

No. 62
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, July 9, 1997.

12:30 a.m.

The Senate was called to order by the President, Lieutenant Governor Connie B. Binsfeld.

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

Bennett—present
Berryman—present
Bouchard—present
Bullard—present
Byrum—present
Carl—present
Cherry—present
Cisky—present
Conroy—present
DeBeaussaert—present
DeGrow—present
Dingell—present
Dunaskiss—present

Emmons—excused
Gast—present
Geake—present
Gougeon—present
Hart—present
Hoffman—present
Koivisto—present
McManus—present
Miller—present
North—present
O'Brien—present
Peters—present
Posthumus—present

Rogers—present
Schuette—present
Schwarz—present
Shugars—present
A. Smith—present
V. Smith—present
Stallings—present
Steil—present
Stille—present
Van Regenmorter—present
Vaughn—present
Young—present

Senator George Z. Hart of the 6th District offered the following invocation:

“O Lord, my God, when I in awesome wonder consider all the worlds Thy hands have made, I see the stars, I hear the rolling thunder, Thy power throughout the universe displayed. Then sings my soul, my Saviour God, to Thee; how great Thou art, how great Thou art. Then sings my soul, my Saviour God, to Thee; how great Thou art, How great Thou art.”

Senators Rogers, McManus, Bennett, Bullard, Stille, North and Gougeon entered the Senate Chamber.

Motions and Communications

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

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, July 8:
House Bill Nos. 4080 4654

The Secretary announced that the following House bills were received in the Senate and filed on Wednesday, July 9:
House Bill Nos. 4376 4905

Senator DeGrow moved that rule 2.106 be suspended to allow all conference committees to meet during recess.
The motion prevailed, a majority of the members serving voting therefor.

Recess

Senator DeGrow moved that the Senate recess until 10:00 a.m.
The motion prevailed, the time being 12:34 a.m.

The Senate reconvened at the expiration of the recess and was called to order by the President, Lieutenant Governor Binsfeld.

Recess

Senator DeGrow moved that the Senate recess until 11:15 a.m.
The motion prevailed, the time being 10:01 a.m.

The Senate reconvened at the expiration of the recess and was called to order by the President, Lieutenant Governor Binsfeld.

During the recess, Senators Dingell, Gast, Geake, Hoffman and Carl entered the Senate Chamber.

Recess

Senator DeGrow moved that the Senate recess until 1:30 p.m.
The motion prevailed, the time being 11:15 a.m.

The Senate reconvened at the expiration of the recess and pursuant to rule 1.101, in the absence of the Presiding Officers, the Senate was called to order by the Secretary of the Senate.

During the recess, Senator Posthumus entered the Senate Chamber.

Recess

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

3:13 p.m.

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

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

The motion prevailed.

Senator Vaughn's statement is as follows:

We have an important event that is occurring. I understand an employee of the Michigan Senate, who has been here for a long while, and this is her last day.

Someone has said that the highest distinction is simply a service to others. This amply describes the exceptional performance of a Session Bill Clerk, Helena Harper. Today is her last day of service to all of us. As you know, she has served all of us well and she has become an integral part of our members' Senate family. You are a part of our Senate family; don't forget that. Each day we are welcomed by her warm smile and her excellent service. She is about to move to Atlanta and it will be Michigan's loss. It is in that spirit, on behalf of all of us in this entire Senate Chamber, that the Lieutenant Governor and myself will make this presentation. It is extremely difficult to get a resolution, a certificate from the state of Michigan, as all of you can witness. You know how difficult it is to get a resolution. We have an excellent certificate for you, Helena, to share and to show you care to make life more special for others.

The Lieutenant Governor and myself, on behalf of all of our members, will make this presentation of flowers to you, Helena. We certainly thank you for your service and we wish you much in your future.

Recess

Senator DeGrow moved that the Senate recess until 8:00 p.m.

The motion prevailed, the time being 3:22 p.m.

The Senate reconvened at the expiration of the recess and was called to order by the President, Lieutenant Governor Binsfeld.

The following communications were received:
Office of the Auditor General

July 8, 1997

Enclosed is a copy of the following audit report and/or executive digest: Performance Audit of the Individual Taxes Division, Department of Treasury.

July 19, 1997

Enclosed is a copy of the following audit report and/or executive digest: Performance and Financial Audit of the Risk Management Division, Department of Management and Budget.

Sincerely,
Thomas H. McTavish, C.P.A.
Auditor General

The communications were referred to the Secretary for record.

The Secretary submitted, pursuant to Senate Rule 1.208, the following report on out-of-state travel by Members on Legislative business for the quarter ending June 30, 1997:

Senator Joanne Emmons	May 8-9	Panel member of NCSL's 1997 Spring Meeting Washington, DC	\$ 521.65
Senator Joe Conroy	June 19-22	Attend Institute for State Policy Studies Conference New Orleans, LA	\$ 434.06
Senator Phil Hoffman	May 2-5	Attend High Speed Ground Transportation Association 1997 Convention Las Vegas, NV	\$ 782.72

Recess

Senator DeGrow moved that the Senate recess subject to the call of the President.
The motion prevailed, the time being 8:04 p.m.

8:19 p.m.

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

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

House Bill No. 4522, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 82113 (MCL 324.82113), as added by 1995 PA 58.

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

Senator DeGrow 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. 4522

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

By unanimous consent the Senate proceeded to the order of

Third Reading of Bills

The following bill was read a third time:

House Bill No. 4522, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 82113 (MCL 324.82113), as added by 1995 PA 58.

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. 443

Yeas—35

Bennett
Berryman

DeGrow
Dingell

McManus
Miller

Smith, A.
Smith, V.

Bouchard	Dunaskiss	North	Stallings
Bullard	Gast	O'Brien	Steil
Byrum	Geake	Posthumus	Stille
Carl	Gougeon	Rogers	Van Regenmorter
Cisky	Hart	Schuetten	Vaughn
Conroy	Hoffman	Schwarz	Young
DeBeaussaert	Koivisto	Shugars	

Nays—0

Excused—1

Emmons

Not Voting—2

Cherry

Peters

In The Chair: President

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 bill shall read as follows:

“An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts.”.

The Senate agreed to the full title of the bill.

By unanimous consent the Senate returned to the order of

Messages from the House

Senator V. Smith moved that Senator Peters be temporarily excused from the balance of today's session.

The motion prevailed.

Senate Bill No. 225, entitled

A bill to amend 1984 PA 431, entitled “The management and budget act,” (MCL 18.1101 to 18.1594) by adding section 353d.

(For text of amendments, see Senate Journal No. 55, p. 971.)

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

Senator Hoffman offered the following amendment to the amendments:

1. Amend House Amendment No. 3, page 2, line 15, after “FUND,” by striking out the balance of the amendment and inserting “AND SHALL BE USED ONLY FOR IMPROVEMENTS ON FEDERAL AID ROADS AS APPROVED BY THE STATE TRANSPORTATION DEPARTMENT.”.

The question being on the adoption of the amendment,

Senator V. Smith requested the yeas and nays.

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

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

Roll Call No. 444**Yeas—21**

Bennett
Bouchard
Bullard
Carl
Cisky
DeGrow

Dunaskiss
Gast
Geake
Gougeon
Hoffman

McManus
North
Posthumus
Rogers
Schuette

Schwarz
Shugars
Steil
Stille
Van Regenmorter

Nays—15

Berryman
Byrum
Cherry
Conroy

DeBeaussaert
Dingell
Hart
Koivisto

Miller
O'Brien
Smith, A.
Smith, V.

Stallings
Vaughn
Young

Excused—2

Emmons

Peters

Not Voting—0

In The Chair: President

The question being on concurring in the House amendments, as amended,
The amendments were concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 445**Yeas—21**

Bennett
Bouchard
Bullard
Carl
Cisky
DeGrow

Dunaskiss
Gast
Geake
Gougeon
Hoffman

McManus
North
Posthumus
Rogers
Schuette

Schwarz
Shugars
Steil
Stille
Van Regenmorter

Nays—15

Berryman
Byrum
Cherry
Conroy

DeBeaussaert
Dingell
Hart
Koivisto

Miller
O'Brien
Smith, A.
Smith, V.

Stallings
Vaughn
Young

Excused—2

Emmons

Peters

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 concurred in, 2/3 of the members serving voting therefor.
The Senate agreed to the full title of the bill.

Protests

Senators Stallings, Berryman, O'Brien, V. Smith, Conroy and DeBeaussaert, under their constitutional right of protest (Art. IV, Sec. 18), protested against concurring in the House amendments to Senate Bill No. 225.

Senators Stallings, Berryman, O'Brien, V. Smith moved that the statements they made during the discussion of the amendment offered by Senator Hoffman be used as their reasons for voting "no."

Senator Stallings' statement is as follows:

I rise in opposition to the Hoffman amendment. I rise because what is at stake here is credibility and compromise. We struck an agreement, because originally it was at \$200 million, to go with the \$69 million out of the budget stabilization fund. That breakdown was supposed to have been, if my information is correct, that the state was to get 39.1 percent, the counties 39.1 percent and the cities 15.2 percent. When one is able to draft an amendment that in effect takes out of Wayne County, which represents the Senator from the First District, the Senator from the Second District, my district and four other districts, about \$3.2 million. Out of the city of Detroit, where we have five members of this legislative body, another \$2.8 million. I just think that it is patently unfair on its face to even begin to consider the rational behind even accepting this particular amendment. I would urge that the colleagues here on the Senate floor also take in consideration that when this bill was over in the House, it passed out of the House with 84 people over there saying "yes" to this particular deal, which was to reduce the dollar amount of the interest on the budget stabilization fund and 23 "noes." So even from that perspective there is already a precedent set that this is something that we need to accept and move forward on. So I would ask that we stick to the original agreement. Reject the Hoffman amendment and allow the locals to have the funding that they need for the maintenance and repairs.

Senator Berryman's statement is as follows:

I rise to oppose the Hoffman amendment and I will only speak once on the amendment and on the bill if that is all right. I opposed this bill when it went through the first time. I think there were only three of us who voted "no." Very simply, my philosophy is that you fix roads with road dollars. We are not using the budget stabilization fund, but we are getting technical and we are using the interest from the budget stabilization fund. We have been very blessed in this state and in the country to have a strong economy for a good number of years. It does look as though the economy is going to continue to be strong for at least the foreseeable future, but there will be a time when our people on appropriations are going to be looking for every dollar that they can find. When that downturn in the economy comes, we fund community health, mental health, corrections, school aid and all the other budgets that need to be funded. I just believe that all the money that we can put in the rainy day fund ought to be kept there to especially divert that money to go for roads. We can be here debating tonight adequate funding for roads. Roads simply ought to be built and maintained with road dollars and leave that budget stabilization fund for all the other budgets that at some day, at some point, we are going to be scraping for those dollars. So I urge a "no" vote on the amendment and also on the bill.

Senator O'Brien's first statement is as follows:

I really am happy to know that all of the Senator's roads—local roads, that is—in the 30th District apparently are in great shape. He doesn't have a local road in town that has a problem. The \$69 million of this year's money—I might remind you that we were sitting here a week or two ago and all of this money was going in for local roads. Now, there is no question that we do have a problem, and obviously, a little later on in the night you're going to find out what that problem is as we start to move into some of this transportation stuff.

What you have here is local road money that was going to go in to shore up those roads on a local level—\$69 million worth. They need it and they need it now. It's bad out there, but apparently, everything is fine in the 30th District. He needs all his money up on the expressways. Well, we're going to see all the money go up onto the interstates and onto the expressways. A little later on tonight as we're going down the road, it's another \$69 million that's going that way, too. There's an awful lot of front-loading going on here into state and federal roads. There's an awful lot of disregard, quite frankly, for those folks in the local units of government on a local level.

A lot of people don't use expressways. A lot of people transverse local service streets. Yesterday you saw a large group of people up here come together and say, "Look, we have a real problem down here." They have a simple philosophy: "You give us a couple of bucks and we'll fix a few roads. You give a few dollars more and we'll fix a few more miles. If you want to give us a little bit less, we're going to do less."

I sat and listened to people today state that they knew the local units of government had been unfunded conservatively for five years soft—five years—and maybe longer. But he's got a problem with those people. In one breath, they've been under funded for five years and in the other breath, they haven't done anything. So we'll just knock them out of the box and let the local roads go. That's it. Everything is fine. Well, I'm here to tell you that there is a lot wrong on my expressways, be they state and/or federal. There's a lot wrong on the streets, on the local roads. I, for one, want to see this money go down and be used as it was originally intended. Anything less than this money going down into the local units means you truly do not understand what in fact your next door neighbor is saying: "Fix the roads. Keep it simple, stupid." That's the problem.

Now we have all these grandiose ideas of which we're going to see an awful lot of money moved that way tonight. There's no reason for this money to go there. The needs are great on the local level. They're far greater than apparently a lot of us understand. I would hope you would reject this amendment, allow this bill to pass and become a part of the solution that we were talking about. I might remind you that this was the one where we had to convince the Governor to sign. We had to convince him there was a problem with our local roads. You know, the premise was, my goodness, if we send this to the Governor, he's going to veto it. Apparently, he doesn't think the local roads are bad. They are and you need to send this bill. To do this, and send this money off into the federal and state roads in total disregard to locals, is a very, very bad move because the local roads truly do need this money.

Senator O'Brien's second statement is as follows:

You know, early in this process, as I recall, I got up here and I made a comment something to the effect, "I really want and I really need that money." It was on that \$43 million we were getting fancy with. I've made the same comments as it relates to the funding in the CTF—what I thought we could and couldn't do with that. I certainly don't know everything. I'm still in a position over there, thank God my chairman puts up with me and subcommittee chairman puts up with me, but I'm still learning after all these years. I'd like to suggest that I really don't have an agenda. I don't have any burning desires to do anything. I don't have anybody I want to beat out of any dollars. I would like to be consistent. I would like to try and be part of the solution. I felt Senate Bill No. 225, when we started out at the \$200 million and got down to \$69, it's better than a sharp stick in the eye.

I realize we have financial problems. I realize we have bad roads—federal, state, local. But the realization that the locals have—it was the chief executive of this state who said today, he knows that they've been underfunded for five years conservatively, maybe six. That's a quote! I wonder why there's a problem with the local roads. He agrees—they've been under-funded for five years. If they're under-funded, then obviously there's not a lot going on in maintenance and repair. We did 90 percent guarantees. There's no maintenance money and part of the program that is being offered that we're going to get in later tonight is at a 90 percent guarantee. That's a good deal! But it's all for federal and state roads that carries 70-80 percent of the commercial traffic. There is no maintenance in there for those local units of government, but that's going to come up a little bit later.

We need to do something with the locals. They've got a problem. Our constituents have a problem. A gentleman, a friend of mine who lives next door, leaned over the fence and said, "What are you guys doing up there?" I said, "You know, they're working on a tax credit." He said, "I don't need your tax credit. I don't care. Send me \$100. It doesn't mean anything to me. Send me \$200. It doesn't mean a thing to me. I don't want it. I don't need it. I can't go anyplace with a \$100 bill." He said, "I do need my roads fixed." He's a retiree. He's not spending a lot of time on expressways. He doesn't want our tax credits. He doesn't want the cash. He doesn't want us to show him the money.

You know, I'm not dumb enough to not believe that he has not been prompted by the stories that have been in the papers. What don't you 148 people in Lansing understand? Fix the roads. I've got a little old retiree telling me at 72, "Take my \$100 bill, tax my tax credit and go south or do something with it. Why don't you understand this, Mike?" They're not going to understand this either. Move all this over there because you'll see a little later on tonight we're going to move a whole bunch more over there.

You know, you've got a problem over there. I don't have a problem. Your guy came to you and asked you for 20 votes and now he's over here talking to us. You have a problem on that side of the aisle because you won't back up your local units of government and you know there's going to be trouble when you go home. The people at home have got problems with those little streets they drive on to go to the store. You've got a problem. Your problems are going to be multiplied as this one suddenly moves off onto the expressways and onto the interstates. I think you need to know that there will be consequences. You wouldn't be over here talking to us tonight. You guys would have been out of here a long time ago. You don't have the votes and I suggest that if you do with this bill what you want to do with it, you're going to have far more problems than you ever saw when it finally filters on back down because those people working on the local level are residing in your districts. They're voting in your districts and they want to know why you stiffed

them on their roads. They want to know why their losing their Hummers and Humvees and half-tracks and everything else in Main Street, U.S.A. downtown.

You moved all of their money off onto the federal and state highways. You didn't give them any maintenance money. Go ahead! Do it! I'm not foolish enough to do it. I want this money. I don't want that amendment but I'd like to ship this to the locals because, I'll tell you what, we've got to take care of them, too. They are a part of this state.

Senator V. Smith's first statement is as follows:

I rise to oppose the Hoffman amendment. I have listened to the many strong arguments that my good friend and colleague from the 5th District has outlined to this body on why local roads should receive this \$69 million and why it should go to where it was intended in the first place. For myself I listened intently today as we were visited by the chief executive officer of this state and I listened just as intently as he talked about the pothole problem. The fact that the state gets blamed for the pothole problem, but 70 percent—most of the pothole problem—is primarily located on local roads. If that is true, then why do we see this attempt at this time to take the \$69 million and put it into state roads and away from those local communities. Who I heard this afternoon was the Governor expressing that this is where problem is regarding potholes. Now I see this amendment at this time out of members of his party to shift the \$69 million. It is not the right thing to do at this time. It is not the proper thing to do. Your Governor knows where the problem is. We know where the problem is. Your constituents have told you where the problem is and even though we have problems both on the state lines and the local roads, these dollars are needed on the local level. They are needed now and I hope the members will turn down the Hoffman amendment.

Senator V. Smith's second statement is as follows:

One of the things that has just chagrined us in this process is the fact that as these negotiations have come forward, our leadership was not given an opportunity to participate. So as this deal has been shaped, we have really not had any idea as to what the deal was until we were visited by the Governor today, which we did appreciate. He did lay out his perspective and his vision of how he saw this package shaping up. That really was the first concrete time we had had a chance to get an overall view.

These are some of the hesitations as to why we are where we are at this time at 9:04 p.m. on July 9 regarding such an important issue as transportation in this state.

Senator Conroy's statement, in which Senator DeBeaussiaert concurred, is as follows:

This amendment was really a deal breaker for me in terms of any cooperation. This amendment took away the right of my county to decide on what roads were broken and needed to be fixed and it transferred that to the state. It's \$1 million in Genesee County, \$3.2 million in Wayne County, \$1.2 million in Kent County, \$1.5 million in Macomb County and \$2.6 million down there in Oakland County. What you're doing is you're saying that the state can decide what needs to be repaired and how it needs to be repaired, rather than the local authorities who are doing the work.

I just don't understand. After the Governor came into our caucus today and said that he doesn't want to have a planning of roads commandeering down here in Lansing, we turn around and do just the same thing in this amendment. We decided on these dollars some few months ago in order to get the money out there to get these roads fixed at the local level. I think Senator Steil and Senator O'Brien showed leadership on this issue and did a good job. Now Senator Steil is falling off, and apparently, this is the way it's going to go.

It just seems to me that the state is not the best place to decide where our local roads ought to be fixed. We have a road commission. We have planning departments. They go out to survey the damage and they decide the order of priority. Township supervisors sit down with the road commissions and decide which roads need fixing first. It's a pretty good system to have. You're transferring all of that to the state and to people who don't even know what the problems are. I just think it's a big mistake and it's not a plus in the development of this bill or any future road bills that may follow.

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

Senate Bill No. 225

The motion prevailed.

The House of Representatives returned, in accordance with the request of the Senate

Senate Bill No. 208, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 30 (MCL 206.30), as amended by 1996 PA 484.

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

The House of Representatives returned, in accordance with the request of the Senate

House Bill No. 4872, entitled

A bill to amend 1927 PA 150, entitled "An act to prescribe a privilege tax for the use of the public highways by owners and drivers of motor vehicles by imposing a specific tax upon the sale or use, within the state of Michigan, of motor fuel; to prescribe the manner and the time of paying this tax and the duties of officials and others respecting the payment and collection of this tax; to provide for the licensing of wholesale distributors, certain retail dealers, exporters, and suppliers as defined in this act; to fix a time when this tax and interest and penalties thereon become a lien upon the property of persons, firms, partnerships, associations, or corporations, subject to the payment of this tax; to provide for the enforcement of this lien; to permit the inspection and testing of petroleum products; to provide for certain exemptions and refunds and for the disposition of the proceeds of this tax; and to prescribe penalties for the violation of this act," by amending the title and sections 2 and 22 (MCL 207.102 and 207.122), section 2 as amended by 1992 PA 225 and section 22 as amended by 1995 PA 52, and by adding chapter 7; and to repeal acts and parts of acts.

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

The House of Representatives returned, in accordance with the request of the Senate

Senate Bill No. 303, 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 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 certain acts and parts of acts," by amending sections 10, 11, 11c, 12, 13, and 15 (MCL 247.660, 247.661, 247.661c, 247.662, 247.663, and 247.665), sections 10, 11, 11c, 12, and 13 as amended by 1993 PA 294 and section 15 as amended by 1982 PA 438, and by adding sections 1g, 1h, and 1i.

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

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator DeGrow moved that the Committee on Finance be discharged from further consideration of the following bills:

House Bill No. 4642, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 4a (MCL 205.54a), as amended by 1996 PA 435.

House Bill No. 4643, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by amending section 4 (MCL 205.94), as amended by 1996 PA 436.

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

Senator DeGrow moved that the rules be suspended and that the following bills, now on the order of General Orders, be placed on their immediate passage:

House Bill No. 4642

House Bill No. 4643

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

By unanimous consent the Senate returned to the order of

Third Reading of Bills

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

Senate Bill No. 303

House Bill No. 4642

House Bill No. 4643

Senate Bill No. 208

House Bill No. 4872

The motion prevailed.

The following bill was announced:

Senate Bill No. 303, 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 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 certain acts and parts of acts," by amending sections 10, 11, 11c, 12, 13, and 15 (MCL 247.660, 247.661, 247.661c, 247.662, 247.663, and 247.665), sections 10, 11, 11c, 12, and 13 as amended by 1993 PA 294 and section 15 as amended by 1982 PA 438, and by adding sections 1g, 1h, and 1i.

Senator DeGrow 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 DeGrow moved 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,

Senator Hoffman offered the following substitute:

Substitute (S-5).

The question being on the adoption of the substitute,

Senators Bennett and Geake offered the following amendment to the substitute:

1. Amend page 25, line 14, after "FUNDS." by inserting "IN A COUNTY OF THIS STATE THAT DOES NOT HAVE A COUNTY ROAD COMMISSION, THE MONTHLY DISTRIBUTION SHALL BE IN THE FORM OF 2-PARTY CHECKS TO THE COUNTY IN THE NAME OF THE COUNTY AND EACH RESPECTIVE TOWNSHIP

WITHIN THE COUNTY. EACH DISTRIBUTION CHECK UNDER THIS SUBSECTION SHALL BE DETERMINED IN THE SAME MANNER AS FUNDS ARE DISTRIBUTED UNDER SUBSECTION (6) EXCEPT THAT EACH DETERMINATION SHALL BE BASED UPON THE MILES OF COUNTY PRIMARY AND COUNTY LOCAL ROADS WITHIN EACH RESPECTIVE TOWNSHIP. SUBJECT TO THE REQUIREMENTS OF THIS SECTION, THE COUNTY AND EACH TOWNSHIP SHALL JOINTLY DETERMINE HOW FUNDS SHALL BE ALLOCATED IN THE RESPECTIVE TOWNSHIP.”.

The question being on the adoption of the amendment to the substitute,

Senator Young moved that further consideration of the amendment be postponed temporarily.

The motion did not prevail.

Senator Young requested the yeas and nays.

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

The motion did not prevail, a majority of the members not voting therefor, as follows:

Roll Call No. 446

Yeas—13

Berryman
Byrum
Conroy
DeBeaussaert

Dingell
Hart
Koivisto

Miller
Smith, A.
Smith, V.

Stallings
Vaughn
Young

Nays—23

Bennett
Bouchard
Bullard
Carl
Cherry
Cisky

DeGrow
Dunaskiss
Gast
Geake
Gougeon
Hoffman

McManus
North
O'Brien
Posthumus
Rogers
Schuette

Schwarz
Shugars
Steil
Stille
Van Regenmorter

Excused—2

Emmons

Peters

Not Voting—0

In The Chair: President

The amendment to the substitute was adopted.

Senator Hoffman offered the following amendment to the substitute:

1. Amend page 6, line 21, after “THE” by striking out the balance of the sentence and inserting “REPAIR OF STATE BRIDGES UNDER THE PROGRAMS FUNDED IN SECTION 11.”.

The question being on the adoption of the amendment to the substitute,

Senator V. Smith requested the yeas and nays.

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

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

Roll Call No. 447

Yeas—21

Bennett
Bouchard

Dunaskiss
Gast

McManus
North

Schwarz
Shugars

Bullard
Carl
Cisky
DeGrow

Geake
Gougeon
Hoffman

Posthumus
Rogers
Schuette

Steil
Stille
Van Regenmorter

Nays—15

Berryman
Byrum
Cherry
Conroy

DeBeaussaert
Dingell
Hart
Koivisto

Miller
O'Brien
Smith, A.
Smith, V.

Stallings
Vaughn
Young

Excused—2

Emmons

Peters

Not Voting—0

In The Chair: President

The question being on the adoption of the substitute, as amended,

Senator V. Smith requested the yeas and nays.

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

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

Roll Call No. 448

Yeas—22

Bennett
Bouchard
Bullard
Carl
Cisky
DeGrow

Dunaskiss
Gast
Geake
Gougeon
Hoffman
McManus

Miller
North
Posthumus
Rogers
Schuette

Schwarz
Shugars
Steil
Stille
Van Regenmorter

Nays—14

Berryman
Byrum
Cherry
Conroy

DeBeaussaert
Dingell
Hart
Koivisto

O'Brien
Smith, A.
Smith, V.

Stallings
Vaughn
Young

Excused—2

Emmons

Peters

Not Voting—0

In The Chair: 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. 449**Yeas—21**

Bennett	Dunaskiss	McManus	Schwarz
Bouchard	Gast	North	Shugars
Bullard	Geake	Posthumus	Steil
Carl	Gougeon	Rogers	Stille
Cisky	Hoffman	Schuetten	Van Regenmorter
DeGrow			

Nays—15

Berryman	DeBeaussiaert	Miller	Stallings
Byrum	Dingell	O'Brien	Vaughn
Cherry	Hart	Smith, A.	Young
Conroy	Koivisto	Smith, V.	

Excused—2

Emmons	Peters
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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 concurred in, 2/3 of the members serving voting therefor.

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

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 safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; 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 certain acts and parts of acts," by amending sections 10, 11, 11c, 12, and 13 (MCL 247.660, 247.661, 247.661c, 247.662, and 247.663), as amended by 1993 PA 294, and by adding sections 1g and 1h.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

Protests

Senators Cherry, O'Brien, Byrum, DeBeaussiaert, Stallings, A. Smith, Berryman and Conroy, under their constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill No. 303.

Senators Cherry, Byrum and Berryman moved that the statements they made during the discussion of the substitute offered by Senator Hoffman be used as their reasons for voting "no."

The motion prevailed.

Senator Cherry's statement, in which Senator O'Brien concurred, is as follows:

I rise to urge the body, or at least inform the body, of my intention to vote "no" on the Hoffman substitute. In doing so, I don't want to diminish some of the work that the Senator from the 19th District has outlined that he has accomplished here with the substitute, because, in fact, the substitute makes changes from what was before us. Some of the suggestions that I had offered to him earlier today are incorporated and some are not. But it is an improvement. As he invokes the rule of 20 and 56—and I think we know what it's about as well—there are 20 votes that have come together on his side, so it's time to get the package moving. Well, it is a package and there are a number of concerns that spread across the bills. In toto, it's a package that I cannot support.

There are some amendments, and the recent Hoffman amendment adopted to this substitute, are ones that I cannot support. There's some language in the substitute that I would preferred to have seen out that continues to be in there. So I do have some problems with this substitute that is before us.

But most importantly, Madam President, I have problems with the package. I do understand that the members of the majority party have come together behind a proposal that has 20 votes and they seek to run it. That's certainly their right and I don't begrudge them that at all. But it's also my right to cast a "no" vote for a bill when I find that I can't support it. That is the case here with Senate Bill No. 303 in the form that is before us.

So, Madam President, I intend to vote "no." Ultimately, I do believe that with more time, we could have had a package that we all could have supported in a bipartisan way. I had hoped that would have been the case. We certainly were working towards that and I was encouraged this morning by offers from many of those on the other side of the aisle and from the Governor's office that perhaps that might be a possibility. But I can say, Madam President, that I have been struck throughout the day by comments from observers, comments from Democrats and comments from Republicans, about how very much this issue—this transportation crisis issue—resembles the Proposal A debate and resolution that occurred several years ago. That resolution was not one that we arrived at in one night or two nights or even one week. On an issue that is complex, as important and has as many dimensions as this, it does take a great deal of work, time and effort. I don't think we have exhausted all of those in the package we could vote on that could be a better one than the one that is before us. So in that regard, Madam President, I intend to vote "no."

Hopefully, this issue will still be one that we'll have to debate as it goes to the House and perhaps comes back to the Senate, but I don't think we have reached the point of having the best possible bill, which is a bill that could command a sound Democrat-Republican majority. Instead, what we are facing today, Madam President, is a package of bills that will have a 20-vote majority by members from the Republican Caucus. If they have those votes, then they ought to run them if they feel they want to run them now and not wait for an opportunity to do a bipartisan package.

Senator Byrum's statement, in which Senators DeBeaussiaert, Stallings and A. Smith concurred, is as follows:

I rise to do a couple of things. One is to acknowledge the progress that has been made today in terms of the jurisdictional issue, as well as the formula. I want to acknowledge it because I believe we really have made significant progress because there were problems from the beginning on both sides of the aisle around these two subjects.

I also want to acknowledge what you spent in terms of staff time, about 12 hours this afternoon going through what we thought was going to be the substitute for Senate Bill No. 303. We walked in here this evening at 8:00, and at about 8:20 or so and had this substitute dropped on our desk to find out that in fact we are doing some things differently. I want to acknowledge that at least some direction was made in the right way.

However, what we have before us is of the four cents, two cents is earmarked right off the top to the state. Then that additional two cents is a 40/60 percent split, which is going to leave out of the \$200 million raised \$60 million going to the locals. I would submit to you that's probably not sufficient to handle the needs in the local communities. One of the last things we want to be doing is to go forward with the perception that we really have increased the local funding, only to have increased pressures put on the necessity to raise local property taxes or go to special assessments to do local roads. So I'm very concerned about that and have been right from the beginning.

I also want to acknowledge that and I believe the votes are here to pass this subject and that will be happening momentarily. But as it goes over to the House, I believe it will be amended and changed. It is my hope that we would continue to stay here and work on this. I think a solution is within our grasp. We need to be working a little bit more bipartisanship to forge this out. But we clearly have moved in the right direction.

I'm going to be casting a "no" on the Hoffman substitute. It is my hope that it can be changed and get into a fashion that brings both sides of this aisle together after the House takes a look-see at this. We can continue working on it into the evening.

Senator Berryman's statement, in which Senators Conroy and Stallings concurred, is as follows:

I do want to thank the good Senator from the 19th District. I think he has worked very hard on this. I've talked more with the Senator from the 19th District than any other member on the caucus of the other side to try to deal with the package.

As the good Senator said, he asked me for something in writing, because of my concern about the jurisdictional takeover. I was dead against the state taking over local roads because I don't think the state has demonstrated any ability to take care of the roads that we are currently responsible for, let alone, add 23,000 or 9,200 or even 8,000, which is where it ended up. So I don't think it's just me. It's my constituents who didn't believe that the state of Michigan was doing a credible job of taking care of the roads that we are currently responsible for. Why are we going to let them take in additional miles from local roads?

I did not give the good Senator from the 19th District something in writing because it was through discussions that I had heard that the Governor and your caucus had given up on the jurisdictional takeover. That's why nothing was put in writing. When the Governor addressed our caucus this morning, that was one of two issues that I talked to him about. My bottom line was that I could not vote for something that took away local control of roads in the manner in which was being prescribed in this bill. Again, I didn't give him anything in writing because I was told that was being taken out. I think that makes this a better substitute than having that in the bill.

But there are still problems with this bill not only not having time to completely read the bill, but being involved with the process to help make it a better bill. If you look on page 6, it talks about dedicating portions of the gas tax to the critical bridge fund. Now there's been an amendment which took that money from the critical bridge fund, which was about I think \$17 million last year that went to all bridges throughout the state of Michigan. Under this bill, it put \$50 million towards bridges. That's what the one cent will bring in—\$50 million. Now that \$50 million has all been dedicated to state bridges. So there is a definite problem.

I want to make sure all my colleagues know that on line 17 we're going to dedicate one cent of the gas tax for debt service on the Build Michigan projects. It's nice to see it in a bill and in writing because I've been saying it for two years. The Build Michigan One program, because we didn't address the gas tax issue before, cost the taxpayers in the state of Michigan \$1.5 billion. You borrowed \$500 million and last year those bonds became due. That \$500 million we borrowed, because we didn't have the courage to pay-as-you-go, is now going to cost the taxpayers \$1.2 billion to \$1.5 billion to repay.

We are now trying to put money to roads. Madam President, everyone here wants to walk out of here and say, "We did something that's going to fix your roads." Well, we are now dedicating a penny for debt reduction. If you end up doing just four cents, you're going to walk out of here and you will have not addressed the issue of raising sufficient enough funds to fix the roads. One cent of that money already is going to be dedicated to pay back \$1.5 billion of bonds for Build Michigan One.

So there are still plenty of problems with the bill, Madam President—with the package. It's hard to vote for this when I'm not sure, and certainly not convinced, that the tax portion of it is going to actually do what you're going to say in your press releases. You're going to walk out of here and you're going to say, "Well, you know, we really didn't raise your taxes. We cut your taxes." Or it's a wash. But what you're going to do is walk out of here and not have a long-term solution to actually fix the roads in the state of Michigan.

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

The motion prevailed.

Senator Hoffman's statement is as follows:

This substitute is important. To the members on the other side, I did go around and spend a good deal of the day talking with members of the other side. The Senator from the 17th District made a suggestion to me this afternoon

dealing with the issue of jurisdiction and dealing with the issue of criteria for arbitration. I asked the Senator from the 17th District to draw me up a suggested idea on it. While I didn't receive anything, I nonetheless was very appreciative of the member's suggestions. That went a long way in helping me come up with this substitute.

I went to the Senate Minority Leader and asked the Minority Leader what was one of the most important issues on Senate Bill No. 303 that they had concerns about and the issue of jurisdiction came up. One thing I learned early in life—early in my political life here in the chamber—it's the rule of 20 and 56. As strong as I may have felt about the issue of jurisdiction, it's clear to me tonight that this bill, as important as I believe it is, is the third time this body has come forward and has put up the votes to pass a bill that requires improved efficiencies in transportation services and improved accountability in the area of transportation services. As strong as I feel about that, I think we probably ought to cut our losses and stick to just that—improving efficiencies and accountability, and dropping the issue of jurisdiction. So, I did. I listened to the other side and I've used your guidance to help put together a substitute that I would ask for your kind consideration on this evening.

The transportation formula—this is important—members on the other side of the aisle in the other chamber mentioned to me earlier today too that they had problems with the transportation formula that was being proposed. What we are proposing tonight is to maintain the status quo with the transportation formula. The current 15 cents remains the same—39.1% to the state, 39.1% to the county road commissions and 21.8% to the local municipalities.

Again, it's the rule of 20 and 56. Reforms—we embodied what the Senator from the 5th District authored earlier this year, a management plan. It's a part of this. The life cycle costing program, which again the Senator from the 5th District on the other side of the aisle authored, I support it.

The other side of the aisle was concerned about interdepartmental grants and phasing them out. Again, we've used your suggestions and are phasing them out over the next three years. This year in the appropriation bill, which many of us here in this chamber and the other side already have voted for—we haven't had our conference yet, but we're getting there—phased out \$43 million of the interdepartmental grants this year alone. That leaves \$66 million to do in the next two years.

Warranties—the other side again was concerned about the issue of warranties. We believe, like they do, that we need to have good warranty legislation here. Competitive bidding, statewide purchasing pools and limiting administrative expenses to 10%.

Audits—that's another issue that a number of the members on the other side felt strong about. We're going to use their direction again; not using the Auditor General, but rather, using the Treasury Department to do the performance audits on transportation programs.

Folks, I have to tell you that I think that we've done here in this bill goes a long way to addressing the concerns that the other side of the aisle have offered. I'm trying to listen here and trying to put together the best bill that I can. I think when you take a look at what we've done here, again, the other side of the aisle last night wanted to maintain the transportation economic development fund. That remains. We didn't do away with it—that remains. Again, that gives us the opportunity to bring in more development dollars for road projects in local areas and we'll have more jobs coming in.

The last point I want to make here, without belaboring the issue, is that I did listen. We are not having the Department of Transportation assume jurisdiction of any local roads in this substitute. For that reason, folks, I ask you to support the Hoffman substitute.

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

The following bill was read a third time:

House Bill No. 4642, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 4a (MCL 205.54a), as amended by 1996 PA 435.

The question being on the passage of the bill,

Senator Gougeon offered the following substitute:

Substitute (S-8).

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

The question being on the passage of the bill,

The President, Lieutenant Governor Binsfeld, resumed the Chair.

Senator Berryman moved to reconsider the vote by which the substitute was adopted.

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

The question being on the passage of the bill,

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

Roll Call No. 450**Yeas—25**

Bennett	Dingell	Hoffman	Schuette
Bouchard	Dunaskiss	McManus	Schwarz
Bullard	Gast	Miller	Shugars
Carl	Geake	North	Steil
Cisky	Gougeon	Posthumus	Stille
DeBeaussaert	Hart	Rogers	Van Regenmorter
DeGrow			

Nays—11

Berryman	Conroy	Smith, A.	Vaughn
Byrum	Koivisto	Smith, V.	Young
Cherry	O'Brien	Stallings	

Excused—2

Emmons	Peters
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Not Voting—0

In The Chair: President

Senator DeGrow moved that the bill be given immediate effect.

The motion prevailed, 2/3 of the members serving voting therefor.

Senator Gougeon offered to amend 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 sections 4a and 6a (MCL 205.54a and 205.56a), section 4a as amended by 1996 PA 435 and section 6a as amended by 1993 PA 325.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

Protests

Senators Cherry, Conroy, A. Smith and Byrum, under their constitutional right of protest (Art. IV, Sec. 18), protested against the passage of House Bill No. 4642.

Senator Cherry moved that the statement he made during the discussion of the substitute offered by Senator Gougeon be used as his reasons for voting "no."

The motion prevailed.

Senator Cherry's statement, in which Senators Conroy, A. Smith and Byrum concurred, is as follows:

I join with my colleague, the Senator from the 17th, in urging a "no" vote on this Gougeon substitute on House Bill No. 4642 because this substitute really gets at the crux of the issue here before us tonight. It really becomes a financial shell game. With the one hand we're going to place a tax increase and in the other hand we're going to place a tax cut. It's up to you to figure out—are they cutting taxes or are they raising taxes, which one goes in place first and which one comes later, is it a tax increase now and a tax cut later, and boy, we will have a good time to figure all that out. But, the public has got to understand that it's not likely their going to see a tax cut at the pump.

That's one thing I heard all weekend about when this issue emerged last week in terms of this tax shift shaft. It's not likely that any of us are ever going to see the pump price of gasoline drop to reflect a reduction in the sales tax of gasoline. In fact, what we have got is a won windfall; a windfall for those who sell petroleum in the state. You and I will all pay a higher gas tax and they will pocket the reduction of the sales tax on gasoline. Simple, you know we lose out on both accounts. There may be a tax cut here, but it may be really more of windfall profits for some.

Suppose I'm wrong. Suppose every seller of gasoline in the state through the benevolence of their—I could be wrong here, it may be that the people who sell gasoline products in the state may, through their benevolence and altruistic commitment to the citizens of this state, pass this tax cut along to all of us. Well then, who gets that cut? A good chunk of that cut is going to the out of state residents who are driving in the state and purchasing gasoline. Now, that out of state resident was the kind of mythical figure in the Proposal A debate. We were going to solve all of our school finance problems by imposing this sales tax on out of state residents, out of state residents would pay the freight for schools, would pay the freight for all sorts of state funded programs. Well, now that Proposal A has drifted from our minds, it's time to give that out of state resident a tax cut. That's what this is really about. By enlarge, they will see substantial cuts and quite frankly, I don't know why we want to give it to them. I think they ought to contribute to the state of Michigan. They're enjoying our natural resources; they're enjoying our scenic beauty; they're using our roads; they're using public services. There's nothing wrong with us collecting a sales tax when they purchase gasoline in this state.

I think there is a very major issue here. I, as much as anyone, would like to give a tax cut. But what is at work here is the shell game. I think that's a poor thing for us to do—to try to convince the citizens of this state that we can fix our roads by cutting taxes. They know better than that. They know that what we're engaged in is simply a smokescreen to really hide the screen to hide the fact that we need to increase the tax.

On that basis, I will urge a “no” vote on the Gougeon substitute.

Senator A. Smith's statement, in which Senator Byrum concurred, is as follows:

This is the first half of a two part dynamic duo bill. This is the part that gives us a tax cut at the expense of schools and local units of government. This is the right hand and I guess I am waiting for the left hand. This is the free lunch and if we have this kind of money to spend so that we can give a tax cut of four cents, I think we have this kind of money so that the General Fund can actually finance the repair of the roads.

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

The motion prevailed.

Senator Schuette's statement is as follows:

I rise to support the efforts of Senator Gougeon who has worked tirelessly on this effort to make sure in this whole mix of rebuilding Michigan's roads that we are also sensitive to the needs of taxpayers across the state of Michigan. The Gougeon tax cut will be a net tax cut for Michigan taxpayers, and because of his leadership and so many others, we're making sure that we are going to rebuild our roads, put more money in fixing the roads and make sure there is a net tax cut for Michigan citizens, and that's because of the Gougeon tax cut. I praise the Senator from the 34th for his leadership in this effort.

The following bill was read a third time:

House Bill No. 4643, entitled

A bill to amend 1937 PA 94, entitled “Use tax act,” by amending section 4 (MCL 205.94), as amended by 1996 PA 436.

The question being on the passage of the bill,

Senator North offered the following substitute:

Substitute (S-5).

The substitute 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. 451

Yeas—24

Bennett
Bouchard
Bullard

DeGrow
Dingell
Dunaskiss

Hart
Hoffman
McManus

Schuette
Schwarz
Shugars

Carl
Cisky
DeBeaussaert

Gast
Geake
Gougeon

North
Posthumus
Rogers

Steil
Stille
Van Regenmorter

Nays—12

Berryman
Byrum
Cherry

Conroy
Koivisto
Miller

O'Brien
Smith, A.
Smith, V.

Stallings
Vaughn
Young

Excused—2

Emmons

Peters

Not Voting—0

In The Chair: President

Senator DeGrow 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.

Protest

Senator Cherry, under his constitutional right of protest (Art. IV, Sec. 18), protested against the passage of House Bill No. 4643 and moved that the statement he made during the discussion of House Bill No. 4642 be printed as his reasons for voting “no.”

The motion prevailed.

Senator Cherry's statement is as follows:

I join with my colleague, the Senator from the 17th, in urging a “no” vote on this Gougeon substitute on House Bill No. 4642 because this substitute really gets at the crux of the issue here before us tonight. It really becomes a financial shell game. With the one hand we're going to place a tax increase and in the other hand we're going to place a tax cut. It's up to you to figure out are they cutting taxes or are they raising taxes, which one goes in place first and which one comes later, is it a tax increase now and a tax cut later, and boy, we will have a good time to figure all that out. But, the public has got to understand that it's not likely their going to see a tax cut at the pump.

That's one thing I heard all weekend about when this issue emerged last week in terms of this tax shift shaft. It's not likely that any of us are ever going to see the pump price of gasoline drop to reflect a reduction in the sales tax of gasoline. In fact, what we have got is a won windfall; a windfall for those who sell petroleum in the state. You and I will all pay a higher gas tax and they will pocket the reduction of the sales tax on gasoline. Simple, you know we lose out on both accounts. There may be a tax cut here, but it may be really more of windfall profits for some.

Suppose I'm wrong. Suppose every seller of gasoline in the state through the benevolence of their—I could be wrong here, it may be that the people who sell gasoline products in the state may, through their benevolence and altruistic commitment to the citizens of this state, pass this tax cut along to all of us. Well then, who gets that cut? A good chunk of that cut is going to the out of state residents who are driving in the state and purchasing gasoline. Now, that out of state resident was the kind of mythical figure in the Proposal A debate. We were going to solve all of our school finance problems by imposing this sales tax on out of state residents, out of state residents would pay the freight for schools, would pay the freight for all sorts of state funded programs. Well, now that Proposal A has drifted from our minds, it's time to give that out of state resident a tax cut. That's what this is really about. By enlarge, they will see substantial cuts and quite frankly, I don't know why we want to give it to them. I think they ought to contribute to the state of Michigan. They're enjoying our natural resources; they're enjoying our scenic beauty; they're using our roads; they're using public services. There's nothing wrong with us collecting a sales tax when they purchase gasoline in this state.

I think there is a very major issue here. I, as much as anyone, would like to give a tax cut. But what is at work here is the shell game. I think that's a poor thing for us to do—to try to convince the citizens of this state that we can fix our roads by cutting taxes. They know better than that. They know that what we're engaged in is simply a smokescreen to really hide the screen to hide the fact that we need to increase the tax.

On that basis, I will urge a "no" vote on the Gougeon substitute.

The following bill was announced:

Senate Bill No. 208, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 30 (MCL 206.30), as amended by 1996 PA 484.

Senator DeGrow 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 DeGrow moved 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,

Senator Shugars offered the following substitute:

Substitute (S-5).

The question being on the adoption of the substitute,

Point of Order

Senator V. Smith raised the Point of Order that the substitute (S-5) offered by Senator Shugars to Senate Bill No. 208 was not germane because it was a multi-section substitute amending a single-section bill.

The President, Lieutenant Governor Binsfeld, ruled that the substitute was not germane.

Recess

Senator DeGrow moved that the Senate recess subject to the call of the President.

The motion prevailed, the time being 10:53 p.m.

11:20 p.m.

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

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

The motion prevailed.

Senator DeGrow's statement is as follows:

I have tremendous respect for both you and the institution, and while I might have the votes to overrule your ruling, I believe your ruling is correct. It is not in the best interest of the institution that I attempt to use that power to do that, although I believe we could.

I will point out to the body that in the past we have done what we were proposing to do and no one objected. The part that they are objecting to was the part that would hold K-12 schools harmless for the shift of reducing the sales tax. I think it is unfortunate that they have chosen not to just let that go through as we have done in the past. They have the right to challenge and they've exercised that challenge.

My commitment is that despite the challenge on their part, in September we will come back with a bill that will earmark and protect the K-12 portion, because I believe that is important. I have no doubt the votes are here in the body to do that in September, as they would be tonight. But rather than slow down the transportation package, which has been slow enough, I think we move forward and do that in the fall.

Madam President, your ruling is correct. I wish we could just do it as we have done in the past, but I understand how the system works and we move forward from now. I will personally introduce that bill in the fall and we will accomplish it then.

Senator Cherry's statement is as follows:

Madam President, I listened very closely to the remarks of the Majority Floor Leader, the Senator from the 27th District. Let me assure him that when he introduces that bill in September, I'll be happy to support it.

I detected an element of chastisement in his remarks. Let me point out that on April 16 of this year, when this bill, Senate Bill 208, was before this body, the good Senator from the 27th District raised a point of order questioning the germaneness of a Democrat amendment that would have done the very same thing this amendment did—put a double two sections into a single-section bill. So, we may have in the past allowed this to go by, but in the past we did not ever allow it to go by on this bill. So clearly, there are other vehicles in committee that could have been used. We chose to use this vehicle. Madam President, on the previous occasion if it wasn't okay to amend a single-section bill with a double section, it certainly wasn't okay to do it tonight either.

I think the issue that the majority party is trying to get at here is an important one. I think whether he chooses to do it later tonight or next September, I will support it because I think that we do have to beat the merits of the bill.

I do think, unfortunately, that the President's ruling was correct back in April and I think it was correct tonight. I think it was a fair one. It's obvious that she's chose to support the Senate Rules, regardless of who's violating them. I appreciate that, and again, I am more than happy to support the Senator from the 27th District's bill in September when he offers it to the body.

Senator Shugars offered the following amendments:

1. Amend page 9, line 1, by striking out all of subdivision (u).

2. Amend page 9, following line 23, by inserting:

“(F) FOR A TAX YEAR BEGINNING IN 1997 \$ 2,500.00.”
and relettering the remaining subdivision.

3. Amend page 9, line 25, after “after” by striking out the balance of the line and inserting
“1997..... \$ 2,700.00.”.

4. Amend page 11, line 7, after the first “the” by striking out “1997” and inserting “1998”.

5. Amend page 11, line 9, after “in” by striking out “1997” and inserting “1998”.

6. Amend page 13, following line 18, by inserting:

“Enacting section 1. This amendatory act does not take effect unless House Bill No. 4872 of the 89th Legislature is enacted into law.”.

The amendments were adopted, a majority of the members serving voting therefor.

The question being on the passage of the bill,

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

Roll Call No. 452

Yeas—36

Bennett	DeBeaussaert	Koivisto	Shugars
Berryman	DeGrow	McManus	Smith, A.
Bouchard	Dingell	Miller	Smith, V.
Bullard	Dunaskiss	North	Stallings
Byrum	Gast	O'Brien	Steil
Carl	Geake	Posthumus	Stille
Cherry	Gougeon	Rogers	Van Regenmorter
Cisky	Hart	Schuetten	Vaughn
Conroy	Hoffman	Schwarz	Young

Nays—0

Excused—2

Emmons

Peters

Not Voting—0

In The Chair: President

Senator DeGrow 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.

Senators Schuette, Stille, Bennett, Carl, Bullard, Bouchard, Van Regenmorter, Cisky, Posthumus and Schwarz moved that they be named co-sponsors of the following bill:

Senate Bill No. 208

The motion prevailed.

The following bill was announced:

House Bill No. 4872, entitled

A bill to amend 1927 PA 150, entitled "An act to prescribe a privilege tax for the use of the public highways by owners and drivers of motor vehicles by imposing a specific tax upon the sale or use, within the state of Michigan, of motor fuel; to prescribe the manner and the time of paying this tax and the duties of officials and others respecting the payment and collection of this tax; to provide for the licensing of wholesale distributors, certain retail dealers, exporters, and suppliers as defined in this act; to fix a time when this tax and interest and penalties thereon become a lien upon the property of persons, firms, partnerships, associations, or corporations, subject to the payment of this tax; to provide for the enforcement of this lien; to permit the inspection and testing of petroleum products; to provide for certain exemptions and refunds and for the disposition of the proceeds of this tax; and to prescribe penalties for the violation of this act," by amending the title and sections 2 and 22 (MCL 207.102 and 207.122), section 2 as amended by 1992 PA 225 and section 22 as amended by 1995 PA 52, and by adding chapter 7; and to repeal acts and parts of acts.

Senator DeGrow 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 DeGrow moved 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,

Senator Hoffman offered the following substitute:

Substitute (S-8).

The question being on the adoption of the substitute,

Senator V. Smith requested the yeas and nays.

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

The question being on the adoption of the substitute,

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

The motion prevailed.

Senator DeGrow moved that when the Senate adjourns today, it stand adjourned until Thursday, July 10, at 12:01 a.m.

The motion prevailed.

Scheduled Meeting

Trial Court Assessment Commission - Friday, July 11, at 10:00 a.m., 8th Floor Conference Room, Farnum Building (3-7000).

Senator DeGrow moved that the Senate adjourn.

The motion prevailed, the time being 11:51 p.m.

In pursuance of the order previously made, the President, Lieutenant Governor Binsfeld, declared the Senate adjourned until Thursday, July 10, at 12:01 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

