the rules be suspended and that the following bill, now on the order of Third Reading of Bills, be placed on its immediate passage at the head of the Third Reading of Bills calendar:

House Bill No. 5523

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

The following bill was read a third time:

House Bill No. 5523, entitled

A bill to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending sections 10c, 10h, 10l, and 10n (MCL 247.660c, 247.660h, 247.660l, and 247.660n), sections 10c and 10h as amended by 2002 PA 498, section 10l as amended by 1987 PA 234, and section 10n as amended by 2002 PA 329.

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. 1047

Yeas—26

| | | | |
|--------------|-------------|---------|-----------------|
| Bennett | Emerson | McManus | Sikkema |
| Bullard | Emmons | Miller | Smith |
| Byrum | Garcia | Peters | Steil |
| Cherry | Hammerstrom | Schwarz | Stille |
| DeBeaussaert | Hoffman | Scott | Van Regenmorter |
| DeGrow | Leland | Shugars | Young |
| Dingell | McCotter | | |

Nays—6

| | | | |
|-----------|---------|---------|----------|
| Dunaskiss | Johnson | Sanborn | Schuette |
| Goschka | North | | |

Excused—5Gougeon
Hart

Koivisto

Murphy

Vaughn

Not Voting—1

Gast

In The Chair: Schwarz

The Senate agreed to the title of the bill.

By unanimous consent the Senate returned to the order of
Conference Reports

House Bill No. 5467, entitled

A bill to create the Detroit area regional transportation authority and to transfer certain powers of authorities to continue the suburban mobility authority for regional transportation; to prescribe certain powers and duties of the authorities; to provide for the addition and withdrawal of certain local entities from the authority; to provide for the powers and duties of certain state agencies with respect to the authority; to provide for the issuance of bonds and notes; to provide for the state to guarantee payment of certain claims against the authority and give the state a lien in satisfaction of payment; to protect the rights of employees of existing public transportation systems; to provide for the pledge of taxes, revenues, assessments, tax levies, and other funds for bond and note payments; to authorize certain local entities to levy property taxes and make special assessments to fulfill their obligations under certain contracts with the authority; and to repeal acts and parts of acts.

The House of Representatives has adopted the report of the Committee of Conference and ordered that the bill be given immediate effect.

The Conference Report was read as follows:

FIRST CONFERENCE REPORT

The Committee of Conference on the matters of difference between the two Houses concerning

House Bill No. 5467, entitled

A bill to create the Detroit area regional transportation authority and to transfer certain powers of authorities to continue the suburban mobility authority for regional transportation; to prescribe certain powers and duties of the authorities; to provide for the addition and withdrawal of certain local entities from the authority; to provide for the powers and duties of certain state agencies with respect to the authority; to provide for the issuance of bonds and notes; to provide for the state to guarantee payment of certain claims against the authority and give the state a lien in satisfaction of payment; to protect the rights of employees of existing public transportation systems; to provide for the pledge of taxes, revenues, assessments, tax levies, and other funds for bond and note payments; to authorize certain local entities to levy property taxes and make special assessments to fulfill their obligations under certain contracts with the authority; and to repeal acts and parts of acts.

Recommends:

First: That the House and Senate agree to the Substitute of the Senate as passed by the Senate, amended to read as follows:

A bill to create the Detroit area regional transportation authority; to transfer certain powers of authorities to the Detroit area regional transportation authority; to provide regional transportation for senior citizens, citizens with disabilities, citizens without the economic means to provide their own personal transportation, and all other citizens; to continue the suburban mobility authority for regional transportation; to prescribe certain powers and duties of the

authorities; to provide for the addition and withdrawal of certain local entities from the authority; to provide for the powers and duties of certain state agencies with respect to the authority; to provide for the issuance of bonds and notes; to provide for the state to guarantee payment of certain claims against the authority and give the state a lien in satisfaction of payment; to protect the rights of employees of existing public transportation systems; to provide for the pledge of taxes, revenues, assessments, tax levies, and other funds for bond and note payments; to authorize certain local entities to levy property taxes and make special assessments to fulfill their obligations under certain contracts with the authority; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

ARTICLE I

Sec. 1. This act shall be known and may be cited as the "Detroit area regional transportation authority act".

Sec. 2. As used in this act:

- (a) "Authority" means the Detroit area regional transportation authority created under this act.
- (b) "Board" means the governing and administrative body of the authority.
- (c) "Chief executive officer" means, with respect to a city, the mayor of the city and, with respect to a county, either the county executive of the county or, for a county not having a county executive, the chairperson of the county board of commissioners. Chief executive officer means, with respect to the authority or SMART, the chief executive officer of the authority or SMART.
- (d) "Comprehensive regional public transportation service plan" means the comprehensive regional public transportation service plan described in section 4(3).
- (e) "Local governmental consortium" means a legal or administrative entity described in section 7 of the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.507, and provided for in an interlocal agreement entered into pursuant to that act between cities, villages, or townships within a county in the region that contains a city with a population of 500,000 or more, and in existence prior to January 1, 2002.
- (f) "Political subdivision" means a county, city, township, village, local governmental consortium, or school district located within the region.
- (g) "Public transportation" means the transportation or conveyance of persons within the region or SMART region by means available to the general public, including, but not limited to, senior citizens, citizens with disabilities, and citizens without the economic means to provide their own personal transportation. Public transportation does not include transportation by automobiles not used for conveyance of the general public as passengers.
- (h) "Public transportation facility" means all property, real and personal, public or private, used for providing public transportation. Public transportation facility includes, but is not limited to, automated guideways, overpasses and skywalks, street railways, buses, tramlines, subways, monorails, rail rapid transit, bus rapid transit, and tunnel, bridge, and parking facilities used in connection with public transportation facilities. Public transportation facility does not include taxis, limousines, state, county, or local roads, highways, ports, airports, motor bus charter services or operations that are not acquired by the authority or SMART, sightseeing services, private intercity bus services, or transportation that is used exclusively for school or church purposes.
- (i) "Region" means Macomb, Monroe, Oakland, Washtenaw, and Wayne counties and those local governmental consortiums, cities, townships, and villages within those counties. Region includes any county or local governmental consortium that becomes a member under section 6. Region does not include any county or local governmental consortium that has withdrawn from the authority under section 5.
- (j) "SMART" means the suburban mobility authority for regional transportation described in section 30.
- (k) "SMART board" means the governing and administrative body of SMART.
- (l) "SMART region" means Oakland, Wayne, Monroe, and Macomb counties and the cities, townships, and villages within those counties. The term does not include any county that has withdrawn from SMART or the cities, townships, or villages within that county.
- (m) "Transit system" means any individual, partnership, corporation, association, municipal corporation, limited liability company, public authority, public benefit agency, unit of government, or any person or entity other than the authority, or SMART that provides public transportation.

ARTICLE II

Sec. 3. (1) The authority is established, and the initial members of the authority are all counties, cities, townships, and villages within the region.

(2) The authority is an agency and instrumentality of the state and except as provided in this act has all of the powers of a public corporation if exercised for 1 or more of the following purposes:

- (a) Planning public transportation facilities.
- (b) Designing public transportation facilities.
- (c) Constructing public transportation facilities.
- (d) Operating public transportation facilities.
- (e) Administering public transportation facilities.
- (f) Acquiring public transportation facilities.

- (g) Contracting to provide public transportation facilities.
- (h) Maintaining, replacing, improving, and extending public transportation facilities.
- (i) Exercising the powers of a public transportation facility.
- (3) The authority shall not have the authority to design, construct, or operate ports or airports. The authority may provide service to and at ports and airports for the purpose of conveying the public to ports and airports.
- (4) The authority shall not spend any public funds on political activities.
- (5) The authority shall take all reasonable measures to provide regional transportation for senior citizens, citizens with disabilities, and citizens without the economic means to provide their own personal transportation. The authority shall take all reasonable measures to see that regional transportation services for those citizens are the first services provided by the authority and that regional transportation services for those citizens are the last services reduced by the authority if the authority reduces services.
- (6) The authority shall take all reasonable measures to provide adequate transportation services to citizens other than senior citizens, citizens with disabilities, or citizens without the economic means to provide their own personal transportation.

Sec. 4. (1) The authority shall provide for public transportation facilities for the region. In providing for public transportation facilities, the authority may exercise the powers enumerated in section 3(2). The authority shall fulfill its obligations under section 3(5), and shall take all reasonable and necessary measures to ensure that it meets its obligations under section 3(5) and (6) in the most cost-effective manner possible.

(2) It is the intent of the legislature that, by October 1, 2002, the board shall become the designated recipient for purposes of receiving federal funds under chapter 53 of title 49 of the United States Code, 49 U.S.C. 5307, 5308, 5309, 5310, 5311, and 5313, and the regulations promulgated under that chapter. As the designated recipient, the board shall apply for federal and state transportation operating and capital assistance grants, and the board may designate the authority, a city with a population of more than 750,000, SMART, and other transit systems not included in a city of more than 750,000 population as subrecipients of federal and state transportation funds. To the extent required by chapter 53 of title 49 of the United States Code, 49 U.S.C. 5307, 5308, 5309, 5310, 5311, and 5313, the board shall execute an agreement conferring on a city with more than 750,000 population, SMART, and other transit systems not included in the city of more than 750,000 population the right to receive and dispense grant funds and containing any other provisions that federal law and regulations require. On behalf of the board, the secretary of the board shall submit in a timely manner the region's application for federal and state transportation funds to the responsible federal and state agencies. The application shall designate the distribution of all capital and operating funds that are paid directly to the authority, a city with a population of more than 750,000, SMART, and the other transit systems not included in a city of more than 750,000 in population. Except as otherwise provided in 1951 PA 51, MCL 247.651 to 247.675, and subject to subsections (5) and (6), if the authority is the recipient of federal or state funds, the chief executive officer of the authority shall remit to a city with a population of more than 750,000, SMART, and the other transit systems not included in the city of more than 750,000 in population their designated distribution of those funds in a manner consistent with the application.

(3) The authority shall develop, implement, and update a comprehensive regional public transportation service plan for providing public transit services in the region. The authority shall present the initial comprehensive regional public transportation service plan to the legislature, the governor, and the state transportation department within 1 year after the selection of the chief executive officer of the authority. In each succeeding year, the authority shall update the comprehensive regional public transportation service plan and present it to the legislature, the governor, and the state transportation department. The comprehensive regional public transportation service plan shall contain all of the following:

- (a) A specific plan for providing regional transportation for senior citizens, citizens with disabilities, and citizens without the economic means to provide their own personal transportation.
 - (b) A cost-benefit analysis of the necessity and effectiveness of the proposed plan, including an average cost per mile of services provided and an average cost per rider of services provided.
 - (c) An economic impact analysis of the ratio of public dollars expended on public transit services relative to the amount of private dollars invested in the region as a result of public transit services.
 - (d) A full accounting of all funding sources for the plan and, if any new taxes or special assessments are called for, an analysis of how much each individual taxpayer, participating local municipality, and county will pay versus what they currently pay for mass transit, and an analysis of how much of the tax or special assessment will be returned to the individual taxpayer, local municipality, and county in the form of public transit services.
 - (e) A discussion of how the plan provides for a fair distribution of services throughout the region.
 - (f) A discussion of how the specific and identifiable public transportation needs of the region are addressed in the plan.
 - (g) A discussion of how the plan delivers measurable benefits.
- (4) Subject to the availability of funds, the authority shall provide or contract to provide those services that are required for the implementation and execution of the comprehensive regional public transportation service plan. The authority may contract with transportation operators within the region to provide services that the authority considers necessary for implementation and execution of the comprehensive regional public transportation service plan.

(5) This subsection does not apply to any private transit entities that have not contracted with the authority. If the coordination of any of the following functions does not result in the reduction in the number of represented employees employed by SMART or DDOT, the authority shall coordinate all of the following functions between different owners and operators of public transportation facilities within the region relative to transit services:

(a) Service overlap.

(b) Rates.

(c) Routing.

(d) Scheduling.

(e) Any other function that the authority considers necessary to coordinate in order to implement or execute the comprehensive regional transportation service plan.

(6) The authority shall provide notices of its coordination decisions under this section to owners and operators of public transportation facilities in the region. Any owner or operator of a public transportation facility within the region who fails to comply with the authority's notice of coordination decision may be declared ineligible for grant assistance from the authority, and, if the authority declares that the owner or operator is ineligible for grant assistance, shall not receive any transportation operating or capital assistance grants from the authority.

(7) To the extent possible, the authority shall facilitate and encourage connections with other forms of transportation, including, but not limited to, taxicabs.

(8) Within 1 year after the selection of the chief executive officer of the authority, the authority shall present to the legislature, the members of the appropriations committees of the house of representatives and the senate, and the governor its recommendations for legislation to fund the implementation of the comprehensive regional public transportation service plan and for legislation to establish a dedicated funding stream for the authority. The recommendations for legislation shall include an analysis of the availability of funding sources for the dedicated funding stream and the information described in subsection (3).

Sec. 5. (1) Subject to subsection (5), a county in the region with a population of 750,000 or less that chooses not to participate in the authority may withdraw from the authority by a resolution of withdrawal that is approved by a majority vote of the members of the county board of commissioners.

(2) Subject to subsection (5), on January 1, 2005, a county in the region that does not contain a city with a population of more than 750,000, but is a county that has a population of more than 750,000, may withdraw from the authority by meeting both of the following:

(a) Within 60 days, the county board of commissioners by a 2/3 vote adopts a resolution to place the question of withdrawing from the authority on the ballot of the next regularly scheduled November general election in the county. If the county seeking withdrawal under this subsection has an elected executive under 1966 PA 293, MCL 45.501 to 45.521, or 1973 PA 139, MCL 45.551 to 45.573, the county executive may veto the resolution.

(b) A majority of the electorate within each local unit of government within the county approves of the question of withdrawal from the authority at the next regularly scheduled November general election.

(3) Subject to subsection (5), on January 1, 2005, a local governmental consortium may withdraw from the authority by meeting both of the following:

(a) Within 60 days, the governing board of the local governmental consortium by a majority vote adopts a resolution to place the question of withdrawing from the authority on the ballot of the local governmental units in the local governmental consortium.

(b) A majority of the electorate of each local governmental unit within the consortium approves of the question of withdrawal from the authority at the next regularly scheduled November general election.

(4) A county or local governmental consortium that withdraws from the authority shall lose its seat on the board and shall not, except on the unanimous affirmative vote of the board, contract for public transportation services with the authority.

(5) If a county or local governmental consortium elects to withdraw from the authority under this section, both of the following apply:

(a) The county or local governmental consortium shall pay or make provision to pay all of its obligations to the authority. Beginning 60 days after the withdrawing county or local governmental consortium gives notice of its intent to withdraw, the withdrawing county or local governmental consortium shall incur no further obligation to the authority until the withdrawal has been completed. Obligations of a transit system within the withdrawing county or local governmental consortium owed directly to the authority are not obligations of the county or local governmental consortium for purposes of this subsection. After the county or local governmental consortium has withdrawn from the authority, the state transportation department shall reduce the level of state funding to the authority by the amount allocable directly to the withdrawing county or local governmental consortium and transmit those funds directly to the withdrawing county or local governmental consortium.

(b) Any transit system within the withdrawing county or local governmental consortium shall pay or make provision to pay all of its obligations to the authority. After the county or local governmental consortium has withdrawn from the authority, the state transportation department shall reduce the level of state funding to the authority by the amount allocable directly to that transit system and transmit those funds directly to that transit system.

Sec. 6. (1) A county may become a member of the authority if all of the following are met:

(a) Any part of the county is not more than 90 miles from the city limits of a city with a population of more than 750,000.

(b) The county is contiguous to another county that is a member of the authority.

(c) A resolution is adopted by a majority vote of the county board of commissioners of the county requesting membership.

(2) If the county seeking membership under this section has an elected county executive under 1966 PA 293, MCL 45.501 to 45.521, or 1973 PA 139, MCL 45.551 to 45.573, the county executive may veto the resolution. The county board of commissioners for the county seeking membership under this section may override the veto by a 2/3 vote of the county board of commissioners.

Sec. 7. (1) The authority shall be governed by a board that shall consist of the following:

(a) Two members from each city in the region that has a population over 750,000.

(b) Two members from each county in the region that has a population over 750,000 and less than 1,750,000.

(c) One member from each county in the region that has a population of 750,000 or less.

(d) Two members from each county in the region that has a population over 1,750,000 so long as those members are not residents of a city in that county that has a population over 750,000.

(e) One member and 1 alternate from each governmental consortium, selected by a majority vote of its governing board. A member or alternate described in this subdivision is a nonvoting member of the board.

(2) The chief executive officer of each city that is entitled to membership on the board shall select the members to represent the city. The appointment of a board member shall require the concurrence of a majority of the city council. The members that are appointed and approved shall serve on the board at the pleasure of the chief executive officer and can be removed from the board by the chief executive officer at any time. A board member appointed under this subsection shall be a resident of the city that the board member represents.

(3) The chief executive officer of each county that is entitled to membership on the board shall select the member or members to represent the county. The appointment of a board member shall require the concurrence of a majority of the county board of commissioners. The members that are appointed and approved shall serve on the board at the pleasure of the chief executive officer and can be removed from the board by the chief executive officer at any time. A board member appointed under this subsection shall be a resident of the county that the board member represents.

(4) The first board shall be appointed within 30 days after the effective date of this act.

(5) The board shall conduct its first meeting within 60 days after the effective date of this act.

Sec. 8. (1) The board shall do all of the following:

(a) Select and retain a chief executive officer of the authority.

(b) Adopt bylaws and rules and procedures governing the board meetings.

(c) Establish policies to implement day-to-day operation of the authority.

(d) Review and approve the authority's capital and operating budgets to assure that the budgets are reported and administered in accordance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(e) As required by state or federal law to receive or disburse funds to SMART or any transit system in the region, review, or review and approve, the capital or operating budgets of SMART or that transit system.

(f) Conduct an annual audit in accordance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(g) Adopt the comprehensive regional public transportation service plan developed by the authority under section 4.

(h) Develop performance measures of the efficiency and effectiveness of the provision of public transportation services to the region.

(i) Develop and specify uniform data requirements to assess the costs and benefits of public transportation services.

(j) Formulate procedures for establishing priorities in the allocation of funds for public transportation services.

(k) Establish and implement a standardized reporting and accounting system under which transit systems that receive funds directly or indirectly from the authority make quarterly reports on revenues and expenditures and submit annual and proposed budgets to the authority.

(l) Establish and implement standards relating to operating efficiency and cost control of transit systems.

(m) Establish public transportation policy for the region.

(2) Except as otherwise provided in this subsection, the board shall act by a majority vote of its membership that is entitled to vote. A vote for the adoption of bylaws, for the adoption of rules of procedure, or for the transaction of business shall not be effective unless the vote includes at least 1 affirmative vote from a member that represents each city in the authority that has a population of 750,000 or more and at least 1 affirmative vote from each county in the authority immediately contiguous to each city in the authority with a population of 750,000 or more.

(3) The board shall meet regularly but not less than quarterly.

(4) Except as provided in this subsection, a board member shall not designate another representative to serve in his or her place on the board. Each county and city entitled to membership on the board in the region shall have the ability to appoint 1 alternate to serve if a permanent member is absent from a board meeting. The board shall not engage in proxy voting.

(5) The board shall conduct the business that it may perform at meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meetings shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) The board shall appoint a citizens advisory committee that consists of region residents. Forty percent of the committee shall be made up of users of public transportation. At least 25% of the users of public transportation on the committee shall be seniors or persons with disabilities. Two users of public transportation from Wayne county, 2 users of public transportation from Oakland county, 2 users of public transportation from Macomb county, 2 users of public transportation from each city in the authority region that has a population of 750,000 or more, and 1 user of public transportation from each additional member county shall be on the committee. Thirty percent of the committee shall be made up of individuals from organizations representing seniors and persons with disabilities. Thirty percent of the committee shall be made up of individuals representing business, labor, community, and faith-based organizations. The citizens advisory committee shall meet at least on a quarterly basis. The citizens advisory committee may make reports to the board, including recommendations, if any, at each board meeting. The citizens advisory committee shall do all of the following:

(a) Review and comment on the comprehensive regional public transportation service plan and all annual updates.

(b) Advise the board regarding the coordination of functions between different owners and operators of public transportation facilities within the region.

(c) Review and comment on the specialized services coordination plan required by section 10e(4)(c)(i)(A) of 1951 PA 51, MCL 247.660e.

(d) Provide recommendations on other matters that concern public transportation in the region.

(7) The board shall establish a ridership committee that consists of a representative group of transit system riders who live in the region. The ridership committee shall report their concerns to the board on a regularly scheduled basis.

(8) The board may change the name of the authority by a unanimous vote of the members. The board shall notify the state transportation department within 10 days after a name change is implemented.

(9) The authority may give assistance to transit systems that are operated within the region by any city or public agency.

(10) The board shall employ an independent certified public accounting firm to provide annual financial audits for the authority and to review the audits of SMART and other operators of transit systems that receive funds directly or indirectly from the authority. The cost associated with the audits and reviews required under this subsection shall be the responsibility of the operator of the transit system being audited.

(11) The board may elect to become a participating municipality on behalf of all authority employees, including acquired employees under section 17, but only pursuant to section 2c(2) of the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1502c.

Sec. 9. The authority may:

(a) Adopt rules to accomplish the purposes of this act.

(b) Plan, acquire, construct, operate, maintain, replace, improve, extend, and contract for transportation facilities within the region. If there is no transit system established or operating public transportation facilities within 10 miles beyond any portion of the region, the authority shall have the powers stated in this subdivision for 10 miles beyond that portion of the region.

(c) Acquire and hold, by purchase, lease, grant, gift, devise, bequest, condemnation, or other legal means, real and personal property, including, but not limited to, franchises, easements, and rights-of-way on, under, or above property within the region. If there is no transit system established and operating public transportation facilities within 10 miles beyond any portion of the region, the authority shall have the powers enumerated in this subdivision for 10 miles beyond that portion of the region.

(d) Apply for and accept grants, loans, or contributions from any source. The authority shall use the proceeds of the grants, loans, or contributions solely for the purposes of this act. The authority may do anything within its power to secure the grants, loans, or other contributions.

(e) Sell, lease, or use any property that the authority acquires. For purposes of this subdivision, "use" includes, but is not limited to, the leasing of advertising space and the granting of concessions for the sale of articles or for services.

(f) Grant to public or privately owned utilities the right to use any property that the authority has acquired.

(g) Grant to any other public transportation facility the right to use the property that the authority has acquired.

(h) Contract with, or enter into agreements with, any unit of government including transportation authorities or transit systems located inside or outside the region or private enterprise for service contracts, joint use contracts, and contracts for the construction or operation of any part of the transportation facilities or for any other reason the authority determines is necessary.

(i) Borrow money to finance and perform its powers and duties.

(j) Receive the proceeds of taxes, special assessments, and charges imposed, collected, and returned to the authority under the law.

(k) Exercise all other powers that are necessary, incidental, or convenient for the carrying out of the purposes of this article.

Sec. 10. (1) The authority shall fix rates, fares, tolls, rents, and other charges for the use of public transportation facilities and the services provided by the authority within the region that the authority owns, has contracted for, or operates.

(2) The authority shall give a public notice of its intent to apply for money from the comprehensive transportation fund to the residents of the counties, cities, townships, and villages affected by the local transportation program. The authority shall make the application available for review for 30 days by the residents of the affected counties, cities, townships, and villages. All public comments that the authority receives under this subsection shall be included in its application for comprehensive transportation funds and transmitted to the board and the state transportation department.

(3) The authority shall hold a public meeting annually on the comprehensive regional transportation service plan and all plan updates. The public meeting shall be held before the adoption of the plan or update by the board. A summary of the comments made at the public meeting shall be provided to the board.

(4) The authority shall conduct a public hearing before the implementation of changes to the fares charged for authority services. A transcript of the public hearing shall be transmitted to the board before consideration of proposed fare changes.

Sec. 11. Before any state or federal funds are distributed to the authority, a financial audit of the operations for the fiscal year before the most recently completed fiscal year shall be provided to the department of treasury. The department of treasury may waive this requirement on a temporary basis. Each audit shall be conducted in accordance with sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433.

Sec. 12. (1) This state guarantees the payment of claims for benefits arising under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, during the time the authority is approved as a self-insured employer if all of the following occur:

(a) The authority ceases to exist or is dissolved.

(b) A successor agency is not created to assume the assets and liabilities and perform the functions of the authority.

(c) The authority is authorized to secure the payment of compensation under section 611(1)(a) of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.611.

(2) This state shall be entitled to a lien that shall take precedence over all other liens in the amount of all the payment of claims made by this state on behalf of the authority under this section. The lien shall be on the assets of the authority.

Sec. 13. A community or group of communities in the region may create citizen advisory councils to relate concerns to the board on a regularly scheduled basis. Citizen advisory councils shall be composed of members representative of the neighborhoods within the community or group of communities.

Sec. 14. The authority created under this act shall not be dissolved and its powers shall not be diminished except as provided in this act.

Sec. 15. In the exercise of its powers within the region, the authority is exempt from all of the following acts:

(a) The motor carrier act, 1933 PA 254, MCL 475.1 to 479.20.

(b) The motor bus transportation act, 1982 PA 432, MCL 474.101 to 474.141.

(c) The township and village public improvement and public service act, 1923 PA 116, MCL 41.411 to 41.419.

Sec. 16. (1) By March 20, 2003, the board shall select and retain a chief executive officer.

(2) The chief executive officer shall administer the authority in accordance with the comprehensive regional public transportation service plan, the operating budget, the general policy guidelines established by the board, the applicable governmental procedures and policies, and this act. The chief executive officer is responsible for the supervision of all authority employees.

(3) All terms and conditions of the chief executive officer's employment, including length of service, shall be specified in a written contract.

Sec. 17. (1) The authority shall have the right to bargain collectively and enter into agreements with labor organizations.

(2) The authority shall be bound by existing collective bargaining agreements with publicly or privately owned entities that are acquired, purchased, or condemned by the authority. Members and beneficiaries of any pension or retirement system established by the acquired transportation system, and beneficiaries of any of the benefits established by the acquired transportation system shall continue to have rights, privileges, benefits, obligations, and status under the acquired pension or retirement system or benefits. The authority shall assume the obligations of public transportation facilities or transit systems that the authority acquires with regard to all of the following:

(a) Wages and salaries.

(b) Hours and working conditions.

(c) Sick leave and health and welfare benefits.

(d) Pension or retirement benefits, including retiree health care benefits.

(3) No employee of an acquired transportation system who is transferred to a position with the authority shall, by reason of the transfer, be placed in a worse position with respect to any of the following:

(a) Worker's compensation.

- (b) Pension.
- (c) Seniority.
- (d) Wages.
- (e) Sick leave.
- (f) Vacation.
- (g) Health and welfare benefits.
- (h) Any other benefits that he or she enjoyed as an employee of the acquired transportation system.

(4) Employees of the acquired transportation system who left the acquired transportation system to enter into military service of the United States shall have the same rights with respect to the authority under 1951 PA 263, MCL 35.351 to 35.356, as they would have had as employees of the acquired transportation system.

(5) For federally funded activities, the authority shall enter into and comply with the arrangements that the U.S. secretary of labor certifies as fair and equitable in compliance with 49 U.S.C. 5333(b).

(6) Before beginning to operate any new transit service or public transportation facility or entering into any contract or other arrangements for the operations of the transit service or public transportation facility, the authority shall extend to the employees providing public transportation services directly for or by contract with the authority, in order of the employee's seniority with the employee's employer, the first opportunity for reasonably comparable employment in any new jobs with respect to the operations for which the employee can qualify after a reasonable training period. The authority shall provide for the first opportunity required under this subsection in any contract to operate a new transit service or public transportation facility. Employers shall comply with all collective bargaining agreements in accordance with the national labor relations act, chapter 372, 49 Stat. 449, and the public employment relations act of 1947, 1947 PA 336, MCL 423.201 to 423.217.

(7) The authority shall contract only with SMART and DDOT for any public transportation or related service that SMART or DDOT offered as of May 22, 2002 unless DDOT or SMART has been declared ineligible for grant assistance under section 4(6) of this act. Nothing in this act requires the authority to provide funds to either DDOT or SMART beyond those received by the authority as the designated recipient under section 4(2).

Sec. 18. (1) The authority shall not levy taxes. Except as otherwise provided in this section, the authority shall not pledge the credit or taxing power of the state or any political subdivision. The authority may pledge the receipts of taxes, special assessments, or charges that the state or a political subdivision collects so long as the receipts of the taxes, special assessments, or charges are returnable and payable by law or contract to the authority. The authority may pledge the pledge of a political subdivision of this state of its full faith and credit in support of its contractual obligations to the authority.

(2) In addition to any other method of financing authorized by law, public transportation facilities may be financed by 1 or more of the following:

- (a) Fares, rates, tolls, and rents.
- (b) Other income or revenue from whatever source available, including, but not limited to, appropriations and contributions and other revenue of the participating counties and political subdivisions in the region.
- (c) Grants, loans, and contributions from federal, state, or other governmental units.
- (d) Grants, contributions, gifts, devises, or bequests from any other source.
- (e) Taxes, special assessments, or charges that are imposed by law and collected by a state or political subdivision and returned or paid to the authority under the law or pursuant to contract.

Sec. 19. (1) The chief executive officer shall prepare and the board shall approve an operating budget and a capital budget for the authority for each fiscal year. Each budget shall be approved by the February 1 immediately preceding the beginning of the fiscal year of the authority.

(2) The chief executive officer shall prepare and the board shall approve a capital program and an operating budget to cover 5 years. The first capital program and operating budgets shall be submitted to the board within 270 days after selection of the chief executive officer of the authority. The chief executive officer shall revise and update the capital program and operating budgets on an annual basis and submit the revised capital program and operating budgets to the board each fiscal year.

(3) The authority shall submit its annual operating and capital budget, financial audits, and construction plans to a regional governmental and coordinating agency if a regional governmental and coordinating agency exists in the region. The submittal shall allow a reasonable time for review and comment.

Sec. 20. (1) Except as otherwise provided in this section and section 21, competitive bids shall be secured before any purchase or sale, by contract or otherwise, is made or before any contract is awarded, or before any contract is renewed, for construction, alteration, supplies, equipment, repairs, maintenance, and the rendering of services to the authority.

(2) Except as otherwise provided in this section, all purchases and sales in excess of \$50,000.00 shall be awarded after advertising in a manner determined by the board and set forth in a written purchasing policy. Bids shall be publicly opened and read aloud at a date, time, and place designated in the invitation to bid. Invitations to bid shall be sent at least 1 week before the bid opening to at least 3 potential bidders who are qualified technically and financially to submit bids, or a memorandum shall be kept on file showing that less than 3 potential bidders who are qualified and responsible exist in the general market area within which it is practicable to obtain quotations.

(3) Except as otherwise provided in this section, written price quotations from at least 3 qualified and responsible vendors shall be obtained for all purchases and sales of \$50,000.00 or less but greater than \$5,000.00, or a memorandum shall be kept on file showing that less than 3 qualified and responsible vendors exist in the market area within which it is practicable to obtain quotations.

(4) Competitive bidding is not required in 1 or more of the following circumstances:

(a) The purchase of unique articles.

(b) The purchase of articles that cannot be obtained in the open market.

(c) Purchases or sales under \$5,000.00.

(d) The rendering of professional services.

(e) An emergency exists that directly and immediately affects service or public health, safety, or welfare and that requires immediate delivery of supplies, materials, equipment, or services as determined under procedures approved and determined by the board.

(5) The board shall expressly approve or deny in advance the purchase of unique articles or articles that cannot be obtained in the open market without competitive bidding if the amount of the purchase in either case is in excess of \$50,000.00.

Sec. 21. Concessions for the sale of products or the rendition of services for a consideration on authority property, and renewal of any of those concessions, shall be awarded by the authority only pursuant to written specifications after competitive bidding to the highest responsible bidder under procedures similar to those required under section 20. The requirement for competitive bidding does not apply to a concession involving the estimated receipt by the authority of less than \$1,000.00 over the period for which the concession is granted.

Sec. 22. (1) The authority may acquire facilities, assets, and rights of existing and operating private or public transportation systems. Except as provided in section 17, no liability, other than for equipment and facilities, shall be assumed or contracted for. Except as otherwise provided in this subsection, the authority shall not be required to comply with any statutory or charter limitations or prerequisites to an acquisition.

(2) If the contract between the authority and the existing and operating private or public transportation system provides only for operation of the existing system by the authority or only for acquisition without consideration, the transaction is not considered a sale of a public utility within any constitutional, statutory, or charter limitation or within any revenue bond ordinance.

(3) If the negotiation between the authority and an existing private or public transportation system does not reach a conclusion, the authority shall notify the owner of the existing private or public transportation system in writing that the matter shall proceed to binding final arbitration under the rules and procedures of the American arbitration association.

Sec. 23. Except as otherwise provided in this section, claims that arise in connection with the authority shall be presented as ordinary claims against a common carrier of passengers for hire. Written notice of any claim based on injury to persons or property shall be served on the authority not later than 60 days after the occurrence that gave rise to the claim. The disposition of the claim shall rest in the discretion of the authority. Claims that may be allowed and final judgment shall be paid from authority funds. Claims against the authority shall only be brought in a court of competent jurisdiction in a county in the region in which the authority principally carries on its functions.

Sec. 24. All counties and other political subdivisions and agencies, public or private, may assist, cooperate with, and contribute services, money, or property in aid of the authority and its purposes.

Sec. 25. The property of the authority and its income and operations are exempt from all taxes of this state or a political subdivision of this state, and the property of the authority is exempt from local zoning.

Sec. 26. Records and other writings prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be available to the public during normal business hours in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 27. Notwithstanding any other provision of this act, if an emergency financial manager has been appointed for the authority under the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291, then that emergency financial manager may exercise the authority and responsibilities provided in this act to the extent authorized by the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291.

Sec. 28. The authority shall prepare and publish a detailed public report and financial statement of its operations at the end of each fiscal year.

Sec. 29. The fiscal year of the authority shall commence October 1 and continue through September 30.

ARTICLE III

Sec. 30. (1) Beginning October 1, 2002, SMART, established in the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, is continued under this article. The chief executive officer of SMART and SMART board serving under that act on October 1, 2002, shall continue as the first chief executive officer of SMART and SMART board under this article. The members of SMART are Oakland, Wayne, Monroe, and Macomb counties.

(2) Subject to subsections (3) and (4), a county with a population of 750,000 or less that chooses not to participate in SMART may withdraw from SMART by a resolution of withdrawal that is approved by a majority vote of the members of the county board of commissioners.

(3) If the county seeking withdrawal under this section has an elected county executive under 1966 PA 293, MCL 45.501 to 45.521, or 1973 PA 139, MCL 45.551 to 45.573, the county executive may veto the resolution. A veto may be overridden by a 2/3 vote of the county board of commissioners from the county seeking to withdraw from SMART.

(4) A county that withdraws from SMART shall lose its seat on the SMART board and shall not, except on the unanimous affirmative vote of the SMART board, contract for public transportation services with SMART.

(5) SMART is an agency and instrumentality of the state and except as provided in this article has all of the powers of a public corporation if exercised for 1 or more of the following purposes:

- (a) Planning public transportation facilities.
- (b) Designing public transportation facilities.
- (c) Constructing public transportation facilities.
- (d) Operating public transportation facilities.
- (e) Administering public transportation facilities.
- (f) Acquiring public transportation facilities.
- (g) Contracting to provide public transportation facilities.
- (h) Maintaining, replacing, improving, and extending public transportation facilities.
- (i) Exercising the powers of a public transportation facility.

(6) If SMART ceases to operate or is dissolved and a successor agency is not created to assume its assets and liabilities, and perform its functions, and if SMART is authorized to secure the payment of compensation under section 611(1)(a) of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.611, then the state guarantees the payment of claims for benefits arising under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, against SMART during the time they were approved as a self-insured employer. The state shall be entitled to a lien which shall take precedence over all other liens on its portion of the assets of SMART in satisfaction of the payment of claims for benefits under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(7) A community or group of communities in the SMART region may create citizens planning and advisory councils to relate their particular concerns to the SMART board on a regularly scheduled basis. These councils shall have memberships representative of the various neighborhoods within those cities.

Sec. 32. (1) The SMART board shall be composed of the chief executive officers of each county in which a city having a population of 750,000 or more is located within the area served by SMART and of all other counties immediately contiguous to that city, and the representative of each chief executive officer to be designated in the sole discretion of, and serve at the sole pleasure of, that chief executive officer. Every county with a population of less than 750,000 that is served by SMART shall have 1 seat on the SMART board. A chief executive officer may designate an alternate to serve in his or her place on the SMART board.

(2) The SMART board by a majority vote shall adopt bylaws and rules of procedure governing its meetings. A majority vote for the adoption of bylaws and rules of procedure and for the transaction of business shall not be effective unless it includes at least 1 vote from each county in which a city having a population of 750,000 or more is located, and at least 1 vote from each county immediately contiguous to that city.

(3) The business of the SMART board shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(4) Records and other writings prepared, owned, used, in the possession of, or retained by SMART in the performance of an official function shall be available in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) SMART may:

- (a) Adopt rules to accomplish the purposes of this act.
- (b) Plan, acquire, construct, operate, maintain, replace, improve, extend, and contract for transportation facilities within the SMART region. If there is no authority or transit system established or operating public transportation facilities within 10 miles beyond any portion of the SMART region, SMART shall have the powers stated in this subdivision for 10 miles beyond that portion of the SMART region.
- (c) Acquire and hold, by purchase, lease, grant, gift, devise, bequest, condemnation, or other legal means, real and personal property, including, but not limited to, franchises, easements, and rights-of-way on, under, or above property within the SMART region. If there is no authority or transit system established and operating public transportation facilities within 10 miles beyond any portion of the SMART region, SMART shall have the powers enumerated in this subdivision for 10 miles beyond that portion of the SMART region.
- (d) Apply for and accept grants, loans, or contributions from any source. SMART may use the proceeds of the grants, loans, or contributions for any of the purposes of this act. SMART may do anything within its power to secure the grants, loans, or other contributions.
- (e) Sell, lease, or use any property that SMART acquires. For purposes of this subdivision, "use" includes, but is not limited to, the leasing of advertising space and the granting of concessions for the sale of articles or for services.

- (f) Grant to public or privately owned utilities the right to use any property that SMART has acquired.
- (g) Grant to any other public transportation facility the right to use the property that SMART has acquired.
- (h) Contract with any unit of government or private enterprise for service contracts, joint use contracts, and contracts for the construction or operation of any part of the transportation facilities.
- (i) Receive the proceeds of taxes, special assessments, and charges imposed, collected, and returned to SMART under the law.
- (j) Elect to become a participating municipality for acquired employees under section 34, pursuant to section 2c(2) of the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1502c.
- (k) Exercise all other powers that are necessary, incidental, or convenient for the carrying out of the purposes of this article.

(6) SMART shall not spend any public funds on political activities.

(7) SMART shall take all reasonable measures to provide regional transportation for senior citizens, citizens with disabilities, and citizens without the economic means to provide their own personal transportation. SMART shall take all reasonable measures to see that regional transportation services for those citizens are the first services provided by SMART and that regional transportation services for those citizens are the last services reduced by SMART if SMART reduces services.

(8) SMART may provide adequate transportation services to citizens other than senior citizens, citizens with disabilities, or citizens without the economic means to provide their own personal transportation only to the extent it does not impair or preclude SMART's obligations under subsection (7).

Sec. 33. The SMART board shall do all of the following:

- (a) Adopt bylaws and rules and procedures governing the SMART board meetings.
- (b) Establish or continue broad policies to implement day-to-day operation of SMART.
- (c) Review and approve the capital and operating budgets of SMART to assure that the budgets are reported and administered in accordance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.
- (d) Conduct an annual audit in accordance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.
- (e) Employ a general manager of SMART.

Sec. 34. (1) The SMART board shall appoint a general manager who shall be the chief executive and operating officer of SMART. The general manager shall have management of the properties and business of SMART and its employees. He or she shall direct the enforcement of all resolutions, rules, and regulations of the SMART board, and shall enter into contracts as necessary under the general control of the SMART board. The general manager shall serve at the pleasure of the SMART board.

(2) The general manager shall have the authority to appoint officers, employees, and agents necessary to carry out the purposes of SMART under the general policy direction of the SMART board. The general manager shall classify all the offices, positions, and grades of regular employment required under a merit rating system; except that a maximum of 5% of the employees and officers shall be exempt from the provisions of the merit rating system.

Sec. 35. (1) The general manager shall prepare and the SMART board shall approve a separate operating and capital budget for each fiscal year. These budgets shall be approved at least 30 days before the beginning of each new fiscal year. In addition, capital program and operating budgets shall be prepared to cover periods of 5 years. These shall be revised and updated annually before submission to the SMART board.

(2) SMART shall submit its annual operating and capital budget, financial audits, and construction plans to the authority, far enough in advance of any final approval requirement for the board to have a reasonable time for review, comments, and revision.

Sec. 36. SMART may not levy taxes nor may it pledge the credit or taxing power of the state or any political subdivision except for the pledging of receipts of taxes, special assessments, or charges collected by the state or a political subdivision and returnable or payable by law or by contract to SMART and except for the pledge by a political subdivision of the state of its full faith and credit in support of its contractual obligations to SMART as authorized by law. Transportation facilities shall be financed, in addition to other methods of financing provided by law, by 1 or more of the following methods:

- (a) By fares, rates, tolls, and rents.
- (b) By other income or revenues from whatever source available, including appropriations or contributions of whatever nature or other revenues of the participating counties and political subdivisions within the geographical boundaries of SMART.
- (c) By loans from any public agency and grants, contributions, gifts, devises, or bequests from any source.
- (d) By proceeds of taxes, special assessments, or charges imposed pursuant to law and collected by the state or a political subdivision and returned or paid to SMART pursuant to law or contract.

Sec. 37. All claims that may arise in connection with SMART shall be presented as ordinary claims against a common carrier of passengers for hire. Written notice of any claim based upon injury to persons or property shall be served upon SMART no later than 60 days from the occurrence through which such injury is sustained. Disposition of

the claim shall rest in the discretion of SMART, and all claims that may be allowed and final judgment obtained shall be paid from SMART funds. Only the courts located in the counties in which SMART principally carries on its function are the proper counties in which to commence and try action against SMART.

Sec. 38. (1) SMART may fix rates, fares, tolls, rents, and other charges for the use of public transportation facilities and the services provided by SMART within the SMART region.

(2) SMART shall give a public notice of its intent to apply for money from the comprehensive transportation fund to the residents of the counties, townships, villages, and cities affected by the local transportation program and shall make its application available for a period of 30 days. All comments received by SMART shall be transmitted to the board, the SMART board, and the state transportation department along with the application for funds.

(3) SMART shall conduct a public hearing before the SMART board implements changes to the fares charged for the services provided by SMART. A transcript of the public hearing shall be transmitted to the SMART board before the consideration of the fare changes.

Sec. 39. (1) SMART may borrow money and issue bonds to finance and to carry out its powers and duties. The bonds shall be payable from and may be issued in anticipation of payment of the proceeds of any of the methods of financing as may be provided by law. A political subdivision within the geographical boundaries of SMART may contract to make payments, appropriations, or contributions to SMART of the proceeds of taxes, special assessments, or charges imposed and collected by the political subdivision or out of any other funds legally available and may pledge its full faith and credit in support of its contractual obligation to SMART. The contractual obligation shall not constitute an indebtedness of a political subdivision within a statutory or charter debt limitation. If SMART has issued bonds in anticipation of payments, appropriations, or contributions to be made to SMART pursuant to contract by a political subdivision having the power to levy and collect ad valorem taxes, the political subdivision may obligate itself by the contract, and thereupon may levy a tax on all taxable property in the political subdivision, which tax as to rate or amount will be as provided in section 6 of article IX of the state constitution of 1963 for contract obligations in anticipation of which bonds are issued, to provide sufficient money to fulfill its contractual obligation to SMART.

(2) The bonds of SMART shall be issued and sold in compliance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except that the bonds may be issued for any period of years, not exceeding 40 years.

(3) A political subdivision may advance or deliver property to SMART to finance or carry out its powers and duties. SMART may agree to repay the advances or pay for the property within a period not exceeding 10 years, from the proceeds of its bonds or from other funds legally available to SMART, with or without interest as may be agreed to at the time of advance or repayment. The obligation of SMART to make the payment or repayment may be evidenced by a contract or note that may pledge the full faith and credit of SMART. The contract or note that is evidence of SMART's obligation shall not be an obligation under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) A political subdivision desiring to enter into a contract under subsection (1) shall authorize, by resolution of its governing body, the execution of the contract, which resolution shall be published in a newspaper of general circulation within the political subdivision, and the contract may be executed without a vote of the electors on the contract upon the expiration of 90 days after the date of the publication unless, within the 90-day period, a petition signed by not less than 5% of the registered electors residing within the limits of the political subdivision is filed with the clerk of the political subdivision requesting a referendum upon the execution of the contract, and in that event the contract shall not be executed until approved by the vote of a majority of the electors of the political subdivision qualified to vote and voting on the contract at a general or special election to be held not more than 90 days after the filing of the petition.

(5) If the bonds or notes sold by SMART involve the pledge or use of state collected or administered funds, SMART shall seek the approval of the board and the state transportation commission.

(6) Notwithstanding any other provision of this section, SMART shall not issue bonds, nor use the revenues of the sale of bonds, for the construction, reconstruction, maintenance, or operation of a subway unless approved by concurrent resolution by the legislature.

Sec. 40. In the exercise of its powers within the SMART region, SMART is exempt from all of the following acts:

(a) The motor carrier act, 1933 PA 254, MCL 475.1 to 479.20.

(b) The motor bus transportation act, 1982 PA 432, MCL 474.101 to 474.141.

(c) The township and village public improvement and public service act, 1923 PA 116, MCL 41.411 to 41.419.

Sec. 41. (1) SMART shall have the right to bargain collectively and enter into agreements with labor organizations.

(2) SMART shall be bound by existing collective bargaining agreements with publicly or privately owned entities that are acquired, purchased, or condemned by SMART. Members and beneficiaries of any pension or retirement system established by the acquired transportation system, and beneficiaries of any of the benefits established by the acquired transportation system shall continue to have rights, privileges, benefits, obligations, and status under the acquired pension or retirement system or benefits. SMART shall assume the obligations of public transportation facilities or transit systems that SMART acquires with regard to all of the following:

(a) Wages and salaries.

(b) Hours and working conditions.
(c) Sick leave and health and welfare benefits.
(d) Pension or retirement benefits, including retiree health care benefits.
(3) No employee of an acquired transportation system who is transferred to a position with SMART shall, by reason of the transfer, be placed in a worse position with respect to any of the following:

- (a) Worker's compensation.
- (b) Pension.
- (c) Seniority.
- (d) Wages.
- (e) Sick leave.
- (f) Vacation.
- (g) Health and welfare benefits.
- (h) Any other benefits that he or she enjoyed as an employee of the acquired transportation system.

(4) Employees of the acquired transportation system who left the acquired transportation system to enter into military service of the United States shall have the same rights with respect to SMART under 1951 PA 263, MCL 35.351 to 35.356, as they would have had as employees of the acquired transportation system.

(5) For federally funded activities, SMART shall enter into and comply with the arrangements that the U.S. secretary of labor certifies as fair and equitable in compliance with 49 U.S.C. 5333(b).

(6) Before beginning to operate any new transit service public transportation facility or entering into any contract or other arrangements for the operations of the transit service or public transportation facility, the authority shall extend to the employees providing public transportation services directly for or by contract with the SMART, in order of the employee's seniority with the employee's employer, the first opportunity for reasonably comparable employment in any new jobs with respect to the operations for which the employee can qualify after a reasonable training period. SMART shall provide for the first opportunity required under this subsection in any contract to operate a new transit service or public transportation facility. Employers shall comply with all collective bargaining agreements in accordance with the national labor relations act, chapter 372, 49 Stat. 449, and the public employment relations act of 1947, 1947 PA 336, MCL 423.201 to 423.217.

Sec. 42. (1) Except as otherwise provided in this section and section 43, competitive bids shall be secured before any purchase or sale, by contract or otherwise, is made or before any contract is awarded for construction, alteration, supplies, equipment, repairs, maintenance, and the rendering of services to SMART.

(2) Except as otherwise provided in this section, all purchases and sales in excess of \$50,000.00 shall be awarded after advertising in a manner determined by the SMART board and set forth in a written purchasing policy. Bids shall be publicly opened and read aloud at a date, time, and place designated in the invitation to bid. Invitations to bid shall be sent at least 1 week before the bid opening to at least 3 potential bidders who are qualified technically and financially to submit bids, or a memorandum shall be kept on file showing that less than 3 potential bidders who are qualified and responsible exist in the general market area within which it is practicable to obtain quotations.

(3) Except as otherwise provided in this section, written price quotations from at least 3 qualified and responsible vendors shall be obtained for all purchases and sales of \$50,000.00 or less but greater than \$5,000.00, or a memorandum shall be kept on file showing that less than 3 qualified and responsible vendors exist in the market area within which it is practicable to obtain quotations.

(4) Competitive bidding is not required in 1 or more of the following circumstances:

- (a) The purchase of unique articles.
- (b) The purchase of articles that cannot be obtained in the open market.
- (c) Purchases or sales under \$5,000.00.
- (d) The rendering of professional services.

(e) An emergency exists that directly and immediately affects service or public health, safety, or welfare and that requires immediate delivery of supplies, materials, equipment, or services as determined under procedures approved and determined by the SMART board.

(5) The SMART board shall expressly approve or deny in advance the purchase of unique articles or articles that cannot be obtained in the open market without competitive bidding if the amount of the purchase in either case is in excess of \$50,000.00.

Sec. 43. Concessions for the sale of products or the rendition of services for a consideration on SMART property shall be awarded by SMART only pursuant to written specifications after competitive bidding to the highest responsible bidder under procedures similar to those required under section 42. The requirement for competitive bidding does not apply to a concession involving the estimated receipt by SMART of less than \$1,000.00 over the period for which the concession is granted.

Enacting section 1. This act takes effect October 1, 2002.

Enacting section 2. The metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, is repealed effective October 1, 2002.

Second: That the House and Senate agree to the title of the bill to read as follows:

A bill to create the Detroit area regional transportation authority; to transfer certain powers of authorities to the Detroit area regional transportation authority; to provide regional transportation for senior citizens, citizens with disabilities, citizens without the economic means to provide their own personal transportation, and all other citizens; to continue the suburban mobility authority for regional transportation; to prescribe certain powers and duties of the authorities; to provide for the addition and withdrawal of certain local entities from the authority; to provide for the powers and duties of certain state agencies with respect to the authority; to provide for the issuance of bonds and notes; to provide for the state to guarantee payment of certain claims against the authority and give the state a lien in satisfaction of payment; to protect the rights of employees of existing public transportation systems; to provide for the pledge of taxes, revenues, assessments, tax levies, and other funds for bond and note payments; to authorize certain local entities to levy property taxes and make special assessments to fulfill their obligations under certain contracts with the authority; and to repeal acts and parts of acts.

Jason Allen
Patricia Godchaux
Samuel Buzz Thomas
Conferees for the House

Bill Bullard, Jr.
Thaddeus G. McCotter
Conferees for the Senate

Pending the order that, under joint rule 9, the conference report be laid over one day,

Senator Emmons moved that the rule be suspended.

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

The question being on the adoption of the conference report,

The first conference report was adopted, a majority of the members serving voting therefor, as follows:

Roll Call No. 1048

Yeas—20

| | | | |
|---------|-------------|----------|---------|
| Bennett | Emmons | Leland | Shugars |
| Bullard | Garcia | McCotter | Sikkema |
| Byrum | Gast | McManus | Steil |
| Cherry | Hammerstrom | Peters | Stille |
| DeGrow | Hoffman | Schwarz | Young |

Nays—13

| | | | |
|--------------|---------|----------|-----------------|
| DeBeaussaert | Goschka | North | Scott |
| Dingell | Johnson | Sanborn | Smith |
| Dunaskiss | Miller | Schuette | Van Regenmorter |
| Emerson | | | |

Excused—5

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | | | |

Not Voting—0

In The Chair: Schwarz

Protests

Senators Smith and Scott, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the first conference report on House Bill No. 5467.

Senator Smith's statement, in which Senator Scott concurred, is as follows:

I voted "no" on the bill because I really can't understand why suburban areas have the right to vote on their participation in certain regional authorities or other elected processes, and the citizens of the city of Detroit are denied an opportunity to vote on their local governance of school boards.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator Emmons moved that rule 1.117 be suspended to allow the Secretary of the Senate to edit the official tapes of session pertaining to statements of departing Senators and to distribute the tapes to each Senator.

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

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

The motion prevailed.

Senator McManus' statement is as follows:

Could I have the Senator from the 35th District, The Honorable, come over here. We have a little presentation we would like to make. What I am doing here is recognizing intelligentsia. I am doing this from a standpoint that when you got to run for office and you are hung with a moniker that is spelled "Schuette," I mean, how are you going to get recognition at age 30? Is it "shoot" or is it "schut" or is it "schuett" or what is it? But my friend here recognized that any farmer knows that you need to marry a woman with big feet. As he looked at his size 12s, his mind certainly put the figure together, and so he decided that if he was going to get the populist of the state of Michigan to recognize him, he could put the word "Shoe-T." And that's how he started in politics. We are recognizing your intelligence, Senator, and we would like to present you with this shoe from 20 years again.

Senator Schuette's statement is as follows:

My friend Governor Engler said, "Finally the other shoe has dropped," and the Governor is correct. Just for the record here, I am not sure about this farmers marrying women with big feet. My wife's feet are very petite, just for the record here. Though I give credit—with a name like Schuette—when I get called on bad days, you all will know.

When I first stated we didn't know what to do, I give credit to my mother because you pay for all these fancy posters and consultants to help you win. I was having a Sunday afternoon dinner with my late stepfather and my mom. "I've figured out a way for you to win," she said. "Take a shoe and a 'T' and do 'Shoe T.'" So most of the best things come from home, and, George, thank you. For almost 20 years, George's chief of staff Gary Henderson's wife has had this shoe because I had the privilege of working with Beverly. Thank you for giving me this old shoe back. Thank you very much.

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

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

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

By unanimous consent the Senate proceeded to the order of

Statements

Senators Schwarz, Peters, Young, Byrum and Hoffman asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Schwarz's statement is as follows:

Mr. President, I want to thank you for the opportunity to make these remarks after serving 16 years in this body. Starting out with the Governor as the Majority Leader through the Posthumus regime and into the DeGrow regime, the

good, the bad and the ugly, the productive, the useless. Some days it was a privilege, and other days it was a weird burden to come up here from Battle Creek from my medical practice. Some days this chamber was brilliant, and other days this chamber is a zany irrelevance. You take your choice. Some days I think we—including myself—are a bunch of vapid dilettantes who never miss an opportunity to miss an opportunity. Other days we do much better.

In Latin, you can characterize numbers of the people in this body. There are those people who are afflicted with *impedimentum memoriae*. They can never remember anything including other members' names. We have those who are afflicted with *inopia celeritatis*, which is dyslexia on time. They are never on time for anything. We have others who are afflicted with *dolor antiprandialis*, which means they always cancel their lunch appointments. Then we have the usual flow of information in this body *purgamentum init/exit purgamentum*, which means garbage in and garbage out. We have some members who would be best described with a Latin name. We have the fiber *feruidus*, which are eager beavers. We have the *lacertus atrioli*, who are the lounge lizards. We have a few, and only a few, and only on certain days *pavo absolutus*—they would be total turkeys.

For my friends who are great supporters of the NRA, I say to you, "*Cum catapultae proscriptae erunt tum soli proscripti catapultas habeunt*," which means when catapults are outlawed, only outlaws will have catapults.

Finally, this for all of you, "*Caesar si viveret omnium ad renum dareris*." If Caesar were alive, you all would be chained to an ore. It's been a pleasure. Good bless all of you.

Senator Peters' statement is as follows:

I really don't like to do farewells, and I also wanted to wait for the real last day of session, which is today. Also I was a little knocked off kilter yesterday just before the farewell speeches. I put up an amendment, and I had the Majority Leader, Senator Dan DeGrow, vote for it. I thought I was in a parallel universe for a while. I wasn't sure what was happening. However, I am pleased that after eight years, we were able to do that. We are going to try to do two in a row at some point here before the day is over. It has been a pleasure and honor to serve with everyone here over the last eight years. In some ways, these eight years seem like just yesterday that I arrived here, and in other ways, it seems like it has been a very long time.

Particularly with my family, there has been a lot of changes. I thank my family for being along on this ride. Since I started running for this office, I've been married to my lovely wife Colleen; two beautiful daughters, Alana and Madeleine, were born; and my son Gary, Jr. has grown into a fine young man.

I'd also like to thank my staff who has been with me for the last two years. There has been a lot of ups and downs over the last two years not just in this Senate Chamber, but in politics. Some of my long-term staffers are Melanie Brown, Andy Schor, Dale Outhouse, and all the other staff members. I have one particular staff member, Elise Lancaster, who is my chief of staff who has been with me the entire eight years. At least I think she will be. She hasn't given me her notice yet, so I assume she will be here on the last day of this term. She was here for the first term, and I thank her for her loyalty and service over the years.

I would also like to thank the central staff on both sides of the aisle who have been there for me, particularly some of my Democratic colleagues on central staff who have been enablers, always giving me good amendments that I know drove some of my other colleagues a little crazy on the other side of the aisle. But I did have a lot of fun with that. I would also like to thank my constituents from the 14th District for all the trust and confidence they put in me as well.

I certainly want give a special thanks to everyone here in this chamber and my colleagues with whom I have enjoyed some very spirited debates over the years. As I mentioned, I know I drove some of my colleagues on the other side of the aisle a little crazy at times, but I have always known that we are all in this for the right reasons. We believe in public service. We believe in doing good things for the people in Michigan. We just come at it from a little different perspective.

One of the highlights of my career in this Senate has been our Senate breakfast, which Senator Bill Schuette and I put together five years ago. We've shared some real fellowship at those breakfasts, and many members of this chamber have been a part of that. I sure hope that the new members will continue—after we're gone—this very fine tradition, so that we can leave that very spirited debate behind us when we leave the floor and share fellowship, share the friendship, and share the common interests that we all have representing the people of this great state.

So I don't want to say farewell because we will continue to be friends. I look forward to seeing all of you in different endeavors. I want to say I wish everybody in this chamber from staff to colleagues—everybody—all the best in the future and Godspeed.

Senator Young's statement is as follows:

I have the distinct honor and pleasure of having the opportunity to speak on the behalf of a very good friend of mine and a very good friend of very many of those in the chamber, and certainly, a very good friend to the presiding officer of the day. That's Associate President pro tempore Senator Jackie Vaughn who, for those who don't know the history as I was told just recently by Senator Arthur Miller, replaced Arthur Cartright who happened to be a long-time serving Senator out of the city of Detroit. I just learned then how old Arthur is because I was just a little tyke when Cartright was known to me. Arthur must have been at least in high school at the time he was a Senator, but anyway, we'll let that go.

I have a few comments that I'd like to read because I think that's important. I want to start with a quote, however, because Senator Schwarz and myself have had the opportunity to visit Senator Jackie Vaughn. His mind is alert. He does recognize us. He still says, "No," if we want him to walk or talk or some things like that. But one day I saw him in an environment with about six or seven young ladies, and he was impressing them by reading the stacks of newspapers that he's always liked to read. Here's a quote from Senator Jackie Vaughn which he wrote himself for the special issue of the *Sen-News*. "Through my personal experience, education has taught me the historical value learning has on our world, and it is for that reason that I have devoted my public service to helping make education available to people from all walks of life, as well as all income levels."

As we know, Senator Jackie Vaughn graduated from Oxford University, England, with a B. Litt. (Oxon) degree. He was a Fulbright Scholar and Fellow, one of the few Americans to receive the State Department's extension of the Fulbright Scholarship for three years. He received his master's degree from Oberlin College and his bachelor's degree from Hillsdale College. He was bestowed an honorary doctorate LLD from Marygrove College, and additional honorary doctorates were awarded to Senator Vaughn by Highland Park Community College, the Urban Bible Institute, the University of Windsor, and Shaw College.

Senator Vaughn is one of the most respected legislators in the state, and he is one of the busiest. He was two-term past president of the Michigan Young Democrats, past President pro tempore, past Assistant President pro tempore of the Michigan Senate, and a class ambassador for both Hillsdale and Oberlin Colleges. He was an active member of the American Oxonian Society at Oxford, England, and served as a teacher at the University of Detroit and Wayne State University. Among his other activities, Senator Vaughn was also a member of the executive board of the Detroit branch of the NAACP and was the YMCA World Ambassador to what was then the USSR. He was also a member of the Fulbright Alumni Association and the Oberlin and Hillsdale Alumni Associations and has been elected to the Omicron Delta Kappa Honor Leadership Society.

He has been granted private audiences both with His Holiness Pope Paul VI and Pope John II at the Vatican. Senator Vaughn has always been an active member and a Sunday School instructor at Hartford Memorial Baptist Church in the city of Detroit.

I know many of you know I could go on and on and on with the resume of Senator Jackie Vaughn, but I'd like the record to reflect that his mind is well. He sends his greetings to each and every one of you, and the last time I went to visit him, he even had the nerve to say to me, "Just where have you been, and why haven't you been here?" He loves this institution. He had a great staff. Thank you, Art, because Karen in the back helped me look good by making sure I had the material. Give Karen an applause because she's done very well.

Finally, for the record, I think through the leadership of Senator John Cherry, who believed that the office could function, because of the tremendous staff in Senator Vaughn's office, it did function, and constituents' needs were met, appointments were met, and things did happen. As I mentioned, Senator Vaughn continues to read and to talk about the things that he would like for those of us who are going to continue in this institution—which I'm not—to continue to go on and to serve and make sure that all children have an equal opportunity toward education. Again, it's a definite honor for me to have the opportunity to do this on behalf of Senator Jackie Vaughn.

Senator Byrum's statement is as follows:

As my time in the Senate comes to an end, I wanted to take a few minutes to reflect on the last eight years. This has been a tremendous opportunity to serve the citizens of Michigan and to work in an environment so rich in both history and the issues of the day. I will forever be grateful and leave my Senate service a better person with a greater vision. I want to thank my family for their sacrifices and personal office staff for helping me be more effective and to serve the citizens of Ingham County.

I will be leaving the Senate but will continue my service in the Michigan House of Representatives as the new House Minority Leader. For the returning Senators, I look forward to working with you. For my colleagues who will be departing today, I want to wish you much health and happiness. I have been enriched by the time we have served together, and I know all of us will be leaving with many, many memories and long-lasting friendships. Thank you very much.

Senator Hoffman's statement is as follows:

Yesterday, I had the honor to be in attendance and listen to over two dozen of my colleagues in the Senate bid farewell—nearly 500 years of public service, leadership, ideas, and passion left behind. What an historical moment for our Senate and state. It was too important a moment for me to speak up. I wanted to sit back and soak up the events that were unfolding before me. It reminded me of the last home game of the Detroit Tigers in old Tiger Stadium when at the end of the game, the heroes of the Tigers like Kaline and Fidyrych and Gibson and Horton and the like trotted out from center field, recalling the past, bring up the old times, the memories, the victories, the pennants, and the World Series. In similar fashion yesterday, the legends of the Senate stood up and one by one told their stories. What a day for me to be a Senator or even a constituent.

How many of us even get the chance to leave our game when we're at the pinnacle of our careers; when we're at the peak of our games? I'm reminded of Dominik Hasek—one of my heroes—goal tender for the Red Wings. He left his game after getting the Stanley Cup. You don't get it any better than that. So to all of the Senators who are retiring now, you are one of the rare people who ever will get the chance to leave when you are at the pinnacle of your careers. It doesn't happen very often. I'm proud to have been a small part of that team.

Like you, I must thank the people who brought me to this day: my parents, my wife and family, my constituents, my campaign volunteers who believed in me, my office staff, and my entire Senate family.

Know this—that when I leave the Senate, I'll have to get a new doctor. I won't have Joe Schwarz to complain to any more. That'll be tough. I've been spoiled. I'll have to start answering my own telephone calls and writing my own letters. That'll be even harder. Now I'll have to buy my own lunches. You know, that's going to be even more difficult. And I'll have to make my own coffee. And my wife won't take messages. She never has; she never will. And, yes, I'll even have to show up on Mondays and Fridays. Boy, I'm sure going to miss that yellow button—the pages. You know, the popcorn and the paper and the candy. It will be difficult, but I am strong.

I have a couple personal people who I want to take a second to remember: my political mentor Mike Griffin from Jackson when I came up in 1983. One day I walked over to Mike and I said, "Hey, Mike, how do you stay out of trouble?" He said, "Go home every night." In 20 years, I don't think I've stayed more than five nights in Lansing, in the Legislature. I go home every night. You have a tendency to turn humble when you have to take out the garbage in the morning or you come to Lansing with milk on your shoulder from where your son spit on you and you didn't even know it. Or you shake up the orange juice only to find the top comes off and you have to deal with those kinds of things. So it keeps you pretty humble. Griffin's advice was good advice. He was a great legislator and one I've always tried to pattern myself after.

Lastly, I'd like to take a second to remember the legislators who have gone before us. One I really got a kick out of—I used call him Bart Man—Jerry Bartnik. He was a great outdoorsman and a friend to many of us in the Legislature. We used to have some great times together. I kind of miss Jerry.

In conclusion, when you folks are out in the Horton area, you've got a friend. When you're in the Beaver Island area, you've got a home. God's been good to me, and I pray he'll be good to you. Merry Christmas and goodbye.

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

By unanimous consent the Senate returned to the order of

General Orders

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

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

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

House Bill No. 4092, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 8122 (MCL 600.8122), as amended by 1988 PA 135, and by adding section 9938a.

The bill was placed on the order of Third Reading of Bills.

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

House Bill No. 5736, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by amending sections 2, 3, 4, and 4k (MCL 205.92, 205.93, 205.94, and 205.94k), sections 2 and 3 as amended by 2002 PA 511, section 4 as amended by 2002 PA 456, and section 4k as amended by 2000 PA 200.

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

1. Amend page 7, line 21, after "BEGINNING" by striking out "OCTOBER 1, 2002" and inserting "APRIL 1, 2003".
2. Amend page 10, line 12, after "BEGINNING" by striking out "OCTOBER 1, 2002" and inserting "APRIL 1, 2003".
3. Amend page 11, line 17, after "BEGINNING" by striking out "OCTOBER 1, 2002" and inserting "APRIL 1, 2003".
4. Amend page 12, line 6, after "BEGINNING" by striking out "OCTOBER 1, 2002" and inserting "APRIL 1, 2003".

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

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

House Bill No. 6498, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 504, 517, and 803 (MCL 600.504, 600.517, and 600.803), section 504 as amended by 2001 PA 254, section 517 as amended by 2001 PA 257, and section 803 as amended by 2001 PA 253.

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

1. Amend page 4, following line 15, by inserting:

"Sec. 807. A probate court district is created in each of the following described districts when a majority of the electors voting on the question in each affected county approves the ~~same~~ PROBATE COURT DISTRICT. The districts shall consist as follows:

- (a) The first district consists of the counties of BARAGA, Houghton, and Keweenaw.
- (b) The second district consists of the counties of Ontonagon and Gogebic.
- (c) The third district consists of the counties of Iron and ~~Baraga~~ DICKINSON.
- ~~(d) The fourth district consists of the counties of Menominee and Dickinson.~~
- (D) ~~(e)~~ The fifth district consists of the counties of Schoolcraft and Alger.
- (E) ~~(f)~~ The sixth district consists of the counties of Mackinac and Luce.
- (F) ~~(g)~~ The seventh district consists of THE COUNTIES OF Emmet and Charlevoix.
- (G) ~~(h)~~ The eighth district consists of the counties of Cheboygan and ~~Oscego~~ PRESQUE ISLE.
- (H) ~~(i)~~ The ninth district consists of the counties of ~~Presque Isle~~ ALPENA and Montmorency.
- ~~(j) The tenth district consists of the counties of Kalkaska and Antrim.~~
- ~~(k) The eleventh district consists of the counties of Grand Traverse and Leelanau.~~
- (I) ~~(l)~~ The twelfth district consists of the counties of Manistee and Benzie.
- (J) ~~(m)~~ The thirteenth district consists of the counties of Wexford and Missaukee.
- (K) ~~(n)~~ The fourteenth district consists of the counties of ~~Rosecommon~~ KALKASKA and Crawford.
- (l) ~~(o)~~ The fifteenth district consists of the counties of Alcona ; AND Oscoda. ; and ~~Ogemaw.~~
- (M) ~~(p)~~ The sixteenth district consists of the counties of Iosco and Arenac.
- (N) ~~(q)~~ The seventeenth district consists of the counties of Clare and Gladwin.
- (O) ~~(r)~~ The eighteenth district consists of the counties of Mecosta and Osceola.
- (P) ~~(s)~~ The nineteenth district consists of the counties of ~~Newaygo~~ MASON and Lake.
- ~~(t) The twentieth district consists of the counties of Oceana and Mason. .~~

Sec. 810a. The probate judges in the counties of Arenac, Kalkaska, and Crawford, AND LAKE have the power, authority, and title of a district judge within their respective counties, in addition to the power, authority, and title of a probate judge.

Enacting section 1. Section 810a of the revised judicature act of 1961, 1961 PA 236, MCL 600.810a, as amended by this amendatory act, takes effect 91 days after the date on which the 91st Legislature adjourns its 2002 regular session sine die.

Sec. 5805. (1) A person shall not bring or maintain an action to recover damages for injuries to persons or property unless, after the claim first accrued to the plaintiff or to someone through whom the plaintiff claims, the action is commenced within the periods of time prescribed by this section.

(2) The period of limitations is 2 years for an action charging assault, battery, or false imprisonment.

(3) The period of limitations is 5 years for an action charging assault or battery brought by a person who has been assaulted or battered by his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a person with whom he or she resides or formerly resided. This limitation applies to causes of action arising on or after the date of enactment of the amendatory act that added this subsection FEBRUARY 17, 2000 and to causes of action in which the period of limitations described in subsection (2) has not already expired as of the date of enactment of the amendatory act that added this subsection FEBRUARY 17, 2000.

(4) THE PERIOD OF LIMITATIONS IS 5 YEARS FOR AN ACTION CHARGING ASSAULT AND BATTERY BROUGHT BY A PERSON WHO HAS BEEN ASSAULTED OR BATTERED BY AN INDIVIDUAL WITH WHOM HE OR SHE HAS OR HAS HAD A DATING RELATIONSHIP. THIS LIMITATION APPLIES TO CAUSES OF ACTION ARISING ON OR AFTER JANUARY 1, 2003 AND TO CAUSES OF ACTION IN WHICH THE PERIOD OF LIMITATIONS DESCRIBED IN SUBSECTION (2) HAS NOT ALREADY EXPIRED AS OF JANUARY 1, 2003.

(5) ~~(4)~~ The period of limitations is 2 years for an action charging malicious prosecution.

(6) ~~(5)~~ Except as otherwise provided in this chapter, the period of limitations is 2 years for an action charging malpractice.

(7) ~~(6)~~ The period of limitations is 2 years for an action against a sheriff charging misconduct or neglect of office by the sheriff or the sheriff's deputies.

(8) ~~(7)~~ The period of limitations is 2 years after the expiration of the year for which a constable was elected for actions based on the constable's negligence or misconduct as constable.

(9) ~~(8)~~ The period of limitations is 1 year for an action charging libel or slander.

(10) ~~(9)~~ The period of limitations is 3 years after the time of the death or injury for all other actions to recover damages for the death of a person, or for injury to a person or property.

(11) ~~(10)~~ The period of limitations is 5 years for an action to recover damages for injury to a person or property brought by a person who has been assaulted or battered by his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a person with whom he or she resides or formerly resided. This limitation applies to causes of action arising on or after ~~the date of enactment of the amendatory act that added this subsection~~ FEBRUARY 17, 2000 and to causes of action in which the period of limitations described in subsection ~~(9)~~ (10) has not already expired as of ~~the date of enactment of the amendatory act that added this subsection~~ FEBRUARY 17, 2000.

(12) THE PERIOD OF LIMITATIONS IS 5 YEARS FOR AN ACTION TO RECOVER DAMAGES FOR INJURY TO A PERSON OR PROPERTY BROUGHT BY A PERSON WHO HAS BEEN ASSAULTED OR BATTERED BY AN INDIVIDUAL WITH WHOM HE OR SHE HAS OR HAS HAD A DATING RELATIONSHIP. THIS LIMITATION APPLIES TO CAUSES OF ACTION ARISING ON OR AFTER JANUARY 1, 2003 AND TO CAUSES OF ACTION IN WHICH THE PERIOD OF LIMITATIONS DESCRIBED IN SUBSECTION (2) HAS NOT ALREADY EXPIRED AS OF JANUARY 1, 2003.

(13) ~~(11)~~ The period of limitations is 3 years for a products liability action. However, in the case of a product that has been in use for not less than 10 years, the plaintiff, in proving a prima facie case, shall be required to do so without benefit of any presumption.

(14) ~~(12)~~ The period of limitations for an action against a state licensed architect, professional engineer, land surveyor, or contractor based on an improvement to real property shall be as provided in section 5839.

(15) AS USED IN THIS SECTION, "DATING RELATIONSHIP" MEANS FREQUENT, INTIMATE ASSOCIATIONS PRIMARILY CHARACTERIZED BY THE EXPECTATION OF AFFECTIONAL INVOLVEMENT. DATING RELATIONSHIP DOES NOT INCLUDE A CASUAL RELATIONSHIP OR AN ORDINARY FRATERNIZATION BETWEEN 2 INDIVIDUALS IN A BUSINESS OR SOCIAL CONTEXT."

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

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

House Bill No. 6501, entitled

A bill to amend 1975 PA 228, entitled "Single business tax act," by amending section 38g (MCL 208.38g), as added by 2000 PA 143.

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

1. Amend page 6, line 14, by striking out all of subsection (6) and renumbering the remaining subsections.

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

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

House Bill No. 6502, entitled

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending sections 13 and 15 (MCL 125.2663 and 125.2665), as amended by 2000 PA 145.

Substitute (S-1).

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

Recess

Senator Emmons moved that the Senate recess until 1:00 p.m.

The motion prevailed, the time being 12:11 p.m.

The Senate reconvened at the expiration of the recess and was called to order by the Assistant Associate President pro tempore, Senator Miller.

Recess

Senator Sikkema moved that the Senate recess until 1:30 p.m.

The motion prevailed, the time being 1:01 p.m.

The Senate reconvened at the expiration of the recess and was called to order by the President pro tempore, Senator Schwarz.

Recess

Senator Emmons moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 1:31 p.m.

1:41 p.m.

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

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

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

- House Bill No. 6501**
- House Bill No. 6502**
- House Bill No. 5736**
- House Bill No. 4092**

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

The following bill was announced:

House Bill No. 5641, entitled

A bill to regulate the business of deferred presentment services; to prescribe powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

(This bill was read a third time on December 12, substitute offered and consideration postponed. See Senate Journal No. 74, p. 2465.)

The question being on the adoption of the substitute offered by Senator Scott,

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

Senator Scott requested the yeas and nays.

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

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

Roll Call No. 1049

Yeas—12

Byrum
Cherry
DeBeaussaert

Dingell
Johnson
Leland

Miller
Peters
Schwarz

Scott
Smith
Stille

Nays—16

Bennett
Bullard
Dunaskiss
Emmons

Garcia
Goschka
Hammerstrom
Hoffman

McCotter
McManus
North
Sanborn

Shugars
Sikkema
Steil
Van Regenmorter

Excused—5

Gougeon
Hart

Koivisto

Murphy

Vaughn

Not Voting—5DeGrow
Emerson

Gast

Schuette

Young

In The Chair: Schwarz

Senator Peters moved that Senator Young be temporarily excused from the balance of session.
The motion prevailed.

Senator Smith offered the following amendment:

1. Amend page 12, line 10, after “exceed” by striking out the balance of the line through “customer.” on line 11 and inserting “an annual interest rate of 100%.”.

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

Senator Peters requested the yeas and nays.

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

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

Roll Call No. 1050**Yeas—18**Byrum
Cherry
DeBeaussaert
DeGrow
DingellEmerson
Goschka
Hammerstrom
Hoffman
JohnsonLeland
Miller
North
PetersSchwarz
Scott
Smith
Van Regenmorter**Nays—12**Bennett
Bullard
DunaskissEmmons
Garcia
McCotterMcManus
Sanborn
SchuetteShugars
Sikkema
Steil**Excused—6**Gougeon
HartKoivisto
Murphy

Vaughn

Young

Not Voting—2

Gast

Stille

In The Chair: Schwarz

The President, Lieutenant Governor Posthumus, assumed the Chair.

The question being on the passage of the bill,

The bill was defeated, a majority of the members serving not voting therefor, as follows:

Roll Call No. 1051**Yeas—16**

| | | | |
|-----------|-------------|----------|-----------------|
| Bennett | Garcia | McManus | Shugars |
| Bullard | Goschka | Miller | Sikkema |
| Dunaskiss | Hammerstrom | Sanborn | Steil |
| Emmons | McCotter | Schuette | Van Regenmorter |

Nays—16

| | | | |
|-------------|---------|---------|---------|
| Byrum | Dingell | Johnson | Schwarz |
| Cherry | Emerson | Leland | Scott |
| DeBeausaert | Gast | North | Smith |
| DeGrow | Hoffman | Peters | Stille |

Excused—6

| | | | |
|---------|----------|--------|-------|
| Gougeon | Koivisto | Vaughn | Young |
| Hart | Murphy | | |

Not Voting—0

In The Chair: President

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

House Bill No. 4237

House Bill No. 5583

House Bill No. 5584

House Bill No. 5734

House Bill No. 5735

House Bill No. 5736

House Bill No. 6501

House Bill No. 6502

House Bill No. 4092

The motion prevailed.

The following bill was read a third time:

House Bill No. 4237, entitled

A bill to amend 1976 PA 451, entitled “The revised school code,” (MCL 380.1 to 380.1852) by adding section 1531d.

The question being on the passage of the bill,

Senator Shugars offered the following amendment:

1. Amend page 2, following line 13, by inserting:

“Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 717 and Senate Bill No. 638 of the 91st Legislature are enacted into law.”.

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

Senator Hoffman offered the following amendment:

1. Amend page 2, following line 13, by inserting:

“Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 616 of the 91st Legislature is enacted into law.”.

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. 1052**Yeas—30**

| | | | |
|--------------|----------|---------|-----------------|
| Bennett | Emmons | McManus | Scott |
| Bullard | Garcia | Miller | Shugars |
| Byrum | Gast | North | Sikkema |
| Cherry | Goschka | Peters | Smith |
| DeBeaussaert | Hoffman | Sanborn | Steil |
| DeGrow | Johnson | Schuetz | Stille |
| Dingell | Leland | Schwarz | Van Regenmorter |
| Dunaskiss | McCotter | | |

Nays—0**Excused—6**

| | | | |
|---------|----------|--------|-------|
| Gougeon | Koivisto | Vaughn | Young |
| Hart | Murphy | | |

Not Voting—2

| | |
|---------|-------------|
| Emerson | Hammerstrom |
|---------|-------------|

In The Chair: President

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 a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts.”.

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5583, entitled

A bill to amend 1976 PA 451, entitled “The revised school code,” by amending section 1285a (MCL 380.1285a), as added by 1996 PA 285.

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. 1053**Yeas—21**

| | | | |
|--------------|---------|---------|-----------------|
| Byrum | Gast | North | Sikkema |
| Cherry | Goschka | Peters | Smith |
| DeBeaussaert | Leland | Sanborn | Steil |
| DeGrow | McManus | Schwarz | Stille |
| Dingell | Miller | Scott | Van Regenmorter |
| Garcia | | | |

Nays—11

| | | | |
|-----------|-------------|----------|----------|
| Bennett | Emerson | Hoffman | Schuette |
| Bullard | Emmons | Johnson | Shugars |
| Dunaskiss | Hammerstrom | McCotter | |

Excused—6

| | | | |
|---------|----------|--------|-------|
| Gougeon | Koivisto | Vaughn | Young |
| Hart | Murphy | | |

Not Voting—0

In The Chair: President

Senator Emmons moved to reconsider the vote by which the bill was passed.
The question being on the motion to reconsider,
Senator Emmons moved that further consideration of the bill be postponed for today.
The motion prevailed.

Senator Emmons moved that consideration of the following bill be postponed for today:
House Bill No. 5584
The motion prevailed.

The following bill was read a third time:

House Bill No. 5734, entitled

A bill to amend 1980 PA 119, entitled “Motor carrier fuel tax act,” by amending sections 1, 2, and 4 (MCL 207.211, 207.212, and 207.214), sections 1 and 4 as amended by 2000 PA 406 and section 2 as amended by 1996 PA 584.

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. 1054**Yeas—21**

| | | | |
|--------------|-----------|----------|---------|
| Bennett | Dunaskiss | Leland | Schwarz |
| Bullard | Emerson | McCotter | Scott |
| Byrum | Emmons | McManus | Sikkema |
| Cherry | Goschka | Miller | Smith |
| DeBeaussaert | Johnson | Peters | Steil |
| DeGrow | | | |

Nays—11

| | | | |
|---------|-------------|----------|-----------------|
| Dingell | Hammerstrom | Sanborn | Stille |
| Garcia | Hoffman | Schuette | Van Regenmorter |
| Gast | North | Shugars | |

Excused—6

| | | | |
|---------|----------|--------|-------|
| Gougeon | Koivisto | Vaughn | Young |
| Hart | Murphy | | |

Not Voting—0

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,
The recommendation was not concurred in, 2/3 of the members serving not voting therefor.

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

“An act to prescribe a privilege tax for the use of public roads and highways of this state by motor carriers by imposing a specific tax upon the use of motor fuel within this state; to provide for certain credits against this tax and certain mechanisms for paying, collecting, and enforcing this tax; to provide for the licensing of motor carriers and for exemptions from licensure; to require the keeping and providing for the examination of certain reports; to provide review procedures for the assessment of the tax and revocation of a license; to impose certain duties upon and confer certain powers to certain state departments and agencies; to prescribe certain penalties for the violation of this act; and to make appropriations.”.

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5735, entitled

A bill to amend 2000 PA 403, entitled “Motor fuel tax act,” by amending sections 2, 3, 4, 5, 8, 30, 37, 38, 92, 121, and 122 (MCL 207.1002, 207.1003, 207.1004, 207.1005, 207.1008, 207.1030, 207.1037, 207.1038, 207.1092, 207.1121, and 207.1122); 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. 1055**Yeas—21**

| | | | |
|--------------|-----------|----------|---------|
| Bennett | Dunaskiss | Leland | Schwarz |
| Bullard | Emerson | McCotter | Scott |
| Byrum | Emmons | McManus | Sikkema |
| Cherry | Goschka | Miller | Smith |
| DeBeaussaert | Johnson | Peters | Steil |
| DeGrow | | | |

Nays—11

| | | | |
|---------|-------------|----------|-----------------|
| Dingell | Hammerstrom | Sanborn | Stille |
| Garcia | Hoffman | Schuette | Van Regenmorter |
| Gast | North | Shugars | |

Excused—6

| | | | |
|---------|----------|--------|-------|
| Gougeon | Koivisto | Vaughn | Young |
| Hart | Murphy | | |

Not Voting—0

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was not concurred in, 2/3 of the members serving not voting therefor.

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

“An act to prescribe a tax on the sale and use of certain types of fuel in motor vehicles on the public roads or highways of this state and on certain other types of gas; to prescribe the manner and the time of collection and payment of this tax and the duties of officials and others pertaining to the payment and collection of this tax; to provide for the licensing of persons involved in the sale, use, or transportation of motor fuel and the collection and payment of the tax imposed by this act; to prescribe fees; to prescribe certain other powers and duties of certain state agencies and other persons; to provide for exemptions and refunds and for the disposition of the proceeds of this tax; to provide for appropriations from the proceeds of this tax; to prescribe remedies and penalties for the violation of this act; and to repeal acts and parts of acts.”.

The Senate agreed to the full title.

Senator Gast moved to reconsider the vote by which the bill was passed.

The question being on the motion to reconsider,

Senator Gast moved that further consideration of the bill be postponed for today.

The motion did not prevail.

The question being on the motion to reconsider,

The motion did not prevail, a majority of the members serving not voting therefor.

Protests

Senators Gast, Hammerstrom and North, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of House Bill No. 5735.

Senator Gast’s statement, in which Senators Hammerstrom and North concurred, is as follows:

I realize that the majority of this caucus does not live on a state line or have a district representing a state line. I can just say this—and I was told very bluntly—it’s not a threat; it’s a promise. As far as the Citgo operations along the Indiana line in my district, of the three to five truck stop operations they have, they will definitely close three of them. Now it’s time we started to do something for businesses and recognize there are state line problems. When you live in the middle of the district or in the northern part of it, you don’t have those problems unless it’s with Wisconsin in the U.P. Somewhere along the line, we have serious problems, and we are absolutely neglected. I think I’m speaking for Senator Hammerstrom as well. Yes, Glenn, the people from Grand Rapids travel all the way down there to get their cigarettes too in Indiana. My point simply is that we don’t recognize those problems, but when you have truck stops, three out of five will close from that one organization alone. Consequently, I think it’s time we did something for those people to keep them in business instead of doing something to them.

The following bill was read a third time:

House Bill No. 5736, entitled

A bill to amend 1937 PA 94, entitled “Use tax act,” by amending sections 2, 3, 4, and 4k (MCL 205.92, 205.93, 205.94, and 205.94k), sections 2 and 3 as amended by 2002 PA 511, section 4 as amended by 2002 PA 456, and section 4k as amended by 2000 PA 200.

The question being on the passage of the bill,

The bill was defeated, a majority of the members serving not voting therefor, as follows:

Roll Call No. 1056

Yeas—17

| | | | |
|--------------|---------|---------|---------|
| Bullard | Emerson | Leland | Schwarz |
| Byrum | Emmons | McManus | Sikkema |
| Cherry | Goschka | Miller | Smith |
| DeBeaussaert | Johnson | Peters | Steil |
| DeGrow | | | |

Nays—13

| | | | |
|---------|-------------|----------|-----------------|
| Bennett | Hammerstrom | North | Shugars |
| Dingell | Hoffman | Sanborn | Stille |
| Garcia | McCotter | Schuette | Van Regenmorter |
| Gast | | | |

Excused—6Gougeon
HartKoivisto
Murphy

Vaughn

Young

Not Voting—2

Dunaskiss

Scott

In The Chair: President

Senator Bullard moved to reconsider the vote by which the bill was defeated.

The motion prevailed.

The question being on the passage of the bill,

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

Roll Call No. 1057**Yeas—20**Bullard
Byrum
Cherry
DeBeaussaert
DeGrowDunaskiss
Emerson
Emmons
Goschka
JohnsonLeland
McCotter
McManus
Miller
PetersSchwarz
Scott
Sikkema
Smith
Steil**Nays—12**Bennett
Dingell
GarciaGast
Hammerstrom
HoffmanNorth
Sanborn
SchuetteShugars
Stille
Van Regenmorter**Excused—6**Gougeon
HartKoivisto
Murphy

Vaughn

Young

Not Voting—0

In The Chair: President

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

The recommendation was not concurred in, 2/3 of the members serving not 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 levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act.”.

The Senate agreed to the full title.

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

The following bill was read a third time:

House Bill No. 6501, entitled

A bill to amend 1975 PA 228, entitled "Single business tax act," by amending section 38g (MCL 208.38g), as added by 2000 PA 143.

The question being on the passage of the bill,

Senator Schuette offered the following amendments:

1. Amend page 1, line 3, after "subsections" by striking out "(21) to (26)" and inserting "(20) to (25)".
2. Amend page 1, line 9, by striking out "(18) or (19)" and inserting "(17) or (18)".
3. Amend page 2, line 16, after "subsection" by striking out "(9)" and inserting "(8)".
4. Amend page 3, line 10, after "subsection" by striking out "(7)" and inserting "(6)".
5. Amend page 4, line 22, after "subsection" by striking out "(7)" and inserting "(6)".
6. Amend page 5, line 22, after "(5)" by striking out "EXCEPT AS PROVIDED IN SUBSECTION (6), THE" and inserting "The".
7. Amend page 7, line 15, after "SUBSECTION" by striking out "(32)" and inserting "(31)".
8. Amend page 10, line 22, after "section" by striking out "(18) or (19)" and inserting "(17) or (18)".
9. Amend page 11, line 2, after "subsection" by striking out "(16), (18), or (19)" and inserting "(15), (17), or (18)".
10. Amend page 11, line 5, after "subsection" by striking out "(9)(F)" and inserting "(8)(F)".
11. Amend page 11, line 14, by striking out "(21) to (26)" and inserting "(20) to (25)".
12. Amend page 12, line 26, after "section" by striking out "(16)" and inserting "(15)".
13. Amend page 17, line 26, after "subsection" by striking out "(21)" and inserting "(20)".
14. Amend page 18, line 4, after "subsection" by striking out "(21)" and inserting "(20)".
15. Amend page 18, line 10, after "subsection" by striking out "(21)" and inserting "(20)".
16. Amend page 18, line 14, after "subsection" by striking out "(21)" and inserting "(20)".
17. Amend page 18, line 19, by striking out "(21)(A)(ii) or (B)(ii)" and inserting "(20)(A)(ii) or (B)(ii)".
18. Amend page 18, line 21, after "tion" by striking out "(21)(A)(ii)" and inserting "(20)(A)(ii)".
19. Amend page 18, line 27, by striking out "(21)(A)(i) or (B)(i)" and inserting "(20)(A)(i) or (B)(i)".
20. Amend page 19, line 5, after "subsection" by striking out "(21)" and inserting "(20)".
21. Amend page 19, line 7, by striking out "(21)" and inserting "(20)".

The question being on the adoption of the amendments,

Senator Emmons moved that further consideration of the bill be postponed temporarily.

The motion prevailed.

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

House Bill No. 6502

The motion prevailed.

The following bill was read a third time:

House Bill No. 4092, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 8122 (MCL 600.8122), as amended by 1988 PA 135, and by adding section 9938a.

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. 1058

Yeas—32

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

Nays—0

Excused—6Gougeon
HartKoivisto
Murphy

Vaughn

Young

Not Voting—0

In The Chair: Schwarz

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

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

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

“An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts.”.

The Senate agreed to the full title.

By unanimous consent the Senate returned to the order of

Conference Reports

Senator Young entered the Senate Chamber.

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

Senator Emmons moved that joint rule 9 be suspended to permit immediate consideration of the conference reports relative to the following bills:

Senate Bill No. 1436

Senate Bill No. 380

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

Senator Schwarz submitted the following:

FIRST CONFERENCE REPORT

The Committee of Conference on the matters of difference between the two Houses concerning

Senate Bill No. 1436, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending sections 22203, 22205, 22207, 22209, 22211, 22213, 22215, 22221, 22226, 22230, 22231, 22235, 22239, 22241, 22247, 22255, and 22260 (MCL 333.22203, 333.22205, 333.22207, 333.22209, 333.22211, 333.22213, 333.22215, 333.22221, 333.22226, 333.22230, 333.22231, 333.22235, 333.22239, 333.22241, 333.22247, 333.22255, and 333.22260), sections 22203, 22207, 22209, 22213, 22215, 22221, 22231, 22239, 22241, 22247, and 22260 as amended by 1993 PA 88, section 22205 as amended by 2000 PA 253, sections 22211, 22230, 22235, and 22255 as added by 1988 PA 332, and section 22226 as added by 1988 PA 331, and by adding section 22231a; and to repeal acts and parts of acts.

Recommends:

First: That the Senate and House agree to the Substitute of the House as passed by the House, amended to read as follows:

A bill to amend 1978 PA 368, entitled “Public health code,” by amending sections 22203, 22205, 22207, 22209, 22211, 22213, 22215, 22221, 22226, 22230, 22231, 22235, 22239, 22241, 22247, 22255, and 22260 (MCL 333.22203, 333.22205, 333.22207, 333.22209, 333.22211, 333.22213, 333.22215, 333.22221, 333.22226, 333.22230, 333.22231, 333.22235, 333.22239, 333.22241, 333.22247, 333.22255, and 333.22260), sections 22203, 22207, 22209, 22213, 22215, 22221, 22231, 22239, 22241, 22247, and 22260 as amended by 1993 PA 88, section 22205 as amended by 2000 PA 253, sections 22211, 22230, 22235, and 22255 as added by 1988 PA 332, and section 22226 as added by 1988 PA 331, and by adding sections 22219 and 22224a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 22203. (1) "Addition" means adding patient rooms, beds, and ancillary service areas, including, but not limited to, procedure rooms or fixed equipment, surgical operating rooms, therapy rooms or fixed equipment, or other accommodations to a health facility.

(2) "Capital expenditure" means an expenditure for a single project, including cost of construction, engineering, and equipment that under generally accepted accounting principles is not properly chargeable as an expense of operation. Capital expenditure includes a lease or comparable arrangement by or on behalf of a health facility ~~by which a person obtains TO OBTAIN~~ a health facility, ~~or~~ licensed part of a health facility, or equipment for a health facility, ~~IF the expenditure for which~~ ACTUAL PURCHASE OF A HEALTH FACILITY, LICENSED PART OF A HEALTH FACILITY, OR EQUIPMENT FOR A HEALTH FACILITY would have been considered a capital expenditure under this part. ~~if the person had acquired it by purchase.~~ Capital expenditure includes the cost of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, addition, conversion, modernization, new construction, or replacement of physical plant and equipment.

(3) "Certificate of need" means a certificate issued ~~pursuant to~~ UNDER this part authorizing a new health facility, a change in bed capacity, the initiation, replacement, or expansion of a covered clinical service, or a covered capital expenditure that is issued in accordance with this part.

(4) "Certificate of need review standard" or "review standard" means a standard approved by the commission. ~~or the statewide health coordinating council under section 22215.~~

(5) "Change in bed capacity" means 1 or more of the following:

(a) An increase in licensed hospital beds.

(b) An increase in licensed nursing home beds or hospital beds certified for long-term care.

(c) An increase in licensed psychiatric beds.

(d) A change from 1 licensed use to a different licensed use.

(e) The physical relocation of beds from a licensed site to another geographic location.

(6) "Clinical" means directly pertaining to the diagnosis, treatment, or rehabilitation of an individual.

(7) "Clinical service area" means an area of a health facility, including related corridors, equipment rooms, ancillary service and support areas that house medical equipment, patient rooms, patient beds, diagnostic, operating, therapy, or treatment rooms or other accommodations related to the diagnosis, treatment, or rehabilitation of individuals receiving services from the health facility.

(8) "Commission" means the certificate of need commission created under section 22211.

(9) "Covered capital expenditure" means a capital expenditure of ~~\$2,000,000.00~~ \$2,500,000.00 or more, as adjusted ANNUALLY by the department under section 22221(g), by a person for a health facility for a single project, excluding the cost of nonfixed medical equipment, that includes or involves the acquisition, improvement, expansion, addition, conversion, modernization, new construction, or replacement of a clinical service area. ~~or a capital expenditure of \$3,000,000.00 or more, as adjusted by the department under section 22221(g), by a person for a health facility for a single project that involves the acquisition, improvement, expansion, addition, conversion, modernization, new construction, or replacement of nonclinical service areas only.~~

(10) "Covered clinical service", except as modified by the commission ~~pursuant to~~ UNDER section 22215, ~~after the effective date of the 1993 amendatory act that amended this subsection,~~ means 1 or more of the following:

(a) Initiation or expansion of 1 or more of the following services:

(i) Neonatal intensive care services or special newborn nursing services.

(ii) Open heart surgery.

(iii) Extrarenal organ transplantation.

(b) Initiation, replacement, or expansion of 1 or more of the following services:

(i) Extracorporeal shock wave lithotripsy.

(ii) Megavoltage radiation therapy.

(iii) Positron emission tomography.

(iv) Surgical services provided in a freestanding surgical outpatient facility, an ambulatory surgery center certified under title XVIII, or a surgical department of a hospital licensed under part 215 and offering inpatient or outpatient surgical services.

(v) Cardiac catheterization.

(vi) Fixed and mobile magnetic resonance imager services.

(vii) Fixed and mobile computerized tomography scanner services.

(viii) Air ambulance services.

~~(c) Initiation, replacement, or expansion of a partial hospitalization psychiatric program service.~~

(C) ~~(d)~~ Initiation or expansion of a specialized psychiatric program for children and adolescent patients utilizing licensed psychiatric beds.

(D) ~~(E)~~ Initiation, replacement, or expansion of a service not listed in this subsection, but designated as a covered clinical service by the commission under section 22215(1)(a).

(11) "Fixed equipment" means equipment that is affixed to and constitutes a structural component of a health facility, including, but not limited to, mechanical or electrical systems, elevators, generators, pumps, boilers, and refrigeration equipment.

Sec. 22205. (1) "Health facility", except as otherwise provided in subsection (2), means:

(a) A hospital licensed under part 215.

(b) A psychiatric hospital ; OR psychiatric unit ~~or partial hospitalization psychiatric program~~ licensed under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(c) A nursing home licensed under part 217 or a hospital long-term care unit as defined in section 20106(6).

(d) A freestanding surgical outpatient facility licensed under part 208.

(e) A health maintenance organization issued a license or certificate of authority in this state.

(2) "Health facility" does not include the following:

(a) An institution conducted by and for the adherents of a church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing.

(b) A health facility or agency located in a correctional institution.

(c) A veterans facility operated by the state or federal government.

(d) A facility owned and operated by the department of ~~mental~~ COMMUNITY health.

(3) "Initiate" means the ~~initiation~~ OFFERING of a covered clinical service ~~by a person if the covered clinical service~~ THAT has not been offered in compliance with this part or former part 221 on a regular basis ~~by that person at the~~ THAT location ~~where the covered clinical service is to be offered~~ within the 12-month period immediately preceding the date the covered clinical service will be offered.

(4) "Medical equipment" means a single equipment component or a related system of components that is used for clinical purposes.

Sec. 22207. (1) "Medicaid" means the program for medical assistance administered by the department of ~~social services~~ COMMUNITY HEALTH under the social welfare act, ~~Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.119b of the Michigan Compiled Laws~~ 1939 PA 280, MCL 400.1 TO 400.119B.

(2) "Modernization" means an upgrading, alteration, or change in function of a part or all of the physical plant of a health facility. Modernization includes, but is not limited to, the alteration, repair, remodeling, and renovation of an existing building and initial fixed equipment and the replacement of obsolete fixed equipment in an existing building. Modernization of the physical plant does not include normal maintenance and operational expenses.

(3) "New construction" means construction of a health facility where a health facility does not exist or construction replacing or expanding an existing health facility or a part of an existing health facility.

(4) "Person" means a person as defined in section 1106 or a governmental entity.

(5) "Planning area" means the area defined in a certificate of need review standard for determining the need for, and the resource allocation of, a specific health facility, service, or equipment. Planning area includes, but is not limited to, the state, a health facility service area, or a health service area or subarea within the state.

(6) "Proposed project" means a proposal to acquire an existing health facility or begin operation of a new health facility, make a change in bed capacity, initiate, replace, or expand a covered clinical service, or make a covered capital expenditure.

(7) "Rural county" means a county not located in a metropolitan ~~area as that term is~~ STATISTICAL AREA OR MICROPOLITAN STATISTICAL AREAS AS THOSE TERMS ARE defined ~~pursuant to~~ UNDER the ~~"revised standards for defining metropolitan areas in the 1990's"~~ "STANDARDS FOR DEFINING METROPOLITAN AND MICROPOLITAN STATISTICAL AREAS" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, ~~55 F.R. p. 12154 (March 30, 1990)~~ 65 F.R. p. 82238 (DECEMBER 27, 2000).

~~(8) "Statewide health coordinating council" means the state agency created by section 7 of Act No. 323 of the Public Acts of 1978, being section 325.2007 of the Michigan Compiled Laws, before section 7 was amended by the 1988 amendatory act that created the state health planning council.~~

(8) ~~(9)~~ "Stipulation" means a requirement that is germane to the proposed project and has been agreed to by an applicant as a condition of certificate of need approval.

Sec. 22209. (1) Except as otherwise provided in this part, a person shall not do any of the following without first obtaining a certificate of need:

(a) Acquire an existing health facility or begin operation of a health facility at a site that is not currently licensed for that type of health facility.

(b) Make a change in the bed capacity of a health facility.

(c) Initiate, replace, or expand a covered clinical service.

(d) Make a covered capital expenditure.

(2) A certificate of need is not required for a reduction in licensed bed capacity or services at a licensed site.

(3) SUBJECT TO SUBSECTION (9) AND IF THE RELOCATION DOES NOT RESULT IN AN INCREASE OF LICENSED BEDS WITHIN THAT HEALTH SERVICE AREA, A CERTIFICATE OF NEED IS NOT REQUIRED FOR ANY OF THE FOLLOWING:

(A) THE PHYSICAL RELOCATION OF LICENSED BEDS FROM A HOSPITAL SITE LICENSED UNDER PART 215 TO ANOTHER HOSPITAL SITE LICENSED UNDER THE SAME LICENSE AS THE HOSPITAL SEEKING TO TRANSFER THE BEDS IF BOTH HOSPITALS ARE LOCATED WITHIN A 2-MILE RADIUS OF EACH OTHER.

(B) SUBJECT TO SUBSECTIONS (7) AND (8), THE PHYSICAL RELOCATION OF LICENSED BEDS FROM A HOSPITAL LICENSED UNDER PART 215 TO A FREESTANDING SURGICAL OUTPATIENT FACILITY LICENSED UNDER PART 208 IF THAT FREESTANDING SURGICAL OUTPATIENT FACILITY SATISFIES EACH OF THE FOLLOWING CRITERIA ON DECEMBER 2, 2002:

(i) IS OWNED BY, IS UNDER COMMON CONTROL OF, OR HAS AS A COMMON PARENT THE HOSPITAL SEEKING TO RELOCATE ITS LICENSED BEDS.

(ii) WAS LICENSED PRIOR TO JANUARY 1, 2002.

(iii) PROVIDES 24-HOUR EMERGENCY CARE SERVICES AT THAT SITE.

(iv) PROVIDES AT LEAST 4 DIFFERENT COVERED CLINICAL SERVICES AT THAT SITE.

(C) SUBJECT TO SUBSECTIONS (7) AND (8), THE PHYSICAL RELOCATION OF LICENSED BEDS FROM A HOSPITAL LICENSED UNDER PART 215 TO ANOTHER HOSPITAL LICENSED UNDER PART 215 WITHIN THE SAME HEALTH SERVICE AREA IF THE HOSPITAL RECEIVING THE LICENSED BEDS IS OWNED BY, IS UNDER COMMON CONTROL OF, OR HAS AS A COMMON PARENT THE HOSPITAL SEEKING TO RELOCATE ITS LICENSED BEDS.

(4) SUBJECT TO SUBSECTION (5), A HOSPITAL LICENSED UNDER PART 215 IS NOT REQUIRED TO OBTAIN A CERTIFICATE OF NEED TO PROVIDE 1 OR MORE OF THE COVERED CLINICAL SERVICES LISTED IN SECTION 22203(10) IN A FEDERAL VETERANS HEALTH CARE FACILITY OR TO USE LONG-TERM CARE UNIT BEDS OR ACUTE CARE BEDS THAT ARE OWNED AND LOCATED IN A FEDERAL VETERANS HEALTH CARE FACILITY IF THE HOSPITAL SATISFIES EACH OF THE FOLLOWING CRITERIA:

(A) THE HOSPITAL HAS AN ACTIVE AFFILIATION OR SHARING AGREEMENT WITH THE FEDERAL VETERANS HEALTH CARE FACILITY.

(B) THE HOSPITAL HAS PHYSICIANS WHO HAVE FACULTY APPOINTMENTS AT THE FEDERAL VETERANS HEALTH CARE FACILITY OR HAS AN AFFILIATION WITH A MEDICAL SCHOOL THAT IS AFFILIATED WITH A FEDERAL VETERANS HEALTH CARE FACILITY AND HAS PHYSICIANS WHO HAVE FACULTY APPOINTMENTS AT THE FEDERAL VETERANS HEALTH CARE FACILITY.

(C) THE HOSPITAL HAS AN ACTIVE GRANT OR AGREEMENT WITH THE STATE OR FEDERAL GOVERNMENT TO PROVIDE 1 OR MORE OF THE FOLLOWING FUNCTIONS RELATING TO BIOTERRORISM:

(i) EDUCATION.

(ii) PATIENT CARE.

(iii) RESEARCH.

(iv) TRAINING.

(5) A HOSPITAL THAT PROVIDES 1 OR MORE COVERED CLINICAL SERVICES IN A FEDERAL VETERANS HEALTH CARE FACILITY OR USES LONG-TERM CARE UNIT BEDS OR ACUTE CARE BEDS LOCATED IN A FEDERAL VETERANS HEALTH CARE FACILITY UNDER SUBSECTION (4) MAY NOT UTILIZE PROCEDURES PERFORMED AT THE FEDERAL VETERANS HEALTH CARE FACILITY TO DEMONSTRATE NEED OR TO SATISFY A CERTIFICATE OF NEED REVIEW STANDARD UNLESS THE COVERED CLINICAL SERVICE PROVIDED AT THE FEDERAL VETERANS HEALTH CARE FACILITY WAS PROVIDED UNDER A CERTIFICATE OF NEED.

(6) IF A HOSPITAL LICENSED UNDER PART 215 HAD FEWER THAN 70 LICENSED BEDS ON DECEMBER 1, 2002, THAT HOSPITAL IS NOT REQUIRED TO SATISFY THE MINIMUM VOLUME REQUIREMENTS UNDER THE CERTIFICATE OF NEED REVIEW STANDARDS FOR ITS EXISTING OPERATING ROOMS AS LONG AS THOSE OPERATING ROOMS CONTINUE TO EXIST AT THAT LICENSED HOSPITAL SITE.

(7) BEFORE RELOCATING BEDS UNDER SUBSECTION (3)(B), THE HOSPITAL SEEKING TO RELOCATE ITS BEDS SHALL PROVIDE THE INFORMATION REQUESTED BY THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES THAT WILL ALLOW THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES TO VERIFY THE NUMBER OF LICENSED BEDS THAT WERE STAFFED AND AVAILABLE FOR PATIENT CARE AT THAT HOSPITAL AS OF DECEMBER 2, 2002. A HOSPITAL SHALL TRANSFER NO MORE THAN 35% OF ITS LICENSED BEDS TO ANOTHER HOSPITAL OR FREESTANDING SURGICAL OUTPATIENT FACILITY UNDER SUBSECTION (3)(B) OR (C) NOT MORE THAN 1 TIME AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION IF THE HOSPITAL SEEKING TO RELOCATE ITS LICENSED BEDS OR ANOTHER HOSPITAL OWNED BY, UNDER COMMON CONTROL OF, OR HAVING AS A COMMON PARENT THE HOSPITAL SEEKING TO RELOCATE ITS LICENSED BEDS IS LOCATED IN A CITY THAT HAS A POPULATION OF 750,000 OR MORE.

(8) THE LICENSED BEDS RELOCATED UNDER SUBSECTION (3)(B) OR (C) SHALL NOT BE INCLUDED AS NEW BEDS IN A HOSPITAL OR AS A NEW HOSPITAL UNDER THE CERTIFICATE OF NEED REVIEW STANDARDS FOR HOSPITAL BEDS. ONE OF EVERY 2 BEDS TRANSFERRED UNDER SUBSECTION (3)(B) UP TO A MAXIMUM OF 100 SHALL BE BEDS THAT WERE STAFFED AND AVAILABLE FOR PATIENT CARE AS OF DECEMBER 2, 2002. A HOSPITAL RELOCATING BEDS UNDER SUBSECTION (3)(B) SHALL NOT REACTIVATE LICENSED BEDS WITHIN THAT HOSPITAL THAT WERE UNSTAFFED OR UNAVAILABLE FOR PATIENT CARE ON DECEMBER 2, 2002 FOR A PERIOD OF 5 YEARS AFTER THE DATE OF THE RELOCATION OF THE LICENSED BEDS UNDER SUBSECTION (3)(B).

(9) NO LICENSED BEDS SHALL BE PHYSICALLY RELOCATED UNDER SUBSECTION (3) IF 7 OR MORE MEMBERS OF THE COMMISSION, AFTER THE APPOINTMENT AND CONFIRMATION OF THE 6 ADDITIONAL COMMISSION MEMBERS UNDER SECTION 22211 BUT BEFORE JUNE 15, 2003, DETERMINE THAT RELOCATION OF LICENSED BEDS UNDER SUBSECTION (3) MAY CAUSE GREAT HARM AND DETRIMENT TO THE ACCESS AND DELIVERY OF HEALTH CARE TO THE PUBLIC AND THE RELOCATION OF BEDS SHOULD NOT OCCUR WITHOUT A CERTIFICATE OF NEED.

(10) ~~(3)~~ An applicant seeking a certificate of need for the acquisition of an existing health facility may file a single, consolidated application for the certificate of need if the project results in the acquisition of an existing health facility but does not result in an increase or relocation of licensed beds or the initiation, expansion, or replacement of a covered clinical service. Except as otherwise provided in this subsection, a person acquiring an existing health facility is subject to the applicable certificate of need review standards in effect on the date of the transfer for the covered clinical services provided by the acquired health facility. The department may except 1 or more of the covered clinical services listed in section 22203(10)(b), except the covered clinical service listed in section 22203(10)(b)(iv), from the minimum volume requirements in the applicable certificate of need review standards in effect on the date of the transfer, if the equipment used in the covered clinical service is unable to meet the minimum volume requirements due to the technological incapacity of the equipment. A covered clinical service excepted by the department under this subsection is subject to all the other provisions in the applicable certificate of need review standards in effect on the date of the transfer, except minimum volume requirements.

~~(4) The center for rural health created in section 2612 shall designate a certificate of need ombudsman to provide technical assistance and consultation to hospitals and communities located in rural counties regarding certificate of need proposals and applications under this part. The ombudsman shall also act as an advocate for health concerns of rural counties in the development of certificate of need review standards under this part.~~

(11) AN APPLICANT SEEKING A CERTIFICATE OF NEED FOR THE RELOCATION OR REPLACEMENT OF AN EXISTING HEALTH FACILITY MAY FILE A SINGLE, CONSOLIDATED APPLICATION FOR THE CERTIFICATE OF NEED IF THE PROJECT DOES NOT RESULT IN AN INCREASE OF LICENSED BEDS OR THE INITIATION, EXPANSION, OR REPLACEMENT OF A COVERED CLINICAL SERVICE. A PERSON RELOCATING OR REPLACING AN EXISTING HEALTH FACILITY IS SUBJECT TO THE APPLICABLE CERTIFICATE OF NEED REVIEW STANDARDS IN EFFECT ON THE DATE OF THE RELOCATION OR REPLACEMENT OF THE HEALTH FACILITY.

(12) AS USED IN THIS SECTION, "SHARING AGREEMENT" MEANS A WRITTEN AGREEMENT BETWEEN A FEDERAL VETERANS HEALTH CARE FACILITY AND A HOSPITAL LICENSED UNDER PART 215 FOR THE USE OF THE FEDERAL VETERANS HEALTH CARE FACILITY'S BEDS OR EQUIPMENT, OR BOTH, TO PROVIDE COVERED CLINICAL SERVICES.

Sec. 22211. (1) The certificate of need commission is created in the department. ~~The commission shall be appointed within 3 months after the effective date of this part.~~ The commission shall consist of ~~5~~ 11 members appointed by the governor with the advice and consent of the senate. ~~Three appointees shall be members of a major political party, and 2 appointees shall be members of another major political party.~~ THE GOVERNOR SHALL NOT APPOINT MORE THAN 6 MEMBERS FROM THE SAME MAJOR POLITICAL PARTY AND SHALL APPOINT 5 MEMBERS FROM ANOTHER MAJOR POLITICAL PARTY. THE MEMBERS CONSTITUTING THE COMMISSION ON THE DAY BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SUBDIVISION (A) SHALL SERVE ON THE COMMISSION FOR THE REMAINDER OF THEIR TERMS. ON THE EXPIRATION OF THE TERM OF EACH MEMBER CONSTITUTING THE COMMISSION ON THE DAY BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SUBDIVISION (A), THE GOVERNOR SHALL APPOINT A SUCCESSOR AS REQUIRED UNDER THIS SECTION IN ACCORDANCE WITH SUBDIVISIONS (F), (G), (H), (I), AND (J) AND IN THAT ORDER. OF THE ADDITIONAL MEMBERS, THE GOVERNOR, WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SUBDIVISION (A), SHALL APPOINT 6 ADDITIONAL MEMBERS TO THE COMMISSION AS REQUIRED UNDER SUBDIVISIONS (A), (B), (C), (D), AND (E). THE COMMISSION SHALL CONSIST OF THE FOLLOWING 11 MEMBERS:

(A) TWO INDIVIDUALS REPRESENTING HOSPITALS.

(B) ONE INDIVIDUAL REPRESENTING PHYSICIANS LICENSED UNDER PART 170 TO ENGAGE IN THE PRACTICE OF MEDICINE.

(C) ONE INDIVIDUAL REPRESENTING PHYSICIANS LICENSED UNDER PART 175 TO ENGAGE IN THE PRACTICE OF OSTEOPATHIC MEDICINE AND SURGERY.

(D) ONE INDIVIDUAL WHO IS A PHYSICIAN LICENSED UNDER PART 170 OR 175 REPRESENTING A SCHOOL OF MEDICINE OR OSTEOPATHIC MEDICINE.

(E) ONE INDIVIDUAL REPRESENTING NURSING HOMES.

(F) ONE INDIVIDUAL REPRESENTING NURSES.

(G) ONE INDIVIDUAL REPRESENTING A COMPANY THAT IS SELF-INSURED FOR HEALTH COVERAGE.

(H) ONE INDIVIDUAL REPRESENTING A COMPANY THAT IS NOT SELF-INSURED FOR HEALTH COVERAGE.

(I) ONE INDIVIDUAL REPRESENTING A NONPROFIT HEALTH CARE CORPORATION OPERATING PURSUANT TO THE NONPROFIT HEALTH CARE CORPORATION REFORM ACT, 1980 PA 350, MCL 550.1101 TO 550.1703.

(J) ONE INDIVIDUAL REPRESENTING ORGANIZED LABOR UNIONS IN THIS STATE.

(2) In making appointments, the governor shall, to the extent feasible, assure that the membership of the commission is broadly representative of the interests of all of the people of this state AND OF THE VARIOUS GEOGRAPHIC REGIONS.

(3) ~~Except for initial members, a~~ A member of the commission shall serve for a term of 3 years or until a successor is appointed. Of the 6 members ~~initially~~ appointed WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SUBSECTION (1)(A), ~~4~~ 2 of the members shall be appointed for a term of 1 year, 2 of the members shall be appointed for a term of 2 years, and 2 of the members shall be appointed for a term of 3 years. A vacancy on the commission shall be filled for the ~~balance~~ REMAINDER of the unexpired term in the same manner as the original appointment.

(4) Commission members are subject to the following:

(a) ~~Act No. 317 of the Public Acts of 1968, being sections 15.321 to 15.330 of the Michigan Compiled Laws 1968 PA 317, MCL 15.321 TO 15.330.~~

(b) ~~Act No. 196 of the Public Acts of 1973, being sections 15.341 to 15.348 of the Michigan Compiled Laws 1973 PA 196, MCL 15.341 TO 15.348.~~

(c) ~~Act No. 472 of the Public Acts of 1978, being sections 4.411 to 4.431 of the Michigan Compiled Laws 1978 PA 472, MCL 4.411 TO 4.431.~~

Sec. 22213. (1) The commission shall, within 2 months after appointment and confirmation of all members, adopt bylaws for the operation of the commission. The bylaws shall include, at a minimum, voting procedures that protect against conflict of interest and minimum requirements for attendance at meetings.

(2) The governor may remove a commission member from office for failure to attend 3 consecutive meetings in a 1-year period.

(3) The commission annually shall elect a chairperson and vice-chairperson.

(4) The commission shall hold regular quarterly meetings at places and on dates fixed by the commission. Special meetings may be called by the chairperson, by not less than ~~2~~ 3 commission members, or by the department.

(5) A majority of the commission members appointed and serving constitutes a quorum. Final action by the commission shall be only by affirmative vote of a majority of the commission members appointed and serving. A commission member shall not vote by proxy.

(6) The legislature annually shall fix the per diem compensation of members of the commission. Expenses of members incurred in the performance of official duties shall be reimbursed as provided in section 1216.

(7) The department shall furnish administrative services to the commission, shall have charge of the commission's offices, records, and accounts, and shall provide AT LEAST 2 FULL-TIME ADMINISTRATIVE EMPLOYEES, secretarial STAFF, and other staff necessary to allow the proper exercise of the powers and duties of the commission. The department shall make available the times and places of commission meetings and keep minutes of the meetings and a record of the actions of the commission. THE DEPARTMENT SHALL MAKE AVAILABLE A BRIEF SUMMARY OF THE ACTIONS TAKEN BY THE COMMISSION.

(8) The department shall assign AT LEAST 2 FULL-TIME professional employees to staff the commission to assist the commission in the performance of its substantive responsibilities under this part.

Sec. 22215. (1) ~~Pursuant to the requirements of this part, the~~ THE commission shall do all of the following:

(a) If determined necessary by the commission, revise, add to, or delete 1 or more of the covered clinical services listed in section 22203. If the commission proposes to add to the covered clinical services listed in section 22203, the commission shall develop proposed review standards and make the review standards available to the public not less than 30 days before conducting a hearing under subsection (3).

(b) ~~Approve~~ DEVELOP, APPROVE, disapprove, or revise certificate of need review standards that establish for purposes of section 22225 the need, if any, for the initiation, replacement, or expansion of covered clinical services, the acquisition or beginning the operation of a health facility, making changes in bed capacity, or making covered capital expenditures, including conditions, standards, assurances, or information that must be met, demonstrated, or

provided by a person who applies for a certificate of need. A certificate of need review standard may also establish ongoing quality assurance requirements including any or all of the requirements specified in section 22225(2)(c). ~~The statewide health coordinating council may perform the duties of the commission under this subdivision, only until all members of the commission are appointed and confirmed, or until March 1, 1989, whichever is sooner.~~ EXCEPT FOR NURSING HOME AND HOSPITAL LONG-TERM CARE UNIT BED REVIEW STANDARDS, BY JANUARY 1, 2004, THE COMMISSION SHALL REVISE ALL CERTIFICATE OF NEED REVIEW STANDARDS TO INCLUDE A REQUIREMENT THAT EACH APPLICANT PARTICIPATE IN TITLE XIX OF THE SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620, 1396r-6 AND 1396r-8 TO 1396v.

(c) Direct the department to prepare and submit recommendations regarding commission duties and functions that are of interest to the commission including, but not limited to, specific modifications of proposed actions considered under this section.

(d) Approve, disapprove, or revise proposed criteria for determining health facility viability under section 22225.

(e) Annually assess the operations and effectiveness of the certificate of need program based on periodic reports from the department and other information available to the commission.

(f) By ~~October 1, 1992~~ JANUARY 1, 2005, and every ~~5~~ 2 years ~~after October 1, 1992~~ THEREAFTER, make recommendations to the ~~standing committees in the senate and the house that have jurisdiction over matters pertaining to public health~~ JOINT COMMITTEE regarding statutory changes to improve or eliminate the certificate of need program.

(g) Upon submission by the department approve, disapprove, or revise standards to be used by the department in designating a regional certificate of need review agency, pursuant to section 22226.

(h) ~~Approve~~ DEVELOP, APPROVE, disapprove, or revise certificate of need review standards governing the acquisition of new technology.

(i) In accordance with section 22255, approve, disapprove, or revise proposed procedural rules for the certificate of need program.

(j) Consider the recommendations of the department and the department of attorney general as to the administrative feasibility and legality of proposed actions under subdivisions (a), (b), and (c).

(k) Consider the impact of a proposed restriction on the acquisition of or availability of covered clinical services on the quality, availability, and cost of health services in this state.

(l) ~~Appoint ad hoc~~ IF THE COMMISSION DETERMINES IT NECESSARY, APPOINT STANDARD advisory committees to assist in the development of proposed certificate of need review standards. ~~An ad hoc~~ A STANDARD advisory committee shall complete its duties under this subdivision and submit its recommendations to the commission within ~~the time limit~~ 6 MONTHS UNLESS A SHORTER PERIOD OF TIME IS specified by the commission when ~~an ad hoc~~ THE STANDARD advisory committee is appointed. AN INDIVIDUAL SHALL SERVE ON NO MORE THAN 2 STANDARD ADVISORY COMMITTEES IN ANY 2-YEAR PERIOD. The composition of ~~the ad hoc~~ A STANDARD advisory committee shall NOT INCLUDE A LOBBYIST REGISTERED UNDER 1978 PA 472, MCL 4.411 TO 4.431, BUT SHALL include all of the following:

(i) Experts with professional competence in the subject matter of the proposed standard, who shall constitute a 2/3 majority of the ~~ad hoc~~ STANDARD advisory committee.

(ii) Representatives of health care provider organizations concerned with licensed health facilities or licensed health professions.

(iii) Representatives of organizations concerned with health care consumers and the purchasers and payers of health care services.

(M) IN ADDITION TO SUBDIVISION (B), REVIEW AND, IF NECESSARY, REVISE EACH SET OF CERTIFICATE OF NEED REVIEW STANDARDS AT LEAST EVERY 3 YEARS.

(N) IF A STANDARD ADVISORY COMMITTEE IS NOT APPOINTED BY THE COMMISSION AND THE COMMISSION DETERMINES IT NECESSARY, SUBMIT A REQUEST TO THE DEPARTMENT TO ENGAGE THE SERVICES OF PRIVATE CONSULTANTS OR REQUEST THE DEPARTMENT TO CONTRACT WITH ANY PRIVATE ORGANIZATION FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE OR OTHER SERVICES TO ASSIST THE COMMISSION IN CARRYING OUT ITS DUTIES AND FUNCTIONS UNDER THIS PART.

(O) WITHIN 6 MONTHS AFTER THE APPOINTMENT AND CONFIRMATION OF THE 6 ADDITIONAL COMMISSION MEMBERS UNDER SECTION 22211, DEVELOP, APPROVE, OR REVISE CERTIFICATE OF NEED REVIEW STANDARDS GOVERNING THE INCREASE OF LICENSED BEDS IN A HOSPITAL LICENSED UNDER PART 215, THE PHYSICAL RELOCATION OF HOSPITAL BEDS FROM 1 LICENSED SITE TO ANOTHER GEOGRAPHIC LOCATION, AND THE REPLACEMENT OF BEDS IN A HOSPITAL LICENSED UNDER PART 215.

(2) The commission shall exercise its duties under this part to promote AND ASSURE all of the following:

(a) The availability and accessibility of quality health services at A reasonable cost and ~~with~~ WITHIN A reasonable geographic proximity for all people in ~~the~~ THIS state.

(b) Appropriate differential consideration of the health care needs of residents in rural counties in ways that do not compromise the quality and affordability of health care services for those residents.

(3) Not less than 30 days before final action is taken by the commission under subsection (1)(a), (b), (d), ~~or~~ (h), OR (O), the commission shall conduct a public hearing on its proposed action. In addition, not less than 30 days before final action is taken by the commission under subsection (1)(a), (b), (d), ~~or~~ (h), OR (O), the commission CHAIRPERSON shall submit the proposed action AND A CONCISE SUMMARY OF THE EXPECTED IMPACT OF THE PROPOSED ACTION for comment to EACH MEMBER OF the ~~standing committees in the senate and house of representatives with jurisdiction over public health matters~~ JOINT COMMITTEE. THE COMMISSION SHALL INFORM THE JOINT COMMITTEE OF THE DATE, TIME, AND LOCATION OF THE NEXT MEETING REGARDING THE PROPOSED ACTION. THE JOINT COMMITTEE SHALL PROMPTLY REVIEW THE PROPOSED ACTION AND SUBMIT ITS RECOMMENDATIONS AND CONCERNS TO THE COMMISSION.

(4) The commission CHAIRPERSON shall submit the proposed final action INCLUDING A CONCISE SUMMARY OF THE EXPECTED IMPACT OF THE PROPOSED FINAL ACTION to the governor and EACH MEMBER OF the ~~standing committee of each house of the legislature with jurisdiction over public health matters~~ JOINT COMMITTEE. The governor or the legislature may disapprove the proposed final action within 45 days after the date of submission. If the proposed final action is not submitted on a legislative session day, the 45 days commence on the first legislative session day after the proposed final action is submitted. The 45 days shall include not less than 9 legislative session days. Legislative disapproval shall be expressed by concurrent resolution which shall be adopted by each house of the legislature. The concurrent resolution shall state specific objections to the proposed final action. A proposed final action by the commission under subsection (1)(a), (b), (d), ~~or~~ (h), OR (O) is not effective if it has been disapproved under this subsection. If the proposed final action is not disapproved under this subsection, it is effective and binding on all persons affected by this part upon the expiration of the 45-day period or on a later date specified in the proposed final action. As used in this subsection, "legislative session day" means each day in which a quorum of either the house of representatives or the senate, following a call to order, officially convenes in Lansing to conduct legislative business.

(5) ~~Within 2 years after the effective date of the amendatory act that added this sentence, the ad hoc advisory committee for psychiatric services appointed by the department under section 22221 or by the commission under section 22215 shall develop and submit certificate of need review standards under this section for the covered clinical services described in section 22203(10)(e) and (d). The ad hoc advisory committee for psychiatric services shall include in the review standards a specific methodology for the determination of need. If the ad hoc advisory committee for psychiatric services does not develop and submit review standards for the covered clinical services described in section 22203(10)(e) and (d) within the 2-year time limit set forth in this subsection, the commission shall delete the covered clinical services described in section 22203(10)(e) and (d) pursuant to subsection (1)(a).~~ THE COMMISSION SHALL NOT DEVELOP, APPROVE, OR REVISE A CERTIFICATE OF NEED REVIEW STANDARD THAT REQUIRES THE PAYMENT OF MONEY OR GOODS OR THE PROVISION OF SERVICES UNRELATED TO THE PROPOSED PROJECT AS A CONDITION THAT MUST BE SATISFIED BY A PERSON SEEKING A CERTIFICATE OF NEED FOR THE INITIATION, REPLACEMENT, OR EXPANSION OF COVERED CLINICAL SERVICES, THE ACQUISITION OR BEGINNING THE OPERATION OF A HEALTH FACILITY, MAKING CHANGES IN BED CAPACITY, OR MAKING COVERED CAPITAL EXPENDITURES. THIS SUBSECTION DOES NOT PRECLUDE A REQUIREMENT THAT EACH APPLICANT PARTICIPATE IN TITLE XIX OF THE SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620, 1396r-6 AND 1396r-8 TO 1396v, OR A REQUIREMENT THAT EACH APPLICANT PROVIDE COVERED CLINICAL SERVICES TO ALL PATIENTS REGARDLESS OF HIS OR HER ABILITY TO PAY.

(6) If the reports received under section 22221(f) indicate that the certificate of need application fees collected under section ~~20161(2)~~ 20161 have not been within 10% of ~~1/2~~ 3/4 the cost to the department of implementing this part, the commission shall make recommendations regarding the revision of those fees so that the certificate of need application fees collected equal approximately ~~1/2~~ 3/4 of the cost to the department of implementing this part.

(7) AS USED IN THIS SECTION, "JOINT COMMITTEE" MEANS THE JOINT COMMITTEE CREATED UNDER SECTION 22219.

SEC. 22219. (1) A JOINT LEGISLATIVE COMMITTEE TO FOCUS ON PROPOSED ACTIONS OF THE COMMISSION REGARDING THE CERTIFICATE OF NEED PROGRAM AND CERTIFICATE OF NEED STANDARDS AND TO REVIEW OTHER CERTIFICATE OF NEED ISSUES IS CREATED. THE JOINT COMMITTEE SHALL CONSIST OF 6 MEMBERS AS FOLLOWS:

- (A) THE CHAIRPERSON OF THE SENATE COMMITTEE ON HEALTH POLICY.
- (B) THE VICE-CHAIRPERSON OF THE SENATE COMMITTEE ON HEALTH POLICY.
- (C) THE MINORITY VICE-CHAIRPERSON OF THE SENATE COMMITTEE ON HEALTH POLICY.
- (D) THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES COMMITTEE ON HEALTH POLICY.
- (E) THE VICE-CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES COMMITTEE ON HEALTH POLICY.
- (F) THE MINORITY VICE-CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES COMMITTEE ON HEALTH POLICY.

(2) THE JOINT COMMITTEE SHALL BE CO-CHAIRLED BY THE CHAIRPERSON OF THE SENATE COMMITTEE ON HEALTH POLICY AND THE CHAIRPERSON OF THE HOUSE COMMITTEE ON HEALTH POLICY.

(3) THE JOINT COMMITTEE MAY ADMINISTER OATHS, SUBPOENA WITNESSES, AND EXAMINE THE APPLICATION, DOCUMENTATION, OR OTHER REPORTS AND PAPERS OF AN APPLICANT OR ANY OTHER PERSON INVOLVED IN A MATTER PROPERLY BEFORE THE COMMITTEE.

(4) THE JOINT COMMITTEE SHALL REVIEW THE RECOMMENDATIONS MADE BY THE COMMISSION UNDER SECTION 22215(6) REGARDING THE REVISION OF THE CERTIFICATE OF NEED APPLICATION FEES AND SUBMIT A WRITTEN REPORT TO THE LEGISLATURE OUTLINING THE COSTS TO THE DEPARTMENT TO IMPLEMENT THE PROGRAM, THE AMOUNT OF FEES COLLECTED, AND ITS RECOMMENDATION REGARDING THE REVISION OF THOSE FEES.

(5) THE JOINT COMMITTEE MAY DEVELOP A PLAN FOR THE REVISION OF THE CERTIFICATE OF NEED PROGRAM. IF A PLAN IS DEVELOPED BY THE JOINT COMMITTEE, THE JOINT COMMITTEE SHALL RECOMMEND TO THE LEGISLATURE THE APPROPRIATE STATUTORY CHANGES TO IMPLEMENT THE PLAN.

Sec. 22221. The department shall do all of the following:

(a) ~~Promulgate~~ SUBJECT TO APPROVAL BY THE COMMISSION, PROMULGATE rules to implement its powers and duties under this part.

(b) Report to the commission at least annually on the performance of the department's duties under this part.

(c) Develop proposed certificate of need review standards for submission to the commission.

(d) Administer and apply certificate of need review standards. ~~In applying a review standard that establishes the minimum number of magnetic resonance imaging procedures necessary for a certificate of need for a mobile magnetic resonance imaging service servicing only hospitals located in rural counties, the department shall use an adjustment factor of 2.0. In applying a review standard that establishes the minimum number of magnetic resonance imaging procedures necessary for a certificate of need for a mobile magnetic resonance imaging service servicing hospitals located in both rural and nonrural counties, for a hospital located in a rural county the department shall use an adjustment factor of 1.4.~~ IN THE REVIEW OF CERTIFICATE OF NEED APPLICATIONS, THE DEPARTMENT SHALL CONSIDER RELEVANT WRITTEN COMMUNICATIONS FROM ANY PERSON.

(e) Designate adequate staff or other resources to directly assist hospitals and nursing homes with less than 100 beds in the preparation of applications for certificates of need.

(f) ~~Following the first state fiscal year after October 1, 1988~~ BY OCTOBER 1, 2003, and annually thereafter, report to the commission regarding the costs to the department of implementing this part and the certificate of need application fees collected under section ~~20161(2)~~ 20161 in the immediately preceding state fiscal year.

(g) Beginning January 1, ~~1995~~ 2003, annually adjust the ~~\$2,000,000.00 and \$3,000,000.00 thresholds~~ \$2,500,000.00 THRESHOLD set forth in section 22203(9) by an amount determined by the state treasurer to reflect the annual percentage change in the consumer price index, using data from the immediately preceding period of July 1 to June 30. As used in this subdivision, "consumer price index" means the most comprehensive index of consumer prices available for this state from the bureau of labor statistics of the United States department of labor.

(H) ANNUALLY REVIEW THE APPLICATION PROCESS, INCLUDING ALL FORMS, REPORTS, AND OTHER MATERIALS THAT ARE REQUIRED TO BE SUBMITTED WITH THE APPLICATION. IF NEEDED TO PROMOTE ADMINISTRATIVE EFFICIENCY, REVISE THE FORMS, REPORTS, AND ANY OTHER MATERIALS REQUIRED WITH THE APPLICATION.

(I) WITHIN 6 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION, CREATE A CONSOLIDATED APPLICATION FOR A CERTIFICATE OF NEED FOR THE RELOCATION OR REPLACEMENT OF AN EXISTING HEALTH FACILITY.

(J) IN CONSULTATION WITH THE COMMISSION, DEFINE SINGLE PROJECT AS IT APPLIES TO CAPITAL EXPENDITURES.

SEC. 22224A. (1) A PERSON SEEKING TO INITIATE, EXPAND, REPLACE, RELOCATE, OR ACQUIRE A FIXED OR MOBILE MAGNETIC RESONANCE IMAGER SERVICE WITHIN A COUNTY THAT HAS A POPULATION OF MORE THAN 160,000 BUT DOES NOT HAVE AT LEAST 2 MAGNETIC RESONANCE IMAGER UNITS MAY FILE A LETTER OF INTENT WITH THE DEPARTMENT PRIOR TO THE INITIATION, EXPANSION, REPLACEMENT, RELOCATION, OR ACQUISITION OF A FIXED OR MOBILE MAGNETIC RESONANCE IMAGER UNIT WITHIN THAT COUNTY INSTEAD OF OBTAINING A CERTIFICATE OF NEED.

(2) WITHIN 30 DAYS AFTER RECEIVING THE LETTER OF INTENT, IF THE DEPARTMENT VERIFIES THAT THE COUNTY HAS A POPULATION OF MORE THAN 160,000 AND THAT THE COUNTY DOES NOT ALREADY HAVE 2 MAGNETIC RESONANCE IMAGER UNITS, THE DEPARTMENT SHALL SEND A WRITTEN ACKNOWLEDGMENT TO THE PERSON APPROVING THE INITIATION, EXPANSION, REPLACEMENT, RELOCATION, OR ACQUISITION OF A FIXED OR MOBILE MAGNETIC RESONANCE IMAGER UNIT.

(3) A PERSON SHALL NOT INITIATE, EXPAND, REPLACE, RELOCATE, OR ACQUIRE A FIXED OR MOBILE MAGNETIC RESONANCE IMAGER UNIT UNDER THIS SECTION WITHOUT A CERTIFICATE OF NEED UNLESS THAT PERSON RECEIVES A WRITTEN ACKNOWLEDGMENT OF APPROVAL FROM THE DEPARTMENT UNDER SUBSECTION (2).

(4) A PERSON SEEKING TO INITIATE, EXPAND, REPLACE, RELOCATE, OR ACQUIRE A FIXED OR MOBILE MAGNETIC RESONANCE IMAGER SERVICE UNDER THIS SECTION SHALL BE A NONPROFIT ORGANIZATION AND SHALL DEMONSTRATE THAT THE SERVICE SHALL BE ACCESSIBLE TO ALL PATIENTS REGARDLESS OF HIS OR HER ABILITY TO PAY AND SHALL PARTICIPATE IN TITLE XIX OF THE SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 TO 1396r-8 TO 1396v.

Sec. 22226. (1) ~~The department and the office COMMISSION shall jointly develop standards for the designation by the department of a regional certificate of need review agency for each review area to develop advisory recommendations for proposed projects. The standards shall be based on the requirements for a regional certificate of review agency set forth in subsection (3). The standards developed under this subsection shall be approved by the commission before implementation by the department.~~

(2) The department, with the concurrence of the commission, shall designate a person to be a regional certificate of need review agency for a specific review area, according to procedures approved by the commission, if the person meets the standards approved under subsection (1), and if a regional certificate of need review agency has not already been designated for that specific review area.

(3) A regional certificate of need review agency shall meet all of the following requirements:

(a) Be an independent nonprofit organization that is not a subsidiary of, or otherwise controlled by, any other person.

(b) Be governed by a board that is broadly representative of consumers, providers, payers, and purchasers of health care in the review area, with a majority of the board being consumers, payers, and purchasers of health care.

(c) Demonstrate a willingness and ability to conduct reviews of all proposed projects requiring a certificate of need that would be located within the review area served by the regional certificate of need review agency.

(d) Avoid conflict of interest in its review of all applications for a certificate of need.

(e) Provide data to the department to enable the department to evaluate the regional certificate of need review agency's performance. The data provided under this subdivision shall be reviewed at periodic meetings between the department and the regional certificate of need review agency.

(f) Not receive more than a designated proportion of its financial support from health facilities and health professionals, as determined by the commission.

(g) Meet other requirements established by the commission that are relevant to the functions of a regional certificate of need review agency, ~~pursuant to~~ UNDER this part.

(4) The designation of a regional certificate of need review agency shall be operative for a period of time approved by the commission, but not for more than 24 months. The designation of a regional certificate of need review agency may be terminated by the department WITH THE CONCURRENCE OF THE COMMISSION at any time for noncompliance with the standards approved under subsection (1). In addition, the designation may be terminated by the regional certificate of need review agency upon the expiration of 60 days after the department receives written notice of the termination.

(5) A local certificate of need review agency that was designated pursuant to a designation agreement authorized under former section 22124 and effective on ~~the effective date of this part~~ OCTOBER 1, 1988 is designated as the regional certificate of need review agency for its review area until the expiration of 1 year after the date of final approval of the standards developed under subsection (1), unless the designation is terminated by either the department UNDER SUBSECTION (4) or the regional certificate of need review agency before that time.

(6) A person applying for a certificate of need under this part shall simultaneously provide a copy of any letter of intent, application, or additional information required by the department to the regional certificate of need review agency designated by the department for the review area in which the proposed project would be located, unless the regional certificate of need review agency determines that it will not review the application or other information, and notifies both the applicant and the department in writing of its determination. The regional certificate of need review agency may review the application and submit its recommendations to the department. If the regional certificate of need review agency determines that it will not review the application, then the regional certificate of need review agency shall notify both the applicant and the department in writing of its determination. In developing its recommendations, the regional certificate of need review agency shall utilize the review procedures and time frames specified for ~~health systems agencies or~~ regional certificate of need review agencies in the rules continued or promulgated under this part, and shall also utilize certificate of need review standards, statutory criteria, and forms identical to those used by the department.

(7) Before developing a proposed decision on an application, the department shall review the recommendations of the regional certificate of need review agency for the review area in which the proposed project would be located, if the recommendations are submitted to the department within the time frames required under subsection (6). If the director makes a final decision that is inconsistent with the recommendations of the regional certificate of need review agency, the department shall promptly provide the regional certificate of need review agency with a detailed statement of the reasons for the director's decision. The statement shall address each instance in which the director's decision is inconsistent with the recommendation of the regional certificate of need review agency regarding a specific certificate of need review standard or criterion.

(8) A regional certificate of need review agency may convene consumers, providers, purchasers, or payers of health care, or representatives of all of those groups, related to activities in its review area for the purpose of achieving the objectives of this part.

~~(9) In the review of certificate of need applications, the department shall consider relevant written communications from any person.~~

(9) ~~(10)~~ Before developing a recommendation on a certificate of need application, a regional certificate of need review agency shall hold a public hearing on the proposed project. If THE DEPARTMENT DETERMINES THAT LOCAL INTEREST MERITS A PUBLIC HEARING AND a regional certificate of need review agency has not been designated for the review area in which the proposed project will be located, THEN the department ~~may~~ SHALL hold a public hearing on the proposed project. ~~if the department determines that local interest merits a public hearing.~~

(10) ~~(11)~~ A regional certificate of need review agency shall conduct all meetings regarding its activities for the purpose of achieving the objectives of this part in compliance with the open meetings act, ~~Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws 1976 PA 267, MCL 15.261 TO 15.275.~~

(11) ~~(12)~~ As used in this section, "review area" means a geographic area established for a health systems agency pursuant to former section 1511 of the public health service act, or a geographic area otherwise established by the commission for a regional certificate of need review agency. ~~after consideration of the recommendations of the department and the office.~~

Sec. 22230. In evaluating applications for a health facility as defined under section 22205(1)(c) in a comparative review, the department shall include participation in title XIX of the social security act, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 to ~~1396d, 1396f to 1396s~~ 1396r-6 AND 1396r-8 TO 1396v, as a distinct criterion, weighted as very important, and determine the degree to which an application meets this criterion based on the extent of participation in the medicaid program.

Sec. 22231. (1) The decision to grant or deny an application for a certificate of need shall be made by the director. A decision shall be proposed to the director by a bureau within the department designated by the director as responsible for the certificate of need program. A decision shall be in writing and shall indicate 1 of the following:

- (a) Approval of the application.
- (b) Disapproval of the application.
- (c) Subject to subsection (2), approval of the application with conditions.
- (d) If agreed to by the department and the applicant, approval of the application with stipulations.

(2) If an application is approved with conditions pursuant to UNDER subsection (1)(c), the conditions shall be explicit, shall be related to the proposed project or to the applicable provisions of this part, and shall specify a time, not to exceed 1 year after the date the decision is rendered, within which the conditions shall be met.

(3) If the department is conducting a comparative review, the director shall issue only 1 decision for all of the applications included in the comparative review.

(4) Before a final decision on an application is made, the bureau of the department designated by the director as responsible for the certificate of need program shall issue a proposed decision with specific findings of fact in support of the proposed decision with regard to each of the criteria listed in section 22225. The proposed decision also shall state with specificity the reasons and authority of the department for the proposed decision. ~~If a proposed decision is issued within the application review period specified in the rules promulgated under former part 221, the department is in compliance with the review period requirement of those rules.~~ The department shall transmit a copy of the proposed decision to the applicant.

(5) The proposed decision shall be submitted to the director on the same day the proposed decision is issued.

(6) If the proposed decision is other than an approval without conditions or stipulations, the director shall issue a final decision not later than 60 days after the date a proposed decision is submitted to the director unless the applicant has filed a request for a hearing on the proposed decision. If the proposed decision is an approval, the director shall issue a final decision not later than 5 days after the proposed decision is submitted to the director.

(7) The director shall review the proposed decision before a final decision is rendered.

(8) If a proposed decision is an approval, and if, upon review, the director reverses the proposed decision, the director immediately shall notify the applicant of the reversal. Within 15 days after receipt of the notice of reversal, the applicant may request a hearing under section 22232. After the hearing, the applicant may request the director to reconsider the reversal of the proposed decision, based on the results of the hearing.

(9) ~~THE~~ WITHIN 30 DAYS AFTER THE FINAL DECISION OF THE DIRECTOR, THE final decision of the director may be appealed only by the applicant and only on the record directly to the circuit court for the county where the applicant has its principal place of business in this state or the circuit court for Ingham county. Judicial review is governed by ~~sections 103 to 106 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.303 to 24.306 of the Michigan Compiled Laws 1969 PA 306, MCL 24.201 TO 24.328.~~

~~(10) The review and appeal of a certificate of need application submitted with the required filing fee before October 1, 1988 shall be conducted under former part 221 and the rules promulgated under that part. The certificate of need board created by former section 22121(2) shall continue for the purpose of performing the functions vested in it by former part 221, until all appeals lawfully brought under former part 221 are concluded.~~

(10) ~~(11)~~ If the department exceeds the time ~~frames~~ set forth in this section for other than good cause, as determined by the commission, upon the written request of an applicant, the department shall return to the applicant all of the certificate of need application fee paid by the applicant under section ~~20161(2)~~ 20161.

Sec. 22235. (1) The department may waive otherwise applicable provisions of this part and procedural requirements and criteria for review upon a showing by the applicant, by affidavit, of all of the following:

(a) The necessity for immediate or temporary relief due to natural disaster, fire, unforeseen safety consideration, or other emergency circumstances.

(b) The serious adverse effect of delay on the applicant and the community that would be occasioned by compliance with the otherwise applicable requirements of this part and rules promulgated under this part.

(c) The lack of substantial change in facilities or services that existed before the emergency circumstances established under subdivision (a).

(d) The temporary nature of the construction of facilities or the services that will not preclude different disposition of longer term determinations in a subsequent application for a certificate of need not made under this section.

(2) The department may issue an emergency certificate of need after necessary and appropriate review. A record of the review shall be made, including copies of affidavits and other documentation. Findings and conclusions shall be made as to an application for an emergency certificate of need, whether the emergency certificate of need is issued or denied.

(3) An emergency certificate of need issued under this section is A FINAL DECISION AND THE APPLICANT IS NOT REQUIRED TO SUBMIT A FORMAL APPLICATION FOR A SECOND REVIEW. A CERTIFICATE OF NEED ISSUED UNDER THIS SECTION MAY BE subject to special limitations and restrictions, in regard to duration and right of extension or renewal and other factors, imposed by the department.

Sec. 22239. (1) ~~A certificate of need ceases to be effective if~~ IF the certificate of need approval was based on a stipulation that the project would participate in title XIX and the project has not participated in title XIX for ~~not less than~~ AT LEAST 12 consecutive months within the first 2 years of operation OR CONTINUED TO PARTICIPATE ANNUALLY THEREAFTER, THE DEPARTMENT SHALL REVOKE THE CERTIFICATE OF NEED. A stipulation described in this section is germane to all health facility projects.

(2) THE DEPARTMENT SHALL MONITOR THE PARTICIPATION IN TITLE XIX OF EACH CERTIFICATE OF NEED APPLICANT APPROVED UNDER THIS PART. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), THE DEPARTMENT SHALL REQUIRE EACH APPLICANT TO PROVIDE VERIFICATION OF PARTICIPATION IN TITLE XIX WITH ITS APPLICATION AND ANNUALLY THEREAFTER.

(3) THE DEPARTMENT SHALL NOT REVOKE OR DENY A CERTIFICATE OF NEED FOR A NURSING HOME LICENSED UNDER PART 217 IF THAT NURSING HOME DOES NOT PARTICIPATE IN TITLE XIX ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION BUT AGREES TO PARTICIPATE IN TITLE XIX IF BEDS BECOME AVAILABLE. THIS SECTION DOES NOT PROHIBIT A PERSON FROM APPLYING FOR AND OBTAINING A CERTIFICATE OF NEED TO ACQUIRE OR BEGIN OPERATION OF A NURSING HOME THAT DOES NOT PARTICIPATE IN TITLE XIX.

Sec. 22241. (1) For purposes of this section and ~~sections~~ SECTION 22243, ~~and 22245~~, “new technology” means medical equipment that requires, but has not yet been granted, the approval of the federal food and drug administration for commercial use.

(2) The period ending 12 months after the date of federal food and drug administration approval of new technology for commercial use shall be considered the new technology review period. A person shall not acquire new technology before the end of a new technology review period, unless 1 of the following occurs:

(a) The department, with the concurrence of the commission, issues a public notice that the new technology will not be added to the list of covered medical equipment during the new technology review period. The notice may apply to specific new technology or classes of new technology.

(b) The person complies with the requirements of section 22243.

(c) The commission approves the addition of the new technology to the list of covered medical equipment, and the person obtains a certificate of need for that covered medical equipment.

(3) To assist in the identification of new medical technology or new medical services that may be appropriate for inclusion as a covered clinical service in the earliest possible stage of its development, the commission shall appoint a standing new medical technology advisory committee. A majority of the new medical technology advisory committee shall be representatives of health care provider organizations concerned with licensed health facilities or licensed health professions and other persons knowledgeable in medical technology. The commission also shall appoint representatives of health care consumer, purchaser, and third party payer organizations to the committee. THE COMMISSION SHALL ALSO APPOINT FACULTY MEMBERS FROM SCHOOLS OF MEDICINE, OSTEOPATHY, AND NURSING IN THIS STATE.

Sec. 22247. (1) The department ~~may~~ SHALL monitor compliance with ALL certificates of need issued under this part and shall investigate allegations of noncompliance with a certificate of need or this part.

(2) If the department determines that the recipient of a certificate of need under this part is not in compliance with the terms of the certificate of need or that a person is in violation of this part or the rules promulgated under this part, the department ~~may~~ SHALL do 1 or more of the following:

(a) Revoke or suspend the certificate of need.

- (b) Impose a civil fine of not more than the amount of the billings for the services provided in violation of this part.
- (c) Take any action authorized under this article for a violation of this article or a rule promulgated under this article, including, but not limited to, issuance of a compliance order under section 20162(5), whether or not the person is licensed under this article.
- (d) Request enforcement action under section 22253.
- (e) Take any other enforcement action authorized by this code.
- (f) Publicize or report the violation or enforcement action, or both, to any person.
- (G) TAKE ANY OTHER ACTION AS DETERMINED APPROPRIATE BY THE DEPARTMENT.

(3) A person shall not charge to, or collect from, another person or otherwise recover costs for services provided or for equipment or facilities that are acquired in violation of this part. If a person has violated this subsection, in addition to the sanctions provided under subsection (2), the person shall, upon request of the person from whom the charges were collected, refund those charges, either directly or through a credit on a subsequent bill.

Sec. 22255. ~~(4)~~ The department, with the approval of the commission, may promulgate procedural rules to implement this part.

~~(2) Pursuant to section 31 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.231 of the Michigan Compiled Laws, rules promulgated by the department under former part 221 shall remain in effect for review and appeal of applications submitted under former part 221 and for this part until amended or rescinded by the department or as a result of this part.~~

Sec. 22260. (1) The department shall prepare and publish ~~at least annually~~ MONTHLY reports of reviews conducted under this part. The reports shall include a statement on the status of each pending review and a statement as to each review completed, including statements of the findings and decisions made in the course of the reviews since the last report, and the recommendations of regional certificate of need review agencies.

(2) The department ~~and, if applicable, the appropriate regional certificate of need review agency~~ shall make available to the public for examination during all business hours the applications received by them and pertinent written materials on file.

(3) THE DEPARTMENT, UPON REQUEST, SHALL PROVIDE COPIES OF AN APPLICATION OR PART OF AN APPLICATION. THE DEPARTMENT MAY CHARGE A REASONABLE FEE FOR THE COPIES.

Enacting section 1. Section 22217 of the public health code, 1978 PA 368, MCL 333.22217, is repealed.

Second: That the Senate and House agree to the title of the bill to read as follows:

A bill to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 22203, 22205, 22207, 22209, 22211, 22213, 22215, 22221, 22226, 22230, 22231, 22235, 22239, 22241, 22247, 22255, and 22260 (MCL 333.22203, 333.22205, 333.22207, 333.22209, 333.22211, 333.22213, 333.22215, 333.22221, 333.22226, 333.22230, 333.22231, 333.22235, 333.22239, 333.22241, 333.22247, 333.22255, and 333.22260), sections 22203, 22207, 22209, 22213, 22215, 22221, 22231, 22239, 22241, 22247, and 22260 as amended by 1993 PA 88, section 22205 as amended by 2000 PA 253, sections 22211, 22230, 22235, and 22255 as added by 1988 PA 332, and section 22226 as added by 1988 PA 331, and by adding sections 22219 and 22224a; and to repeal acts and parts of acts.

John J.H. Schwarz
Dan L. DeGrow
Conferees for the Senate

Stephen Ehardt
Rick Johnson
Samuel Buzz Thomas
Conferees for the House

The question being on the adoption of the conference report,

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

Roll Call No. 1059**Yeas—19**

| | | | |
|-----------|-------------|----------|-----------------|
| Bennett | Goschka | Peters | Steil |
| Bullard | Hammerstrom | Schuette | Stille |
| DeGrow | McManus | Schwarz | Van Regenmorter |
| Dunaskiss | Miller | Shugars | Young |
| Emmons | North | Sikkema | |

Nays—12

| | | | |
|--------------|---------|---------|---------|
| Byrum | Dingell | Hoffman | Sanborn |
| Cherry | Emerson | Johnson | Scott |
| DeBeaussaert | Garcia | Leland | Smith |

Excused—5

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | | | |

Not Voting—2

| | |
|------|----------|
| Gast | McCotter |
|------|----------|

In The Chair: Hoffman

Senator Schwarz moved to reconsider the vote by which the conference report was not adopted.

The motion prevailed.

The question being on the adoption of the conference report,

The first conference report was adopted, a majority of the members serving voting therefor, as follows:

Roll Call No. 1060**Yeas—20**

| | | | |
|-----------|-------------|----------|-----------------|
| Bennett | Gast | North | Sikkema |
| Bullard | Goschka | Schuette | Steil |
| DeGrow | Hammerstrom | Schwarz | Stille |
| Dunaskiss | McManus | Scott | Van Regenmorter |
| Emmons | Miller | Shugars | Young |

Nays—12

| | | | |
|--------------|---------|---------|---------|
| Byrum | Dingell | Hoffman | Peters |
| Cherry | Emerson | Johnson | Sanborn |
| DeBeaussaert | Garcia | Leland | Smith |

Excused—5

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | | | |

Not Voting—1

McCotter

In The Chair: Hoffman

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was not concurred in, 2/3 of the members serving not voting therefor.

Senator Bullard submitted the following:

FIRST CONFERENCE REPORT

The Committee of Conference on the matters of difference between the two Houses concerning

Senate Bill No. 380, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9948) by adding sections 2973 and 2974.

Recommends:

First: That the Senate and House agree to the Substitute of the House as passed by the House, amended to read as follows:

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9948) by adding section 2974.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 2974. (1) IF A CIVIL ACTION FOR DAMAGES AGAINST AN ENTERTAINMENT FORUM OR A CASINO IS BASED ON FALSE IMPRISONMENT, WRONGFUL EJECTION, UNLAWFUL ARREST, ASSAULT, BATTERY, LIBEL, OR SLANDER, OR A SUBSTANTIALLY SIMILAR CAUSE OF ACTION, IS BASED ON THE CONDUCT OF AN INDIVIDUAL WHO VIOLATED THE TERMS FOR ADMISSION TO THE ENTERTAINMENT FORUM OR CASINO, OR IS BASED ON THE CONDUCT OF AN INDIVIDUAL WHO CREATED A NUISANCE AT THE ENTERTAINMENT FORUM OR CASINO, THE PLAINTIFF CANNOT RECOVER DAMAGES OF ANY KIND IF THE ENTERTAINMENT FORUM OR CASINO HAD REASONABLE CAUSE TO BELIEVE AND DID BELIEVE THAT THE INDIVIDUAL VIOLATED THE TERMS FOR ADMISSION TO THE ENTERTAINMENT FORUM OR CASINO OR CREATED A NUISANCE AT THE ENTERTAINMENT FORUM OR CASINO.

(2) THIS SECTION DOES NOT APPLY TO AN ACTION AGAINST AN ENTERTAINMENT FORUM IF THE ENTERTAINMENT FORUM USED EXCESSIVE FORCE AGAINST THE INDIVIDUAL IN LIGHT OF THE CIRCUMSTANCES OR DETAINED THE INDIVIDUAL FOR AN UNREASONABLE LENGTH OF TIME IN LIGHT OF THE CIRCUMSTANCES. THIS SECTION DOES NOT APPLY TO AN ACTION AGAINST A CASINO IF THE CASINO USED UNREASONABLE FORCE AGAINST THE INDIVIDUAL IN LIGHT OF THE CIRCUMSTANCES OR DETAINED THE INDIVIDUAL FOR AN UNREASONABLE LENGTH OF TIME IN LIGHT OF THE CIRCUMSTANCES.

(3) AS USED IN THIS SECTION:

(A) "CASINO" MEANS A CASINO AS THAT TERM IS DEFINED IN SECTION 2 OF THE MICHIGAN GAMING CONTROL AND REVENUE ACT, THE INITIATED LAW OF 1996, MCL 432.202, IF THE CASINO IS OPERATED BY A CASINO LICENSEE OR AFFILIATED COMPANY UNDER THE MICHIGAN GAMING CONTROL AND REVENUE ACT, THE INITIATED LAW OF 1996, MCL 432.201 TO 432.226, A CASINO ENTERPRISE AS THAT TERM IS DEFINED IN SECTION 2 OF THE MICHIGAN GAMING CONTROL AND REVENUE ACT, THE INITIATED LAW OF 1996, MCL 432.202, AN OWNER, LESSEE, MANAGER, OR OPERATOR OF A CASINO, AN AGENT OF A CASINO, OR AN INDEPENDENT CONTRACTOR PROVIDING SECURITY FOR A CASINO.

(B) "CREATED A NUISANCE" MEANS THE INDIVIDUAL DID 1 OR MORE OF THE FOLLOWING AT AN ENTERTAINMENT FORUM OR A CASINO:

(i) ENGAGED IN CONDUCT THAT IF COMMITTED BY AN ADULT WOULD CONSTITUTE A MISDEMEANOR OR A FELONY IN THIS STATE.

(ii) PHYSICALLY HARMED OR THREATENED TO PHYSICALLY HARM AN INDIVIDUAL OR PROPERTY AT THE ENTERTAINMENT FORUM OR CASINO.

(iii) VIOLATED A PUBLISHED OR ANNOUNCED RULE OF THE ENTERTAINMENT FORUM OR CASINO OF WHICH THE INDIVIDUAL KNEW OR SHOULD HAVE KNOWN.

(C) “ENTERTAINMENT FORUM” MEANS AN ARENA, A THEATER, INCLUDING A THEATER WITH 1 OR MORE AUDITORIUMS IN A SINGLE STRUCTURE FOR WHICH THERE IS A COMMON PARKING AREA, A CIRCUS, ATHLETIC GROUNDS USED FOR AN ATHLETIC EVENT OR OTHER FORM OF PUBLIC ENTERTAINMENT, OR ANY OTHER PLACE OF PUBLIC ENTERTAINMENT, WITH AN AGGREGATE SEATING CAPACITY OF NOT LESS THAN 200. ENTERTAINMENT FORUM INCLUDES AN OWNER, LESSEE, MANAGER, OR OPERATOR OF AN ENTERTAINMENT FORUM, AN AGENT OF AN ENTERTAINMENT FORUM, OR AN INDEPENDENT CONTRACTOR PROVIDING SECURITY FOR AN ENTERTAINMENT FORUM.

(D) “VIOLATED THE TERMS FOR ADMISSION” MEANS THE INDIVIDUAL WHO WAS ADMITTED TO AN ENTERTAINMENT FORUM OR CASINO DID 1 OR MORE OF THE FOLLOWING:

(i) ENGAGED IN CONDUCT THAT IF COMMITTED BY AN ADULT WOULD CONSTITUTE A MISDEMEANOR OR A FELONY IN THIS STATE.

(ii) PHYSICALLY HARMED OR THREATENED TO PHYSICALLY HARM THE ENTERTAINMENT FORUM OR CASINO OR ANOTHER INDIVIDUAL ADMITTED TO THE ENTERTAINMENT FORUM OR CASINO.

(iii) VIOLATED A PUBLISHED OR ANNOUNCED RULE OF THE ENTERTAINMENT FORUM OR CASINO OF WHICH THE INDIVIDUAL KNEW OR SHOULD HAVE KNOWN.

Second: That the Senate and House agree to the title of the bill to read as follows:

A bill to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” (MCL 600.101 to 600.9948) by adding section 2974.

Bill Bullard, Jr.
William Van Regenmorter
Conferees for the Senate

Jason Allen
Clark Bisbee
Conferees for the House

The question being on the adoption of the conference report,

The first conference report was adopted, a majority of the members serving voting therefor, as follows:

Roll Call No. 1061

Yeas—20

| | | | |
|-----------|-------------|----------|-----------------|
| Bennett | Garcia | McManus | Shugars |
| Bullard | Goschka | North | Sikkema |
| DeGrow | Hammerstrom | Sanborn | Steil |
| Dunaskiss | Hoffman | Schuette | Stille |
| Emmons | McCotter | Schwarz | Van Regenmorter |

Nays—12

| | | | |
|--------------|---------|--------|-------|
| Byrum | Dingell | Leland | Scott |
| Cherry | Emerson | Miller | Smith |
| DeBeaussaert | Johnson | Peters | Young |

Excused—5

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | | | |

Not Voting—1

Gast

In The Chair: Hoffman

The question being on concurring in the committee recommendation to give the bill immediate effect,
The recommendation was not concurred in, 2/3 of the members serving not voting therefor.

By unanimous consent the Senate proceeded to the order of
Resolutions

Senator Emmons moved that rule 3.204 be suspended to permit immediate consideration of the following resolutions:

Senate Concurrent Resolution No. 89

Senate Concurrent Resolution No. 90

Senate Concurrent Resolution No. 91

Senate Concurrent Resolution No. 92

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

Senator Emmons offered the following concurrent resolution:

Senate Concurrent Resolution No. 89.

A concurrent resolution prescribing the legislative schedule.

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns on Friday, December 13, 2002, it stands adjourned until Monday, December 30, 2002, at 11:45 a.m.; and be it further

Resolved, That when the House of Representatives adjourns on Wednesday, December 18, 2002, it stands adjourned until Monday, December 30, 2002, at 11:30 a.m.; and be it further

Resolved, That when the Legislature adjourns on Monday, December 30, 2002, it stands adjourned without day.

The question being on the adoption of the concurrent resolution,

The concurrent resolution was adopted.

Senator Emmons offered the following concurrent resolution:

Senate Concurrent Resolution No. 90.

A concurrent resolution prescribing the legislative schedule.

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns on Friday, December 13, 2002, it stands adjourned until Monday, December 30, 2002, at 11:45 a.m.; and be it further

Resolved, That when the House of Representatives adjourns on Tuesday, December 17, 2002, it stands adjourned until Monday, December 30, 2002, at 11:30 a.m.; and be it further

Resolved, That when the Legislature adjourns on Monday, December 30, 2002, it stands adjourned without day.

The question being on the adoption of the concurrent resolution,

The concurrent resolution was adopted.

Senator Emmons offered the following concurrent resolution:

Senate Concurrent Resolution No. 91.

A concurrent resolution prescribing the legislative schedule.

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns on Friday, December 13, 2002, it stands adjourned until Monday, December 30, 2002, at 11:45 a.m.; and be it further

Resolved, That when the House of Representatives adjourns on Monday, December 16, 2002, it stands adjourned until Monday, December 30, 2002, at 11:30 a.m.; and be it further

Resolved, That when the Legislature adjourns on Monday, December 30, 2002, it stands adjourned without day.

The question being on the adoption of the concurrent resolution,

The concurrent resolution was adopted.

Senator Emmons offered the following concurrent resolution:

Senate Concurrent Resolution No. 92.

A concurrent resolution prescribing the legislative schedule.

Resolved by the Senate (the House of Representatives concurring), That when the Legislature adjourns on Friday, December 13, 2002, it stands adjourned until Monday, December 30, 2002, at 11:45 a.m. for the Senate and 11:30 a.m. for the House of Representatives; and be it further

Resolved, That when the Legislature adjourns on Monday, December 30, 2002, it stands adjourned without day.

The question being on the adoption of the concurrent resolution,

The concurrent resolution was adopted.

Senate Concurrent Resolution No. 75.

A concurrent resolution approving the conveyance of property to the State Building Authority and approving a lease among the State of Michigan, the State Building Authority, and the Regents of the University of Michigan relative to the University of Michigan-Dearborn Hubbard Drive Professional Training and Education Building Acquisition (Phase I).

(For text of resolution, see Senate Journal No. 71, p. 2301.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

By unanimous consent the Senate returned to the order of

Messages from the Governor

The following messages from the Governor were received and read:

December 12, 2002

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

Automobile Theft Prevention Authority Board of Directors

Ms. Valerie S. Knol, 23560 Loomis Court, Farmington, Michigan 48336, county of Oakland, as a member representing purchasers of auto insurance, succeeding Mr. David B. Robertson of Grand Blanc, who has resigned, for a term expiring on July 1, 2006.

December 12, 2002

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

Michigan Beef Industry Commission

Mr. Charles E. Markley, 13171 Tolling Road, Byron, Michigan 48418, county of Shiawassee, as a member, representing cattle feeders, succeeding Mr. Jack Knirk of Quincy, who has died, for a term expiring on May 31, 2004.

December 12, 2002

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

Blue Cross Blue Shield of Michigan Board of Directors

Mr. Stephen H. Terry, 4015 Zimmer Road, Williamston, Michigan 48323, county of Ingham, as a member representing general public retirees over the age of 62, succeeding Mr. Peter F. Seccia of East Grand Rapids, who has resigned, for a term expiring on February 18, 2004.

December 12, 2002

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

Michigan Gaming Control Board

The Honorable Michael L. Stacey, 6414 Countryshire Lane, West Bloomfield, Michigan 48323, county of Oakland, as a member representing the general public, succeeding himself, for a term beginning on December 21, 2002 and expiring on December 20, 2006.

December 12, 2002

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

Michigan Higher Education Assistance Authority

Ms. Sarah Richardville, 2060 North Custer Road, Monroe, Michigan 48162, county of Monroe, as a member, representing the general public, succeeding Ms. Shelly Goodman Taub of Bloomfield Hills, who has resigned, for a term expiring on May 22, 2004.

December 12, 2002

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

Michigan Hospital Finance Authority

Ms. Lois Shulman, 4838 Rolling Ridge Court, West Bloomfield, Michigan 48323, county of Oakland, as a member, representing the general public, succeeding Ms. Kathleen Schmaltz of Jackson, who has resigned, for a term expiring on March 1, 2006.

December 12, 2002

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

Board of Marriage and Family Therapy

Ms. Anita Taylor, 1218 Water Cliff Drive, Bloomfield Hills, Michigan 48302, county of Oakland, as a member, representing licensed therapists, succeeding Ms. Jennifer Hutchings of Big Rapids, who has resigned, for a term expiring on June 30, 2005.

December 12, 2002

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

Michigan Municipal Bond Authority Board of Trustees

Mr. Donald H. Gilmer, 7021 N. 46th Street, Augusta, Michigan 49012, county of Kalamazoo, as a member, representing the Speaker of the House of Representatives, succeeding Ms. Harriet Rotter of Bingham Farms, who has resigned, for a term expiring on January 1, 2003.

Mr. Donald H. Gilmer, 7021 N. 46th Street, Augusta, Michigan 49012, county of Kalamazoo, as a member, representing the Speaker of the House of Representatives, succeeding himself, for a term beginning on January 1, 2003 and expiring on January 1, 2006.

December 12, 2002

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

Northern Michigan University Board of Control

Mr. Larry C. Inman, 8971 Crockett, Williamsburg, Michigan 49690, county of Grand Traverse, as a member, representing the general public, succeeding Mr. Ellwood A. Mattson of Marquette, who has died, for a term expiring on December 31, 2006.

December 12, 2002

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

Michigan Board of Nursing

Ms. Lori A. Doyle, 3776 Meridian Road, Okemos, Michigan 48418, county of Ingham, as a member, representing the general public, succeeding Mr. Wayne Nargang of St. Johns, who has died, for a term expiring on June 30, 2006.

December 12, 2002

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

Oakland University Board of Trustees

Mr. Dennis Muchmore, 6226 Columbia, Haslett, Michigan 48840, county of Ingham, as a member, representing the general public, succeeding Dr. Linda S. Hotchkiss of Grosse Pointe Park, who has resigned, for a term expiring on August 11, 2004.

December 12, 2002

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

Michigan Racing Commissioner

Mr. R. Robert Geake, 48525 W. Eight Mile Road, Northville, Michigan 48167, county of Wayne, succeeding Ms. Annette M. Bacola of Grosse Pointe Farms, who has resigned, for a term beginning on December 21, 2002 and expiring on December 31, 2004.

December 12, 2002

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

Board of State Canvassers

Mr. Eric J. Pelton 3260 Kern Way Court, Bloomfield Hills, Michigan 48304, county of Oakland, as a member, representing Republicans, succeeding Ms. Elizabeth Hardy of Franklin, who has resigned, for a term expiring on February 1, 2005.

Sincerely,
John Engler
Governor

The appointments were referred to the Committee on Government Operations.

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

Senate Bill No. 11, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending section 5504 (MCL 324.5504).

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.

Senator Emmons moved that rule 3.202 be suspended to permit immediate consideration of the following bills:

Senate Bill No. 437

Senate Bill No. 576

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

Senate Bill No. 437, entitled

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

The House of Representatives has substituted (H-2) the bill.

The House of Representatives has passed the bill as substituted (H-2), ordered that it be given immediate effect and amended the title to read as follows:

A bill to amend 1933 PA 167, entitled “An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act,” by amending section 4x (MCL 205.54x), as amended by 2001 PA 40.

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. 1062

Yeas—31

| | | | |
|--------------|-------------|----------|-----------------|
| Bennett | Emerson | McCotter | Shugars |
| Bullard | Emmons | McManus | Sikkema |
| Byrum | Garcia | North | Smith |
| Cherry | Gast | Peters | Steil |
| DeBeaussaert | Goschka | Sanborn | Stille |
| DeGrow | Hammerstrom | Schuette | Van Regenmorter |
| Dingell | Hoffman | Schwarz | Young |
| Dunaskiss | Johnson | Scott | |

Nays—0

Excused—5

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | | | |

Not Voting—2

Leland

Miller

In The Chair: Hoffman

Senator Cherry moved that Senator Leland be temporarily excused from the balance of today’s session. The motion prevailed.

Senator Leland entered the Senate Chamber.

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. 576, entitled

A bill to amend 1937 PA 94, entitled “Use tax act,” by amending section 4 (MCL 205.94), as amended by 2001 PA 39. 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 amended the title to read as follows:

A bill to amend 1937 PA 94, entitled “An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act,” by amending section 4 (MCL 205.94), as amended by 2002 PA 456.

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. 1063

Yeas—32

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

Nays—0

Excused—5

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | | | |

Not Voting—1

DeGrow

In The Chair: Hoffman

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

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.

Senator Emmons moved that rule 3.202 be suspended to permit immediate consideration of the following bill:

Senate Bill No. 694

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

Senate Bill No. 694, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” by amending section 725a (MCL 257.725a), as amended by 1980 PA 311.

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.

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. 1064

Yeas—32

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

Nays—0

Excused—6

| | | | |
|---------|----------|--------|--------|
| DeGrow | Hart | Murphy | Vaughn |
| Gougeon | Koivisto | | |

Not Voting—0

In The Chair: Hoffman

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.

Senator Peters moved that he be named co-sponsor of the following bill:

Senate Bill No. 694

The motion prevailed.

Senate Bill No. 705, entitled

A bill to amend 2001 PA 142, entitled "Michigan memorial highway act," (MCL 250.1001 to 250.1100) by adding section 75.

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. 795, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 32504a.

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.

Senator Emmons moved that the bill be given immediate effect.

The motion prevailed, 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.

Senator Emmons moved that rule 3.202 be suspended to permit immediate consideration of the following bills:

Senate Bill No. 1028

Senate Bill No. 1127

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

Senate Bill No. 1028, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 503 and 504 (MCL 750.503 and 750.504).

The House of Representatives has amended the bill as follows:

1. Amend page 1, line 1, by striking out all of section 503.

The House of Representatives has passed the bill as amended and amended the title to read as follows:

A bill to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; 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 such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 504 (MCL 750.504).

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

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

Roll Call No. 1065

Yeas—32

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

Nays—0

Excused—6

DeGrow
Gougeon

Hart
Koivisto

Murphy

Vaughn

Not Voting—0

In The Chair: Hoffman

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was not concurred in, 2/3 of the members serving not 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.

Senator DeGrow entered the Senate Chamber.

Senate Bill No. 1127, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 520a, 520b, 520c, 520d, and 520e (MCL 750.520a, 750.520b, 750.520c, 750.520d, and 750.520e), sections 520a and 520e as amended by 2000 PA 505, section 520b as amended by 1983 PA 158, section 520c as amended by 2000 PA 227, and section 520d as amended by 1996 PA 155.

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.

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. 1066

Yeas—30

Bennett
Bullard
Byrum
DeBeaussaert
DeGrow
Dingell
Dunaskiss
Emerson

Emmons
Garcia
Goschka
Hammerstrom
Hoffman
Johnson
Leland
McManus

Miller
North
Peters
Sanborn
Schuette
Schwarz
Scott

Shugars
Sikkema
Smith
Steil
Stille
Van Regenmorter
Young

Nays—0

Excused—5

Gougeon
Hart

Koivisto

Murphy

Vaughn

Not Voting—3

Cherry

Gast

McCotter

In The Chair: Hoffman

The Senate agreed to the full title.

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

Senator Emmons moved that Senator McCotter be temporarily excused from the balance of today’s session.

The motion prevailed.

Senator Emerson moved that Senator Cherry be temporarily excused from the balance of today’s session.

The motion prevailed.

Senate Bill No. 1203, entitled

A bill to amend 1893 PA 206, entitled “The general property tax act,” by amending section 27 (MCL 211.27), as amended by 1994 PA 415.

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.

Senators McCotter and Cherry entered the Senate Chamber.

Senate Bill No. 1213, entitled

A bill to amend 1956 PA 218, entitled “The insurance code of 1956,” by amending sections 456, 2236, 2401, and 2601 (MCL 500.456, 500.2236, 500.2401, and 500.2601), section 456 as amended by 2002 PA 26, section 2236 as amended by 1993 PA 200, and section 2401 as amended by 1982 PA 8.

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 not concurred in, 2/3 of the members serving not voting therefor.

Senator Emmons requested the yeas and nays.

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

The recommendation was not concurred in, 2/3 of the members serving not voting therefor, as follows:

Roll Call No. 1067

Yeas—20

Bennett
Bullard
Dunaskiss
Emmons
Garcia

Goschka
Hammerstrom
Hoffman
Johnson
McCotter

McManus
North
Sanborn
Schuette
Schwarz

Shugars
Sikkema
Steil
Stille
Van Regenmorter

Nays—10

Byrum
Cherry
DeBeaussaert

Dingell
Leland
Miller

Peters
Scott

Smith
Young

Excused—5Gougeon
Hart

Koivisto

Murphy

Vaughn

Not Voting—3

DeGrow

Emerson

Gast

In The Chair: Hoffman

The Senate agreed to the full title.

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

Senator Emmons moved that Senator DeGrow be temporarily excused from the balance of today's session.

The motion prevailed.

Senator Emmons moved that rule 3.202 be suspended to permit immediate consideration of the following bills:

Senate Bill No. 1353

Senate Bill No. 1390

Senate Bill No. 1418

Senate Bill No. 1499

Senate Bill No. 1500

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

Senate Bill No. 1353, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 438.

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.

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. 1068**Yeas—31**

Bennett

Emmons

McManus

Shugars

Bullard

Garcia

Miller

Sikkema

Byrum

Gast

North

Smith

Cherry

Goschka

Peters

Steil

DeBeaussaert

Hoffman

Sanborn

Stille

Dingell

Johnson

Schuette

Van Regenmorter

Dunaskiss

Leland

Schwarz

Young

Emerson

McCotter

Scott

Nays—0**Excused—6**DeGrow
GougeonHart
Koivisto

Murphy

Vaughn

Not Voting—1

Hammerstrom

In The Chair: Hoffman

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. 1356, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2163a (MCL 600.2163a), as amended by 1998 PA 324.

The House of Representatives has passed the bill 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 not concurred in, 2/3 of the members serving not 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. 1368, entitled

A bill to amend 1968 PA 319, entitled "An act to provide a uniform crime reporting system; to provide for the submitting of such report to the department of state police; to require submission of the report by certain police agencies; to require the reporting on wanted persons and stolen vehicles; to require the reporting of information regarding certain persons and unidentified bodies of deceased persons; to prescribe certain powers and duties of law enforcement agencies; and to vest the director of the department of state police with certain authority," by amending section 8 (MCL 28.258), as amended by 1995 PA 39.

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

Senator DeGrow entered the Senate Chamber.

Senate Bill No. 1385, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 2213 and 2213a (MCL 500.2213 and 500.2213a), section 2213 as amended by 2000 PA 252 and section 2213a as added by 1996 PA 517, and by adding section 2213c.

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.

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

Senate Bill No. 1390, entitled

A bill to amend 1990 PA 187, entitled "The pupil transportation act," by amending section 53 (MCL 257.1853).

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.

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. 1069**Yeas—33**

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

Nays—0**Excused—5**

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | | | |

Not Voting—0

In The Chair: Schwarz

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor. The Senate agreed to the full title. The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

Senate Bill No. 1391, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 19a and 675 (MCL 257.19a and 257.675), section 19a as amended by 1998 PA 68 and section 675 as amended by 2001 PA 18.

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. 1398, entitled

A bill to amend 1990 PA 187, entitled "The pupil transportation act," by amending sections 7 and 10a (MCL 257.1807 and 257.1810a), as amended by 2000 PA 49.

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. 1410, entitled

A bill to amend 1969 PA 317, entitled "Worker's disability compensation act of 1969," by amending section 625 (MCL 418.625), as amended by 1995 PA 271.

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. 1418, entitled

A bill to amend 1993 PA 23, entitled "Michigan limited liability company act," by amending sections 102, 103, 104, 105, 106, 202, 203, 204, 207, 210, 214, 301, 303, 304, 307, 403, 405, 406, 501, 502, 503, 504, 506, 515, 603, 705a, 801, 804, 909, 1005, and 1101 (MCL 450.4102, 450.4103, 450.4104, 450.4105, 450.4106, 450.4202, 450.4203, 450.4204, 450.4207, 450.4210, 450.4214, 450.4301, 450.4303, 450.4304, 450.4307, 450.4403, 450.4405, 450.4406, 450.4501, 450.4502, 450.4503, 450.4504, 450.4506, 450.4515, 450.4603, 450.4705a, 450.4801, 450.4804, 450.4909, 450.5005, and 450.5101), section 102 as amended by 2000 PA 336 and sections 103, 202, 203, 204, 207, 301, 303, 304, 307, 403, 405, 501, 502, 503, 506, 603, 801, 909, and 1101 as amended and sections 214, 515, and 705a as added by 1997 PA 52, and by adding sections 207a and 215.

The House of Representatives has amended the bill as follows:

1. Amend page 41, line 9, after "office," by striking out "\$5.00" and inserting "\$15.00".

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

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

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

Roll Call No. 1070

Yeas—33

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

Nays—0

Excused—5

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | | | |

Not Voting—0

In The Chair: Schwarz

The question being on concurring in the committee recommendation to give the bill immediate effect,
 The recommendation was concurred in, 2/3 of the members serving voting therefor.
 The Senate agreed to the full title.
 The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

Senate Bill No. 1428, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 3341 (MCL 500.3341), as added by 2002 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.

Senate Bill No. 1434, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 250 (MCL 500.250).
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.

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

Senate Bill No. 1447, entitled

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 17b of chapter XIIA (MCL 712A.17b), as amended by 1998 PA 325.

The House of Representatives has passed the bill 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 not concurred in, 2/3 of the members serving not 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. 1448, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 1307a and 1344 (MCL 600.1307a and 600.1344), section 1307a as amended by 1986 PA 104 and section 1344 as amended by 1982 PA 226.

The House of Representatives has concurred in the Senate amendment to the House amendment and pursuant to Joint Rule 20, inserted the full title.
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. 1452, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 2529 and 8371 (MCL 600.2529 and 600.8371), section 2529 as amended by 2001 PA 202 and section 8371 as amended by 1996 PA 388.

The House of Representatives has concurred in the Senate amendment to the House amendment and pursuant to Joint Rule 20, inserted the full title.
The Senate agreed to the full title.
The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

Senator DeGrow entered the Senate Chamber

Senate Bill No. 1499, entitled

A bill to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public 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 10d (MCL 460.10d), as added by 2000 PA 141.

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

The House of Representatives has passed the bill as substituted (H-5), ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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. 1071

Yeas—31

| | | | |
|--------------|-------------|----------|-----------------|
| Bennett | Emmons | McCotter | Scott |
| Bullard | Garcia | McManus | Shugars |
| Byrum | Gast | Miller | Sikkema |
| Cherry | Goschka | North | Steil |
| DeBeaussaert | Hammerstrom | Peters | Stille |
| DeGrow | Hoffman | Sanborn | Van Regenmorter |
| Dingell | Johnson | Schuette | Young |
| Dunaskiss | Leland | Schwarz | |

Nays—0

Excused—5

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | | | |

Not Voting—2

| | |
|---------|-------|
| Emerson | Smith |
|---------|-------|

In The Chair: Schwarz

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

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

The Senate agreed to the full title.

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

Senate Bill No. 1500, entitled

A bill to amend 1975 PA 228, entitled “Single business tax act,” by amending sections 39b and 39e (MCL 208.39b and 208.39e), section 39b as added by 1996 PA 441 and section 39e as added by 2002 PA 531.

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.

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. 1072

Yeas—33

| | | | |
|---------|--------|----------|---------|
| Bennett | Emmons | McCotter | Scott |
| Bullard | Garcia | McManus | Shugars |
| Byrum | Gast | Miller | Sikkema |

Cherry
DeBeaussaert
DeGrow
Dingell
Dunaskiss
Emerson

Goschka
Hammerstrom
Hoffman
Johnson
Leland

North
Peters
Sanborn
Schuette
Schwarz

Smith
Steil
Stille
Van Regenmorter
Young

Nays—0

Excused—5

Gougeon
Hart

Koivisto

Murphy

Vaughn

Not Voting—0

In The Chair: Schwarz

The question being on concurring in the committee recommendation to give the bill immediate effect,
The recommendation was concurred in, 2/3 of the members serving voting therefor.
The Senate agreed to the full title.
The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

Senate Bill No. 1519, entitled

A bill to amend 1992 PA 147, entitled “Neighborhood enterprise zone act,” by amending section 4 (MCL 207.774), as amended by 2001 PA 93.

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.

Senator Emerson moved that Senator Peters be temporarily excused from the balance of today’s session.
The motion prevailed.

By unanimous consent the Senate returned to the order of

Motions and Communications

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

House Bill No. 6268

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

By unanimous consent the Senate returned to the order of

General Orders

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

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

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

House Bill No. 6268, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending section 109 (MCL 400.109), as amended by 2000 PA 168.

The bill was placed on the order of Third Reading of Bills.

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

House Bill No. 4675, entitled

A bill to amend 1992 PA 234, entitled "The judges retirement act of 1992," (MCL 38.2101 to 38.2670) by adding section 512.

Substitute (S-2).

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

1. Amend page 1, line 6, after the second "JANUARY 1," by striking out "1999" and inserting "1993".
2. Amend page 2, line 11, by striking out the balance of the line through "3.0%" on line 16.

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

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

House Bill No. 6028, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 224a (MCL 750.224a).

Substitute (S-1).

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

1. Amend page 2, line 4, after "OFFICER," by striking out the balance of the line through "OFFICER" on line 5 and inserting "AN EMPLOYEE OF THE DEPARTMENT OF CORRECTIONS".

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

House Bill No. 4675

House Bill No. 6498

House Bill No. 6028

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

The following bill was read a third time:

House Bill No. 4675, entitled

A bill to amend 1992 PA 234, entitled "The judges retirement act of 1992," (MCL 38.2101 to 38.2670) by adding section 512.

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. 1073

Yeas—31

| | | | |
|--------------|-------------|----------|-----------------|
| Bennett | Emerson | Leland | Shugars |
| Bullard | Emmons | McCotter | Sikkema |
| Byrum | Garcia | McManus | Smith |
| Cherry | Gast | Miller | Steil |
| DeBeaussaert | Goschka | North | Stille |
| DeGrow | Hammerstrom | Sanborn | Van Regenmorter |
| Dingell | Hoffman | Schwarz | Young |
| Dunaskiss | Johnson | Scott | |

Nays—0**Excused—6**Gougeon
HartKoivisto
Murphy

Peters

Vaughn

Not Voting—1

Schuette

In The Chair: Schwarz

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

The recommendation was not concurred in, 2/3 of the members serving not voting therefor.

Senator DeGrow moved that the bill be given immediate effect.

The motion prevailed, 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 establish a judges retirement system; to provide for the administration and maintenance of the retirement system; to create a retirement board; to prescribe the powers and duties of the retirement board; to establish certain reserves for the retirement system; to establish certain funds; to prescribe the powers and duties of certain state departments and certain state and local officials and employees; to provide for certain disqualifications; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.”.

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 6498, entitled

A bill to amend 1961 PA 236, entitled “Revised judicature act of 1961,” by amending sections 504, 517, and 803 (MCL 600.504, 600.517, and 600.803), section 504 as amended by 2001 PA 254, section 517 as amended by 2001 PA 257, and section 803 as amended by 2001 PA 253.

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. 1074**Yeas—25**Bennett
Bullard
Byrum
DeBeaussaert
DeGrow
Dunaskiss
EmmonsGarcia
Gast
Goschka
Hammerstrom
Hoffman
JohnsonLeland
McCotter
McManus
North
Sanborn
SchuetteSchwarz
Shugars
Sikkema
Steil
Stille
Van Regenmorter**Nays—7**Cherry
DingellEmerson
MillerScott
Smith

Young

Excused—6Gougeon
HartKoivisto
Murphy

Peters

Vaughn

Not Voting—0

In The Chair: Schwarz

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was not concurred in, 2/3 of the members serving not voting therefor.

Senator Van Regenmorter offered to amend the title to read as follows:

A bill to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 504, 517, 803, 807, 810a, and 5805 (MCL 600.504, 600.517, 600.803, 600.807, 600.810a, and 600.5805), section 504 as amended by 2001 PA 254, section 517 as amended by 2001 PA 257, section 803 as amended by 2001 PA 253, section 807 as added by 1978 PA 543, section 810a as added by 2002 PA 92, and section 5805 as amended by 2000 PA 3.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

Protest

Senator Cherry, under his constitutional right of protest (Art. 4, Sec. 18), protested against concurrence in immediate effect for House Bill No. 6498.

Senator Cherry's statement is as follows:

This bill had within it an unusual provision in terms of what would happen if a judge retired post a particular date. My understanding was that one of the purposes of this bill was to reduce judgeships in Wayne County. I know a number of these members, at least on this side of the aisle, voted "no" because of that question. As it was worded, apparently, if you retired prior to January 1 at noon, the seat was continued, but if you retired after January 1 at noon, the seat was eliminated. It seems to me that if there's a value in eliminating a seat, it ought to be regardless of when you retire. By denying immediate effect, that's the effect we have that when the retirement occurs, the seat's eliminated. I know that some people still are opposed to elimination of the seat, but at least it's being done in a consistent fashion by denying immediate effect.

The following bill was read a third time:

House Bill No. 6028, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 224a (MCL 750.224a).

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. 1075**Yeas—27**Bennett
Bullard
ByrumDunaskiss
Emmons
GarciaJohnson
McCotter
McManusSchwarz
Shugars
Sikkema

Cherry
DeBeausaert
DeGrow
Dingell

Gast
Goschka
Hammerstrom
Hoffman

Miller
North
Sanborn
Schuette

Steil
Stille
Van Regenmorter

Nays—5

Emerson
Leland

Scott

Smith

Young

Excused—6

Gougeon
Hart

Koivisto
Murphy

Peters

Vaughn

Not Voting—0

In The Chair: Schwarz

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

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

“An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; 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 such trials; 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.

Senator Emmons moved that the rules be suspended and that the following bill, now on the order of Third Reading of Bills, be placed on its immediate passage at the head of the Third Reading of Bills calendar:

House Bill No. 6268

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

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

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

The motion prevailed.

Senator DeGrow’s statement is as follows:

I have a tribute here for one of our employees who’s retiring—Kathy DeGrow, who for the last four years has been the director of our policy office and has done just a super job. Also intermittently over the last 25 years, she has done various jobs. Some were hazardous duty, such as when she reluctantly agreed to serve on the state Board of Education for a while at my request and the Governor’s appointment. She took that for as long as she could before she got out of that. She’s served in a variety of positions throughout state government, including director of the Women’s Commission. I just want to thank her for all of her service not just for the Senate, but the people of the state of Michigan. You know, we do these tributes, and we assume they’re pretty truthful, but I will read one line in it that’s shaky: “And she treasures the time she spends with her husband Mike.” I don’t know who drafted this thing, but she treasures most of the time she spends with her husband Mike. Anyway, Kathy, I want to thank you for directing our policy staff for the last four years and all your work on behalf of the people of Michigan.

The following bill was read a third time:

House Bill No. 6268, entitled

A bill to amend 1939 PA 280, entitled “The social welfare act,” by amending section 109 (MCL 400.109), as amended by 2000 PA 168.

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. 1076

Yeas—31

| | | | |
|--------------|-------------|----------|-----------------|
| Bennett | Emerson | McCotter | Shugars |
| Bullard | Garcia | McManus | Sikkema |
| Byrum | Gast | Miller | Smith |
| Cherry | Goschka | North | Steil |
| DeBeaussaert | Hammerstrom | Sanborn | Stille |
| DeGrow | Hoffman | Schuette | Van Regenmorter |
| Dingell | Johnson | Schwarz | Young |
| Dunaskiss | Leland | Scott | |

Nays—0

Excused—6

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Peters | Vaughn |
| Hart | Murphy | | |

Not Voting—1

Emmons

In The Chair: Schwarz

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

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

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

“An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates.”

The Senate agreed to the full title.

The following bill was announced:

House Bill No. 6501, entitled

A bill to amend 1975 PA 228, entitled “Single business tax act,” by amending section 38g (MCL 208.38g), as added by 2000 PA 143.

(This bill was read a third time earlier today, amendments offered and consideration postponed. See p. 2567.)

The question being on the adoption of the amendments offered by Senator Schuette, Senator Schuette withdrew the amendments.

Senator Schuette offered the following substitute:
Substitute (S-5).

The question being on the adoption of the substitute,
Senator Schuette offered the following amendment to the substitute:

1. Amend page 22, line 7, after “(1)(A).” by inserting “IF ALL COMPONENTS OF A MULTIPHASE PROJECT ARE NOT COMPLETED BY 10 YEARS AFTER THE DATE ON WHICH THE PREAPPROVAL LETTER FOR THE PROJECT WAS ISSUED, THE QUALIFIED TAXPAYER THAT RECEIVED THE PREAPPROVAL LETTER FOR THE PROJECT SHALL PAY TO THE STATE TREASURER, AS A PENALTY, AN AMOUNT EQUAL TO THE SUM OF ALL CREDITS CLAIMED AND ASSIGNED FOR ALL COMPONENTS OF THE MULTIPHASE PROJECT AND NO CREDITS BASED ON THAT MULTIPHASE PROJECT SHALL BE CLAIMED AFTER THAT DATE BY THE QUALIFIED TAXPAYER OR ANY ASSIGNEE OF THE QUALIFIED TAXPAYER. THE PENALTY UNDER THIS SUBSECTION IS SUBJECT TO INTEREST ON THE AMOUNT OF THE CREDIT CLAIMED OR ASSIGNED DETERMINED INDIVIDUALLY FOR EACH COMPONENT AT THE RATE IN SECTION 23(2) OF 1941 PA 122, MCL 205.23 BEGINNING ON THE DATE THAT THE CREDIT FOR THAT COMPONENT WAS CLAIMED OR ASSIGNED.”.

The amendment to the substitute was adopted.

The substitute, as amended, 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. 1077

Yeas—32

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

Nays—0

Excused—6

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Peters | Vaughn |
| Hart | Murphy | | |

Not Voting—0

In The Chair: Schwarz

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

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

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

“An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation.”.

The Senate agreed to the full title.

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

House Bill No. 6502, entitled

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending sections 13 and 15 (MCL 125.2663 and 125.2665), as amended by 2000 PA 145.

The above bill was read a third time.

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. 1078

Yeas—32

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

Nays—0

Excused—6

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Peters | Vaughn |
| Hart | Murphy | | |

Not Voting—0

In The Chair: Schwarz

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

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

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

"An act to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans relating to the designation and treatment of brownfield redevelopment zones; to promote the revitalization of environmentally distressed areas; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing."

The Senate agreed to the full title.

Senator Emmons moved to reconsider the vote by which consideration of the following bills were postponed for today:

House Bill No. 5583

House Bill No. 5584

The motion prevailed.

The question being on the motion that further consideration of the bills be postponed for today,

Senator Emmons withdrew the motion.

The following bill was announced:

House Bill No. 5583, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1285a (MCL 380.1285a), as added by 1996 PA 285.

(This bill was passed earlier today and the motion to reconsider the vote postponed. See p. 2562.)

The question being on the motion to reconsider the vote by which the bill was passed.
 The motion prevailed, 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. 1079

Yeas—32

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

Nays—0

Excused—6

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Peters | Vaughn |
| Hart | Murphy | | |

Not Voting—0

In The Chair: Schwarz

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

“An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts.”

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5584, entitled

A bill to amend 1973 PA 116, entitled “An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,” by amending section 1 (MCL 722.111), as amended by 1994 PA 205.

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. 1080

Yeas—30

| | | | |
|--------------|-------------|----------|---------|
| Bennett | Emmons | McManus | Shugars |
| Bullard | Garcia | Miller | Sikkema |
| Byrum | Gast | North | Smith |
| Cherry | Goschka | Sanborn | Steil |
| DeBeaussaert | Hammerstrom | Schuette | Stille |

DeGrow
Dingell
Dunaskiss

Hoffman
Johnson
McCotter

Schwarz
Scott

Van Regenmorter
Young

Nays—0

Excused—6

Gougeon
Hart

Koivisto
Murphy

Peters

Vaughn

Not Voting—2

Emerson

Leland

In The Chair: Schwarz

The Senate agreed to the title of the bill.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator Emmons moved that the Committee on Economic Development, International Trade and Regulatory Affairs be discharged from further consideration of the following bill:

House Bill No. 6343, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending sections 5453, 5454, 5455, 5456, 5457, 5458, 5459, 5460, 5462, 5463, 5467, 5468, 5471, 5472, 5473a, 5475, 5476, and 5477 (MCL 333.5453, 333.5454, 333.5455, 333.5456, 333.5457, 333.5458, 333.5459, 333.5460, 333.5462, 333.5463, 333.5467, 333.5468, 333.5471, 333.5472, 333.5473a, 333.5475, 333.5476, and 333.5477), sections 5453, 5454, 5455, 5456, 5462, 5463, 5467, 5471, and 5476 as added by 1998 PA 220 and sections 5457, 5458, 5459, 5460, 5468, 5472, 5473a, 5475, and 5477 as added by 1998 PA 219.

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

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

House Bill No. 6343

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

Senator Emmons moved that the Committee on Financial Services be discharged from further consideration of the following bill:

House Bill No. 6338, entitled

A bill to enact the uniform securities act (2002) relating to the issuance, offer, sale, or purchase of securities; to prohibit fraudulent practices in relation to securities; to establish civil and criminal sanctions for violations of the act and civil sanctions for violation of the rules promulgated pursuant to the act; to require the registration of broker-dealers, agents, investment advisers, and securities; to make uniform the law with reference to securities; and to repeal acts and parts of acts.

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

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

House Bill No. 6338

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

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

House Bill No. 5149, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 535 (MCL 750.535), as amended by 1998 PA 311.

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

Senator Emmons moved that the rules be suspended and that the following bill, now on the order of General Orders, be placed on its immediate passage:

House Bill No. 5149

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

Senator Emmons moved that the Committee on Health Policy be discharged from further consideration of the following bill:

House Bill No. 5829, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 20180 (MCL 333.20180), as added by 1994 PA 52.

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

Senator Emmons moved that the rules be suspended and that the following bill, now on the order of General Orders, be placed on its immediate passage.

House Bill No. 5829

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

Senator Emmons moved that the Committee on Financial Services be discharged from further consideration of the following bill:

House Bill No. 6120, entitled

A bill to establish the Amanda's fund for breast cancer research in the department of community health; to provide for the distribution of money from the fund; to prescribe the powers and duties of certain agencies and officials; and to provide for appropriations.

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

Senator Emmons moved that the rules be suspended and that the following bill, now on the order of General Orders, be placed on its immediate passage.

House Bill No. 6120

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

Senator Emmons moved that the Committee on Local, Urban and State Affairs be discharged from further consideration of the following bill:

House Bill No. 6490, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2567a (MCL 600.2567a), as added by 1990 PA 346.

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

Senator Emmons moved that the rules be suspended and that the following bill, now on the order of General Orders, be placed on its immediate passage.

House Bill No. 6490

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

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

House Bill No. 4605, entitled

A bill to amend 1943 PA 240, entitled "State employees' retirement act," by amending sections 45, 46, and 47 (MCL 38.45, 38.46, and 38.47), section 45 as amended by 1988 PA 351 and section 46 as amended by 2002 PA 93, and by adding section 19i.

The House of Representatives has passed the bill.

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

Senator Emmons moved that rules be suspended and that the bill be placed on its immediate passage.

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

By unanimous consent the Senate returned to the order of

General Orders

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

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

After some time spent therein, the Committee arose; and, the Assistant President pro tempore, Senator Hoffman, having resumed the Chair, the Committee reported back to the Senate, favorably and with amendment, the following bill:

House Bill No. 6343, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 5453, 5454, 5455, 5456, 5457, 5458, 5459, 5460, 5462, 5463, 5467, 5468, 5471, 5472, 5473a, 5475, 5476, and 5477 (MCL 333.5453, 333.5454, 333.5455, 333.5456, 333.5457, 333.5458, 333.5459, 333.5460, 333.5462, 333.5463, 333.5467, 333.5468, 333.5471, 333.5472, 333.5473a, 333.5475, 333.5476, and 333.5477), sections 5453, 5454, 5455, 5456, 5462, 5463, 5467, 5471, and 5476 as added by 1998 PA 220 and sections 5457, 5458, 5459, 5460, 5468, 5472, 5473a, 5475, and 5477 as added by 1998 PA 219.

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

1. Amend page 12, line 17, after the first "AND" by striking out "ANCILLARY BUILDINGS AND" and inserting "ACCESSORY".

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

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

House Bill No. 4017, entitled

A bill to amend 1877 PA 67, entitled "An act relative to the organization of the meetings of the legislature," (MCL 4.41 to 4.46) by adding section 2a.

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

1. Amend page 1, line 2, after "SHALL" by striking out "BEGIN WITH" and inserting "INCLUDE".

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

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator Emmons moved that the Committee on Financial Services be discharged from further consideration of the following bill:

House Bill No. 6493, entitled

A bill to amend 1977 PA 135, entitled "An act to prohibit certain mortgage lending practices by a credit granting institution; to prescribe the powers and duties of the commissioner of the financial institutions bureau in relation to those practices; to permit the establishment of local mortgage review boards; and to provide remedies and penalties," by repealing section 6 (MCL 445.1606).

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

Senator Emmons moved that the rules be suspended and that the following bill, now on the order of General Orders, be placed on its immediate passage.

House Bill No. 6493

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

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

House Bill No. 5691, entitled

A bill to supplement appropriations for the department of community health for the fiscal year ending September 30, 2003; and to repeal acts and parts of acts.

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

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

House Bill No. 5691

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

Senator Emmons moved that the Committee on Economic Development, International Trade and Regulatory Affairs be discharged from further consideration of the following bill:

House Bill No. 4003, entitled

A bill to regulate the installation, alteration, maintenance, improvement, and inspection of plumbing; to provide certain powers and duties for certain state agencies and departments; to create a plumbing board; to define plumbing, plumbing contractors, and the classification of plumbers and to set standards for those classifications; to provide for the licensing and regulation of classes of plumbers and plumbing contractors; to prescribe fees and the disposition of money derived from those fees; to provide for the promulgation of rules; to prescribe remedies and penalties; and to repeal acts and parts of acts.

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

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

House Bill No. 4003

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

Senator Peters entered the Senate Chamber.

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

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

The motion prevailed, and the Assistant President pro tempore, Senator Hoffman, designated Senator Peters as Chairperson.

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

House Bill No. 4003, entitled

A bill to regulate the installation, alteration, maintenance, improvement, and inspection of plumbing; to provide certain powers and duties for certain state agencies and departments; to create a plumbing board; to define plumbing, plumbing contractors, and the classification of plumbers and to set standards for those classifications; to provide for the licensing and regulation of classes of plumbers and plumbing contractors; to prescribe fees and the disposition of money derived from those fees; to provide for the promulgation of rules; to prescribe remedies and penalties; and to repeal acts and parts of acts.

Substitute (S-1).

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

By unanimous consent the Senate returned to the order of
Motions and Communications

Governor John Engler was granted unanimous consent to make a statement and Senator Emmons moved that the statement be printed in the Journal.

The motion prevailed.

Governor Engler's statement is as follows:

I see it has been 12 years since I stood at this podium. I thought I was all done here, but Senator Miller is getting nostalgic as the Dean of the Senate. He is recalling the good ol' days when we used to—I started out over where Senator DeBeaussaert is sitting—that seat where Senator Hart was helping me in those days. You know, we kinda worked through some of the issues. Senator Faxon sat behind me. It is a delight. I have spent a lot of time over the last couple of days over here in the Senate. Actually, I still know most of the members here. These terms limits are making it a little more challenging here in the Legislature, but I do want to congratulate the members of this chamber. I told a couple of you this morning that there is a little bit of history being made here today. More than 500 years of experience is walking out the door tonight, tomorrow morning, or whenever it is. I wanted to tell all of you that it has been a real privilege to serve with you. Many of you like Harry—32 years Senator Gast and I have been coming to work; 20 years we came to work in the same chamber—eight in the House and 12 here.

It has been a delight—the institution of the Legislature, the institution of government-at large. Senator Gast and I were the same age when we started, you know, I guess it has gotten a little better. We looked exactly like. I didn't play nearly as much cards as Harry, and I think that's just good living.

I just want to say that this is a great process that we have. I've had a lot of fun over the years, and I've enjoyed it, especially this chamber. There is something about a body of 38. I am fascinated to watch. The House has been in the middle of a roll call for approximately one hour now. It will be interesting to see next year, with 37 or 38 Senators having to come over here from the House, how they adjust to the one-minute clock. That's always kinda fun to see, but this is a great, great chamber. You have done some great work. It has been a real delight to work with you, and so it's kinda fun in these last days to say good-bye to everyone and to wish all of you a lot of success.

Those of you—the handful who will be here next year—I heard the speeches yesterday. Dean Emerson and Leland, the co-deans of the Senate Chamber, the Democratic leadership, Dean Sikkema, and Dean Shirley and Madam Chairman. I will be out there as a private citizen, and I will try to read the paper to see if I can try to figure out what is going on. I'd watch *Off the Record*, but I am not sure I would learn much there. I'll do the best I can to keep informed. Maybe I can talk Larry Lee into giving me a year's subscription to *Gongwer* just to kinda keep up with what's going on. I wish you all the best. It's been a great ride for me personally to spend the time that I did here, and I wish you all nothing but success in the coming session and the coming years. It will be different here, but something will never change. You still have to get 20 votes in this place to pass a bill. So good luck to everyone who will try to do that next year. Let's stay in touch. Thanks.

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

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

House Bill No. 4017

House Bill No. 6343

House Bill No. 5149

House Bill No. 4003

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

The following bill was read a third time:

House Bill No. 4017, entitled

A bill to amend 1877 PA 67, entitled "An act relative to the organization of the meetings of the legislature," (MCL 4.41 to 4.46) by adding section 2a.

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. 1081

Yeas—32

Bennett
 Bullard

Emerson
 Emmons

Leland
 McCotter

Schwarz
 Scott

| | | | |
|--------------|-------------|----------|-----------------|
| Byrum | Garcia | McManus | Shugars |
| Cherry | Gast | Miller | Sikkema |
| DeBeaussaert | Goschka | North | Smith |
| DeGrow | Hammerstrom | Peters | Stille |
| Dingell | Hoffman | Sanborn | Van Regenmorter |
| Dunaskiss | Johnson | Schuette | Young |

Nays—0

Excused—5

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | | | |

Not Voting—1

Steil

In The Chair: Hoffman

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was not concurred in, 2/3 of the members serving not voting therefor. The Senate agreed to the title of the bill.

The following bill was read a third time:

House Bill No. 6343, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 5453, 5454, 5455, 5456, 5457, 5458, 5459, 5460, 5462, 5463, 5467, 5468, 5471, 5472, 5473a, 5475, 5476, and 5477 (MCL 333.5453, 333.5454, 333.5455, 333.5456, 333.5457, 333.5458, 333.5459, 333.5460, 333.5462, 333.5463, 333.5467, 333.5468, 333.5471, 333.5472, 333.5473a, 333.5475, 333.5476, and 333.5477), sections 5453, 5454, 5455, 5456, 5462, 5463, 5467, 5471, and 5476 as added by 1998 PA 220 and sections 5457, 5458, 5459, 5460, 5468, 5472, 5473a, 5475, and 5477 as added by 1998 PA 219.

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. 1082

Yeas—31

| | | | |
|--------------|-------------|----------|-----------------|
| Bennett | Emerson | Leland | Scott |
| Bullard | Emmons | McCotter | Shugars |
| Byrum | Garcia | McManus | Sikkema |
| Cherry | Gast | Miller | Smith |
| DeBeaussaert | Goschka | North | Stille |
| DeGrow | Hammerstrom | Peters | Van Regenmorter |
| Dingell | Hoffman | Sanborn | Young |
| Dunaskiss | Johnson | Schuette | |

Nays—0

Excused—5

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | | | |

Not Voting—2

Schwarz

Steil

In The Chair: Hoffman

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

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

The Senate agreed to the full title.

Senator Emmons moved that Senator Steil be excused from the balance of today’s session.

The motion prevailed.

The following bill was read a third time:

House Bill No. 6120, entitled

A bill to establish the Amanda’s fund for breast cancer research in the department of community health; to provide for the distribution of money from the fund; to prescribe the powers and duties of certain agencies and officials; and to provide for appropriations.

The question being on the passage of the bill,

Senator Stille offered the following amendment:

1. Amend page 3, line 23, after the first “No.” by inserting “1353”.

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. 1083**Yeas—31**

| | | | |
|--------------|-------------|----------|-----------------|
| Bennett | Emmons | McCotter | Scott |
| Bullard | Garcia | McManus | Shugars |
| Byrum | Gast | Miller | Sikkema |
| Cherry | Goschka | North | Smith |
| DeBeaussaert | Hammerstrom | Peters | Stille |
| Dingell | Hoffman | Sanborn | Van Regenmorter |
| Dunaskiss | Johnson | Schuette | Young |
| Emerson | Leland | Schwarz | |

Nays—0**Excused—6**Gougeon
HartKoivisto
Murphy

Steil

Vaughn

Not Voting—1

DeGrow

In The Chair: Hoffman

Senator Emmons moved that the bill be given immediate effect.
The motion prevailed, 2/3 of the members serving voting therefor.
The Senate agreed to the title of the bill.

Senator Emmons moved that the following bill be given immediate effect:
House Bill No. 6343
The motion prevailed, 2/3 of the members serving voting therefor.

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

The following bill was read a third time:

House Bill No. 5829, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 20180 (MCL 333.20180), as added by 1994 PA 52.

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. 1084**Yeas—32**

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

Nays—0**Excused—6**

| | | | |
|---------|----------|-------|--------|
| Gougeon | Koivisto | Steil | Vaughn |
| Hart | Murphy | | |

Not Voting—0

In The Chair: Schwarz

Senator Emmons moved that the bill be given immediate effect.
The motion prevailed, 2/3 of the members serving voting therefor.

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

"An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and

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

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5149, entitled

A bill to amend 1931 PA 328, entitled “The Michigan penal code,” by amending section 535 (MCL 750.535), as amended by 1998 PA 311.

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. 1085

Yeas—31

| | | | |
|-------------|-------------|----------|-----------------|
| Bennett | Emerson | McCotter | Scott |
| Bullard | Emmons | McManus | Shugars |
| Byrum | Garcia | Miller | Sikkema |
| Cherry | Gast | North | Smith |
| DeBeussaert | Goschka | Peters | Stille |
| DeGrow | Hammerstrom | Sanborn | Van Regenmorter |
| Dingell | Johnson | Schuette | Young |
| Dunaskiss | Leland | Schwarz | |

Nays—0

Excused—6

| | | | |
|---------|----------|-------|--------|
| Gougeon | Koivisto | Steil | Vaughn |
| Hart | Murphy | | |

Not Voting—1

Hoffman

In The Chair: Schwarz

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 therefor; 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 such trials; 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:

House Bill No. 4003, entitled

A bill to regulate the installation, alteration, maintenance, improvement, and inspection of plumbing; to provide certain powers and duties for certain state agencies and departments; to create a plumbing board; to define plumbing, plumbing contractors, and the classification of plumbers and to set standards for those classifications; to provide for the licensing and regulation of the classes of plumbers and plumbing contractors; to prescribe fees and the disposition of money derived from those fees; to provide for the promulgation of rules; to prescribe remedies and penalties; 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. 1086

Yeas—31

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

Nays—0

Excused—6

| | | | |
|---------|----------|-------|--------|
| Gougeon | Koivisto | Steil | Vaughn |
| Hart | Murphy | | |

Not Voting—1

Hoffman

In The Chair: Schwarz

The Senate agreed to the title of the bill.

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

The following bill was read a third time:

House Bill No. 4605, entitled

A bill to amend 1943 PA 240, entitled “State employees’ retirement act,” by amending sections 45, 46, and 47 (MCL 38.45, 38.46, and 38.47), section 45 as amended by 1988 PA 351 and section 46 as amended by 2002 PA 93, and by adding section 19i.

The question being on the passage of the bill,

Senators DeGrow and Cherry offered the following substitute:

Substitute (S-1).

The question being on the adoption of the substitute,

Senator DeGrow offered the following amendment to the substitute:

1. Amend page 6, line 11, after "2003 ONLY," by inserting "THE GENERAL FUND PORTION OF".
The amendment to the substitute was adopted.

The substitute, as amended, was adopted, a majority of the members serving voting therefor.

The question being on the passage of the bill,

Senator Sikkema moved that further consideration of the bill be postponed temporarily.

The motion prevailed.

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

House Bill No. 6490

The motion prevailed.

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

House Bill No. 5291

House Bill No. 6493

The motion prevailed.

The following bill was read a third time:

House Bill No. 5291, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending sections 1, 15g, 16m, 22, and 35 of chapter XVII (MCL 777.1, 777.15g, 777.16m, 777.22, and 777.35), section 1 as amended by 2002 PA 34, section 15g as added by 2002 PA 206, section 16m as amended by 2001 PA 166, section 22 as amended by 2002 PA 143, and section 35 as amended by 2000 PA 279.

The question being on the passage of the bill,

Senator Van Regenmorter offered the following amendment:

1. Amend page 4, following line 29, by inserting:

"Sec. 16z. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled

Laws:

| M.C.L. | Category | Class | Description | Stat Max |
|----------------|----------|-------|---|----------|
| 750.535(2) | Property | D | Receiving or concealing stolen property having a value of \$20,000 or more or with prior convictions | 10 |
| 750.535(3) | Property | E | Receiving or concealing stolen property having a value of \$1,000 to \$20,000 or with prior convictions | 5 |
| 750.535(7) | PROPERTY | E | RECEIVING OR CONCEALING A MOTOR VEHICLE | 5 |
| 750.535a(2) | Pub ord | D | Operating a chop shop | 10 |
| 750.535a(3) | Pub ord | D | Operating a chop shop, subsequent violation | 10 |
| 750.535b | Pub saf | E | Stolen firearms or ammunition | 10 |
| 750.539c | Pub ord | H | Eavesdropping | 2 |
| 750.539d | Pub ord | H | Installing eavesdropping device | 2 |
| 750.539e | Pub ord | H | Divulging or using information obtained by eavesdropping | 2 |
| 750.539f | Pub ord | H | Manufacture or possession of eavesdropping device | 2 |
| 750.540 | Pub ord | H | Tapping or cutting telephone lines | 2 |
| 750.540f(2) | Property | E | Knowingly publishing a communications access device with prior convictions | 5 |
| 750.540g(1)(c) | Property | E | Diverting telecommunication services having a value of \$1,000 to \$20,000 or with prior convictions | 5 |
| 750.540g(1)(d) | Property | D | Diverting telecommunications services having a value of \$20,000 or more or with prior convictions | 10 |
| 750.543f | Person | A | Terrorism without causing death | Life |

| | | | | |
|----------------|----------|---|--|------|
| 750.543h(3)(a) | Pub ord | B | Hindering prosecution of terrorism — certain terrorist acts | 20 |
| 750.543h(3)(b) | Pub ord | A | Hindering prosecution of terrorism — act of terrorism | Life |
| 750.543k | Pub saf | B | Soliciting or providing material support for terrorism or terrorist acts | 20 |
| 750.543m | Pub ord | B | Threat or false report of terrorism | 20 |
| 750.543p | Pub saf | B | Use of internet or telecommunications to commit certain terrorist acts | 20 |
| 750.543r | Pub saf | B | Possession of vulnerable target information with intent to commit certain terrorist acts | 20 |
| 750.545 | Pub ord | E | Misprision of treason | 5 |
| 750.552b | Property | F | Trespassing on correctional facility property | 4”. |

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. 1087

Yeas—30

| | | | |
|---------------|-------------|----------|-----------------|
| Bennett | Emerson | McCotter | Schwarz |
| Bullard | Emmons | McManus | Scott |
| Byrum | Garcia | Miller | Shugars |
| Cherry | Gast | North | Sikkema |
| DeBeaussiaert | Goschka | Peters | Stille |
| DeGrow | Hammerstrom | Sanborn | Van Regenmorter |
| Dingell | Johnson | Schuette | Young |
| Dunaskiss | Leland | | |

Nays—1

Smith

Excused—6

| | | | |
|---------|----------|-------|--------|
| Gougeon | Koivisto | Steil | Vaughn |
| Hart | Murphy | | |

Not Voting—1

Hoffman

In The Chair: Schwarz

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

A bill to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations;

to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide 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 1a of chapter IV, section 16a of chapter IX, section 22 of chapter XVI, and sections 1, 15g, 16m, 16z, 22, and 35 of chapter XVII (MCL 764.1a, 769.16a, 776.22, 777.1, 777.15g, 777.16m, 777.16z, 777.22, and 777.35), section 1a of chapter IV as amended by 1994 PA 70, section 16a of chapter IX as amended by 2001 PA 204, section 22 of chapter XVI as amended by 2001 PA 194, section 1 of chapter XVII as amended by 2002 PA 34, section 15g of chapter XVII as added by 2002 PA 206, section 16m of chapter XVII as amended by 2001 PA 166, section 16z of chapter XVII as amended by 2002 PA 271, section 22 of chapter XVII as amended by 2002 PA 143, and section 35 of chapter XVII as amended by 2000 PA 279.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

Protest

Senator Smith, under her constitutional right of protest (Art. 4, Sec. 18), protested against the passage of House Bill No. 5291.

Senator Smith’s statement is as follows:

I voted “no” on the last bill because it adds five years to a sentence for a person who committed a felony that a child witnessed. You know, it’s a real shame that children witness crimes, but I think we would be better served if we used the money for the extra five years to put the child in guidance counseling so the child can be helped. It certainly doesn’t do anything more than add length of sentence, dollars that would be spent, and cause us to build yet more facilities. This is the direction we’ve been going in for the last five or six years, and I think it’s time to stop—stop being tough and start getting smart.

Senator Hoffman entered the Senate Chamber.

The following bill was read a third time:

House Bill No. 6493, entitled

A bill to amend 1977 PA 135, entitled “An act to prohibit certain mortgage lending practices by a credit granting institution; to prescribe the powers and duties of the commissioner of the financial institutions bureau in relation to those practices; to permit the establishment of local mortgage review boards; and to provide remedies and penalties,” by repealing section 6 (MCL 445.1606).

The question being on the passage of the bill,

The bill was passed, 2/3 of the members serving voting therefor, as follows:

Roll Call No. 1088

Yeas—32

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

Nays—0

Excused—6

Gougeon
Hart

Koivisto
Murphy

Steil

Vaughn

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

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

House Bill No. 4605, entitled

A bill to amend 1943 PA 240, entitled “State employees’ retirement act,” by amending sections 45, 46, and 47 (MCL 38.45, 38.46, and 38.47), section 45 as amended by 1988 PA 351 and section 46 as amended by 2002 PA 93, and by adding section 19i.

(This bill was read a third time earlier today, substitute adopted and consideration postponed. See p. 2617.)

The question being on the passage of the bill,

Senator DeGrow moved to reconsider the vote by which the substitute he and Senator Cherry offered was adopted.

The motion prevailed.

The question being on the adoption of the substitute,

Senator Hoffman offered the following amendments to the substitute:

1. Amend page 16, line 15, by striking out all of subparagraph (vi).
2. Amend page 17, line 21, after “service” by striking out the balance of the subdivision and inserting a period.
3. Amend page 18, line 13, after “service” by striking out the balance of the subdivision and inserting a period.
4. Amend page 19, following line 16, by inserting:

“SEC. 47A. THE RETIREMENT BOARD SHALL REPORT TO THE HOUSE AND SENATE APPROPRIATIONS COMMITTEES NOT LATER THAN JUNE 30, 2003 ON THE COST OF TRANSFERRING PERSONS TO NONCOVERED POSITIONS IF THEY WERE IN COVERED POSITIONS WITH CORRECTIONS CENTERS BEFORE THEIR POSITIONS WERE TERMINATED DUE TO THE CLOSURES OF THE CORRECTIONS CENTERS BETWEEN AUGUST 1, 1999 AND AUGUST 1, 2000, IF THE PERSONS CONTINUE IN NONCOVERED POSITIONS UNTIL RETIRING AS SUPPLEMENTAL MEMBERS UNDER SECTIONS 46 AND 47 OR TRANSFERRED TO COVERED POSITIONS BUT WHOSE LAST 3 YEARS OF CREDITED SERVICE ARE A COMBINATION OF COVERED AND UNCOVERED SERVICE DUE TO THE TERMINATION OF THE COVERED POSITIONS BY THE CLOSURE OF A CORRECTIONS CENTER.”.

The amendments to the substitute were adopted.

The substitute, as amended, 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. 1089

Yeas—32

Bennett
Bullard
Byrum
Cherry
DeBeaussaert
DeGrow
Dingell
Dunaskiss

Emerson
Emmons
Garcia
Gast
Goschka
Hammerstrom
Hoffman
Johnson

Leland
McCotter
McManus
Miller
North
Peters
Sanborn
Schuette

Schwarz
Scott
Shugars
Sikkema
Smith
Stille
Van Regenmorter
Young

Nays—0

Excused—6Gougeon
HartKoivisto
Murphy

Steil

Vaughn

Not Voting—0

In The Chair: Schwarz

Senator Hammerstrom moved that the bill be given immediate effect.

The motion prevailed, 2/3 of the members serving voting therefor.

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

A bill to amend 1943 PA 240, entitled "An act to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection with the retirement system; to require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; to prescribe and make appropriations for the retirement system; and to prescribe penalties and provide remedies," by amending sections 11, 13, 45, 46, and 47 (MCL 38.11, 38.13, 38.45, 38.46, and 38.47), sections 11, 13, and 46 as amended by 2002 PA 93 and section 45 as amended by 1988 PA 351, and by adding section 19i.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

The following bill was read a third time:

House Bill No. 6490, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2567a (MCL 600.2567a), as added by 1990 PA 346.

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. 1090**Yeas—31**Bennett
Bullard
Byrum
Cherry
DeBeaussaert
DeGrow
Dingell
DunaskissEmerson
Emmons
Garcia
Gast
Goschka
Hammerstrom
Hoffman
JohnsonLeland
McCotter
McManus
North
Peters
Sanborn
Schuette
SchwarzScott
Shugars
Sikkema
Smith
Stille
Van Regenmorter
Young**Nays—0****Excused—6**Gougeon
HartKoivisto
Murphy

Steil

Vaughn

Not Voting—1

Miller

In The Chair: Schwarz

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

“An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts.”.

The Senate agreed to the full title.

Senator Smith moved that Senator Miller be excused from the balance of today’s session.
The motion prevailed.

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

Senator Emmons moved that rule 3.202 be suspended to permit immediate consideration of the following bill:

House Bill No. 4454

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

House Bill No. 4454, entitled

A bill to amend 1987 PA 248, entitled “An act to impose a state excise tax on persons engaged in the business of providing an airport parking facility; to provide for the levy, assessment, and collection of the tax; to provide for the disposition of the collections from the tax; to create the airport parking fund; to authorize the distributions from the fund; to authorize the use of distributions from the fund as security for bonds and other obligations; to prescribe certain other matters relating to bonds and other obligations; to prescribe the powers and duties of certain state officers; and to provide for an appropriation,” by amending section 3 (MCL 207.373) and by adding section 7a; and to repeal acts and parts of acts.

The House of Representatives has substituted (H-7) the Senate substitute (S-4).

The House of Representatives has concurred in the Senate substitute (S-4) as substituted (H-7) and agreed to the title.

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

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

Roll Call No. 1091

Yeas—31

| | | | |
|---------------|-------------|----------|-----------------|
| Bennett | Emerson | Leland | Scott |
| Bullard | Emmons | McCotter | Shugars |
| Byrum | Garcia | McManus | Sikkema |
| Cherry | Gast | North | Smith |
| DeBeaussiaert | Goschka | Peters | Stille |
| DeGrow | Hammerstrom | Sanborn | Van Regenmorter |
| Dingell | Hoffman | Schuette | Young |
| Dunaskiss | Johnson | Schwarz | |

Nays—0

Excused—7

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Murphy | Vaughn |
| Hart | Miller | Steil | |

Not Voting—0

In The Chair: Schwarz

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

The motion prevailed.

Senator Dingell's statement is as follows:

Senator McCotter asked me to say that this was an abomination, but vote for it anyway.

Senator Emmons moved that rule 3.202 be suspended to permit immediate consideration of the following bills:

Senate Bill No. 1401

House Bill No. 5761

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

Senator Emerson moved that Senator Leland be temporarily excused from the balance of today's session.

The motion prevailed.

Senate Bill No. 1401, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," (MCL 436.1101 to 436.2303) by adding section 518.

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

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

A bill to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending sections 513, 531, 701, 705, 905, 1021, and 1025 (MCL 436.1513, 436.1531, 436.1701, 436.1705, 436.1905, 436.2021, and 436.2025), section 513 as amended by 2000 PA 344 and section 531 as amended by 2001 PA 223, and by adding section 518.

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

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

Roll Call No. 1092

Yeas—26

| | | | |
|--------------|-------------|----------|---------|
| Bennett | Dunaskiss | Johnson | Schwarz |
| Bullard | Emerson | McCotter | Scott |
| Byrum | Emmons | McManus | Sikkema |
| Cherry | Gast | North | Smith |
| DeBeaussaert | Goschka | Peters | Stille |
| DeGrow | Hammerstrom | Schuette | Young |
| Dingell | Hoffman | | |

Nays—4

| | | | |
|--------|---------|---------|-----------------|
| Garcia | Sanborn | Shugars | Van Regenmorter |
|--------|---------|---------|-----------------|

Excused—8

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Miller | Steil |
| Hart | Leland | Murphy | Vaughn |

Not Voting—0

In The Chair: Schwarz

Senator Emmons moved that the bill be given immediate effect.

The motion prevailed, 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.

House Bill No. 5761, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 20145 and 21523 (MCL 333.20145 and 333.21523), section 20145 as amended by 1993 PA 88.

The House of Representatives has amended the Senate substitute (S-1) as follows:

1. Amend page 4, line 20, by striking out all of section 22209.

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

The question being on concurring in the House amendment made to the Senate substitute,

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

Roll Call No. 1093**Yeas—30**

| | | | |
|--------------|-------------|----------|-----------------|
| Bennett | Emerson | McCotter | Scott |
| Bullard | Emmons | McManus | Shugars |
| Byrum | Garcia | North | Sikkema |
| Cherry | Gast | Peters | Smith |
| DeBeaussaert | Goschka | Sanborn | Stille |
| DeGrow | Hammerstrom | Schuette | Van Regenmorter |
| Dingell | Hoffman | Schwarz | Young |
| Dunaskiss | Johnson | | |

Nays—0**Excused—8**

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Miller | Steil |
| Hart | Leland | Murphy | Vaughn |

Not Voting—0

In The Chair: Schwarz

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

"An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to

promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates.”

The Senate agreed to the full title.

Senate Bill No. 914, entitled

A bill to amend 1893 PA 206, entitled “An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts,” by amending sections 2, 7u, 8, 14, 24, 24c, 34c, 35, 41, 57a, 58, 62, 63, 64, 66, 67, 70, 73, 73a, 73b, 75, 83, 85, 86, 87, 88, 90, 95, 96, 97, 98, 98a, 99, 101, 102, 103, 105, 113, 121, 122, 127b, 130, 135, 138, 139, and 144 (MCL 211.2, 211.7u, 211.8, 211.14, 211.24, 211.24c, 211.34c, 211.35, 211.41, 211.57a, 211.58, 211.62, 211.63, 211.64, 211.66, 211.67, 211.70, 211.73, 211.73a, 211.73b, 211.75, 211.83, 211.85, 211.86, 211.87, 211.88, 211.90, 211.95, 211.96, 211.97, 211.98, 211.98a, 211.99, 211.101, 211.102, 211.103, 211.105, 211.113, 211.121, 211.122, 211.127b, 211.130, 211.135, 211.138, 211.139, and 211.144), sections 2, 8, 14, and 34c as amended by 2000 PA 415, section 7u as amended by 1994 PA 390, section 24 as amended by 1994 PA 415, and section 24c as amended by 1996 PA 476.

The House of Representatives has concurred in the Senate amendments to the House substitute (H-2) and agreed to the 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

Motions and Communications

Senator Emmons 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.

Recess

Senator Emmons moved that the Senate recess subject to the call of the Chair.

The motion prevailed, the time being 7:13 p.m.

7:19 p.m.

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

Recess

Senator DeGrow moved that the Senate recess until 8:30 p.m.

The motion prevailed, the time being 7:20 p.m.

The Senate reconvened at the expiration of the recess and was called to order by the President pro tempore, Senator Schwarz.

Call of the Senate

Senator Cherry moved that there be a Call of the Senate.

The motion did not prevail, a majority of the members present not voting therefor.

By unanimous consent the Senate proceeded to the order of

Statements

Senator Emmons, Smith and Young asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Emmons' statement is as follows:

Margarita first began working for the Senate in January 1977 as an employee of Senator Arthur Cartwright. She came to the Office of the Secretary of the Senate in October 1978.

Margarita was born and raised in the city of Detroit. She has one daughter, Dominica Rojas Dixon and four stepchildren: James Montgomery, Kathy Robinson, Ann Shafer, and Molly Montgomery.

Margarita is a multitasking employee who, along with her excellent work ethic, is a fine seamstress. In fact, during our first days in the Senate Hearing Room, she volunteered to make the navy curtains in order to help keep the sun from interfering with the work of the Senate committee and our SenTel broadcast. Along with continuing her sewing and embroidery, she plans to hunt and travel with her husband Billie to whom she has been married for the past eight and one-half years.

Margarita makes her home in Ionia, which is part of my district, and I'm very proud to have her as my constituent. We thank Margarita for her years of dedication to the Senate and wish her the very best of health and happiness in the coming years.

Senator Smith's statement is as follows:

I would like to add my congratulations to Margarita for a wonderful Senate term working with us, making sure that we looked good, keeping track of what we were supposed to do, and making certain it was up on the board. But most of all, for being a friend and for being so careful of everybody's feelings, being so careful of the job that you prized and that we prized for you. It has been absolutely delightful working with you, and I wish you the best.

Senator Young's statement is as follows:

Earlier today, we voted on House Bill No. 5705, and I wasn't here. Had I been here, however, I would have voted "no" for the simple reason that this chamber passed no instant lottery tickets and vending machines, and I understand the legislation did carry that permissiveness.

By unanimous consent the Senate returned to the order of

Messages from the House

Senator Emmons moved that rule 3.202 be suspended to permit immediate consideration of the following bill:

Senate Bill No. 1164

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

Senate Bill No. 1436, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 22203, 22205, 22207, 22209, 22211, 22213, 22215, 22221, 22226, 22230, 22231, 22235, 22239, 22241, 22247, 22255, and 22260 (MCL 333.22203, 333.22205, 333.22207, 333.22209, 333.22211, 333.22213, 333.22215, 333.22221, 333.22226, 333.22230, 333.22231, 333.22235, 333.22239, 333.22241, 333.22247, 333.22255, and 333.22260), sections 22203, 22207, 22209, 22213, 22215, 22221, 22231, 22239, 22241, 22247, and 22260 as amended by 1993 PA 88, section 22205 as amended by 2000 PA 253, sections 22211, 22230, 22235, and 22255 as added by 1988 PA 332, and section 22226 as added by 1988 PA 331, and by adding section 22231a; and to repeal acts and parts of acts.

(For Conference Report, see Senate Journal No. 75, p. 2568.)

The House of Representatives has adopted the report of the Committee of Conference and ordered that the bill be given immediate effect.

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

Senate Bill No. 1164, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 3135 and 3163 (MCL 500.3135 and 500.3163), section 3135 as amended by 1995 PA 222.

The House of Representatives has amended the bill as follows:

1. Amend page 5, line 23, after "AMOUNT" by striking out the balance of the sentence and inserting "OF ULTIMATE LOSS SUSTAINED UP TO \$500,000.00."

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

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

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

Roll Call No. 1094**Yeas—21**

| | | | |
|-----------|-------------|----------|-----------------|
| Bennett | Gast | McCotter | Schwarz |
| Bullard | Goschka | McManus | Shugars |
| DeGrow | Hammerstrom | North | Sikkema |
| Dunaskiss | Hoffman | Sanborn | Stille |
| Emmons | Johnson | Schuette | Van Regenmorter |
| Garcia | | | |

Nays—7

| | | | |
|--------|--------------|-------|-------|
| Byrum | DeBeaussaert | Scott | Young |
| Cherry | Dingell | Smith | |

Excused—8

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Miller | Steil |
| Hart | Leland | Murphy | Vaughn |

Not Voting—2

| | |
|---------|--------|
| Emerson | Peters |
|---------|--------|

In The Chair: Schwarz

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

The recommendation was not concurred in, 2/3 of the members serving not voting therefor.

The Senate agreed to the full title.

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

Senator Emmons moved that rule 3.202 be suspended to permit immediate consideration of the following bill:

Senate Bill No. 616

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

Senate Bill No. 616, entitled

A bill to authorize the state administrative board to convey certain property in Jackson county; to prescribe conditions for the conveyance; and to provide for disposition of the revenue from the conveyance.

The House of Representatives has substituted (H-10) the bill.

The House of Representatives has passed the bill as substituted (H-10), ordered that it be given immediate effect and amended the title to read as follows:

A bill to authorize the state administrative board to convey, exchange, or purchase certain parcels of property in Jackson county; to authorize the department of natural resources to convey certain property in Ottawa county; to authorize the state administrative board to convey certain parcels of property in Washtenaw county; to authorize the

state administrative board to convey certain property in Calhoun county; to prescribe conditions for the conveyances; to provide for disposition of the revenue from the conveyances; to provide for the disposal of certain buildings; and to repeal acts and parts of acts.

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. 1095

Yeas—28

| | | | |
|--------------|-------------|----------|-----------------|
| Bennett | Dunaskiss | Johnson | Scott |
| Bullard | Emmons | McCotter | Shugars |
| Byrum | Garcia | McManus | Sikkema |
| Cherry | Gast | North | Smith |
| DeBeaussaert | Goschka | Sanborn | Stille |
| DeGrow | Hammerstrom | Schuette | Van Regenmorter |
| Dingell | Hoffman | Schwarz | Young |

Nays—0

Excused—8

| | | | |
|---------|----------|--------|--------|
| Gougeon | Koivisto | Miller | Steil |
| Hart | Leland | Murphy | Vaughn |

Not Voting—2

| | |
|---------|--------|
| Emerson | Peters |
|---------|--------|

In The Chair: Schwarz

The Senate agreed to the title as amended.

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

Recess

Senator Emmons moved that the Senate recess subject to the call of the Chair.

The motion prevailed, the time being 8:49 p.m.

9:17 p.m.

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

Senate Bill No. 638, entitled

A bill to amend 1996 PA 480, entitled "An act to make appropriations for the judicial branch for the fiscal year ending September 30, 1997; to make appropriations to various state departments for the fiscal year ending September 30, 1997; to make appropriations for a capital outlay program for fiscal years ending September 30, 1997; to implement the appropriations within the budgetary process; to make appropriations for planning and construction at state agencies, universities, and community colleges; to make appropriations for state building authority rent and insurance; to make a grant for state building authority rent; to provide for the acquisition of land and buildings; to provide for the elimination of fire hazards; to provide for special maintenance, remodeling and addition, alteration, renovation, demolition, and other projects; to provide for elimination of occupational safety and health hazards; to provide for the award and implementation of contracts; to provide for the purchase of furnishings and equipment relative to occupancy of a project; to provide for certain advances from the general fund; to require certain reports, plans, and agreements;

to provide for leases; to provide for transfers; to prescribe standards and conditions relating to the appropriations; to provide for the acquisition of land and the development of public recreation facilities; to provide for the powers and duties of certain state agencies, employees, and officials; and to provide for the expenditure of the appropriations,” by amending section 1813.

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

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.

Senator Emmons moved that Senators McManus and North be excused from the balance of today’s session.

The motion prevailed.

Senator Cherry moved that Senators Emerson and Peters be excused from the balance of today’s session.

The motion prevailed.

Senator Emmons moved that rule 3.202 be suspended to permit immediate consideration of the following bill:

Senate Bill No. 358

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

Senate Bill No. 358, entitled

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

The House of Representatives has substituted (H-2) the bill.

The House of Representatives has passed the bill as substituted (H-2) and ordered that it be given immediate effect.

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. 1096

Yeas—26

| | | | |
|--------------|-------------|----------|-----------------|
| Bennett | Dunaskiss | Johnson | Shugars |
| Bullard | Emmons | McCotter | Sikkema |
| Byrum | Garcia | Sanborn | Smith |
| Cherry | Gast | Schuette | Stille |
| DeBeaussaert | Goschka | Schwarz | Van Regenmorter |
| DeGrow | Hammerstrom | Scott | Young |
| Dingell | Hoffman | | |

Nays—0

Excused—12

| | | | |
|---------|----------|--------|--------|
| Emerson | Koivisto | Miller | Peters |
| Gougeon | Leland | Murphy | Steil |
| Hart | McManus | North | Vaughn |

Not Voting—0

In The Chair: Schwarz

The question being on concurring in the committee recommendation to give the bill immediate effect,
The recommendation was concurred in, 2/3 of the members serving voting therefor.
The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

Senate Bill No. 670, entitled

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

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

A bill to amend 1972 PA 230, entitled "Stille-DeRossett-Hale single state construction code act," by amending section 19 (MCL 125.1519).

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

Motions and Communications

Senator Emmons moved to suspend rule 2.203 that requires that a committee recommendation for immediate effect be placed on Senate bills upon their return from the House, to allow the Secretary of the Senate to enroll the bills if they are returned from the House without amendment or substitute, the immediate effect recommendations notwithstanding.

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

Recess

Senator Emmons moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 9:33 p.m.

10:11 p.m.

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

Committee Reports

The Committee on Appropriations reported

House Bill No. 6268, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending section 109 (MCL 400.109), as amended by 2000 PA 168.

With the recommendation that the bill pass.

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

Harry Gast
Chairperson

To Report Out:

Yeas: Senators Gast, Schwarz, McManus, Johnson, Hoffman, North, Gougeon, Bennett, Stille, Goschka, Smith, Koivisto, Young, Scott, DeBeaussaert and Dingell

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Appropriations submitted the following:

Meeting held on Thursday, December 12, 2002, at 9:00 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Gast (C), Schwarz, McManus, Johnson, Hoffman, North, Gougeon, Bennett, Stille, Goschka, Smith, Koivisto, Young, Scott, DeBeaussaert and Dingell

COMMITTEE ATTENDANCE REPORT

The Legislative Retirement Board of Trustees submitted the following:

Meeting held on Wednesday, December 4, 2002, Room 252, Capitol Building

Present: Senator Emerson

Excused: Senators McManus (C) and Schwarz

COMMITTEE ATTENDANCE REPORT

The Conference Committee on Supplemental Appropriations (HB 5705) submitted the following:

Meeting held on Thursday, December 12, 2002, 8:30 a.m., House Appropriations Room, Capitol Building

Present: Senators Gast, DeGrow and Smith

COMMITTEE ATTENDANCE REPORT

The Conference Committee on Torts Limitations on Liability of Private Facilities (SB 380) submitted the following:

Meeting held on Friday, December 13, 2002, 9:30 a.m., Rooms 402 and 403, Capitol Building

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

COMMITTEE ATTENDANCE REPORT

The Conference Committee on Health Facilities Certificate of Need (SB 1436) submitted the following:

Meeting held on Friday, December 13, 2002, 9:00 a.m., Room 208, Capitol Building

Present: Senators Schwarz (C), DeGrow and Emerson

Senator Emmons moved that the Senate adjourn.

The motion prevailed, the time being 10:12 p.m.

Pursuant to Senate Concurrent Resolution No. 92, the President pro tempore, Senator Schwarz, declared the Senate adjourned until Monday, December 30, at 11:45 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.