

No. 49
STATE OF MICHIGAN
Journal of the Senate
96th Legislature
REGULAR SESSION OF 2011

Senate Chamber, Lansing, Wednesday, June 1, 2011.

10:00 a.m.

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

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

Anderson—present
Bieda—present
Booher—present
Brandenburg—present
Casperson—present
Caswell—present
Colbeck—present
Emmons—present
Gleason—present
Green—present
Gregory—present
Hansen—present
Hildenbrand—present

Hood—present
Hopgood—present
Hune—present
Hunter—present
Jansen—present
Johnson—present
Jones—present
Kahn—present
Kowall—present
Marleau—present
Meekhof—present
Moolenaar—present
Nofs—present

Pappageorge—present
Pavlov—present
Proos—present
Richardville—present
Robertson—present
Rocca—present
Schuitmaker—present
Smith—present
Walker—present
Warren—present
Whitmer—present
Young—present

Major William Cox of the Salvation Army of Escanaba offered the following invocation:

Heavenly Father, we come to You today on behalf of the people of this great state and this legislative body to seek Your help and advice. First, we offer thanks to You, Father, for granting our leaders the wherewithal to prepare a balanced budget for the good of our state. Good stewardship of our resources is essential if prosperity is to be achieved. We now ask that You grant wisdom to our leaders to restore prosperity back to our citizens, so that everyone can hold their head up knowing that they can now sustain the needs of their families.

Finally, we ask that You grant to us all a heart of gratitude, a spirit of compassion, and unity. Your word teaches us that more can be accomplished for the good of the whole when we have a heart of gratitude and when we share the common value of compassion and unity. We ask this in faith in Your precious and holy name. Amen.

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

Motions and Communications

Senator Meekhof moved that Senator Green be temporarily excused from today's session.

The motion prevailed.

Senator Hunter moved that Senators Gleason, Hopgood, Hood, Johnson and Young be temporarily excused from today's session.

The motion prevailed.

Senators Gleason and Green entered the Senate Chamber.

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

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

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

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

Recess

Senator Meekhof moved that the Senate recess subject to the call of the Chair.

The motion prevailed, the time being 10:05 a.m.

10:10 a.m.

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

During the recess, Senator Emmons introduced St. Johns High School Boys Wrestling Team, 2011 Division 2 State Champions; Head Coach Zane Ballard; and presented them with a Special Tribute.

Coach Ballard responded briefly.

During the recess, Senators Young, Hood and Hopgood entered the Senate Chamber.

The following communications were received and read:

Office of the Auditor General

May 26, 2011

Enclosed is a copy of the following management letter:

Management letter related to our audit of the financial audit of the State of Michigan 401K Plan for the period October 1, 2008 through September 30, 2010.

May 26, 2011

Enclosed is a copy of the following management letter:

Management letter related to our audit of the financial audit of the State of Michigan 457 Plan for the period October 1, 2008 through September 30, 2010.

Auditor General

The management letters were referred to the Committee on Government Operations.

Senator Meekhof 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:

Senate Bill No. 383

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

Senator Meekhof moved that the following resolutions, now on the order of Resolutions, be referred to the Committee on Natural Resources, Environment and Great Lakes:

Senate Resolution No. 30.

A resolution to call on the state and federal government to work cooperatively to fund the restoration of the breakwall at the Grand Marais Harbor.

Senate Concurrent Resolution No. 13.

A concurrent resolution to call on the state and federal government to work cooperatively to fund the restoration of the breakwall at the Grand Marais Harbor.

The motion prevailed.

Senator Meekhof moved that when the Senate adjourns today, it stand adjourned until Tuesday, June 7, at 10:00 a.m. The motion prevailed.

The Secretary announced that the following House bill was received in the Senate and filed on Tuesday, May 31:

House Bill No. 4565

By unanimous consent the Senate proceeded to the order of

General Orders

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

The motion prevailed, and the President pro tempore, Senator Schuitmaker, designated Senator Pappageorge as Chairperson.

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

Senate Bill No. 383, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending sections 455, 457, and 459 (MCL 208.1455, 208.1457, and 208.1459), section 455 as amended by 2010 PA 312, section 457 as added by 2008 PA 86, and section 459 as added by 2008 PA 74.

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:

Senate Bill No. 231, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 2841 (MCL 333.2841).

Substitute (S-2).

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
Senate Bill No. 380, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 13k of chapter XVII (MCL 777.13k), as added by 2002 PA 30.

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.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
Senate Bill No. 371, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 81131 (MCL 324.81131), as amended by 2009 PA 175.

Substitute (S-2).

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

During the Committee of the Whole, Senator Johnson entered the Senate Chamber.

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

Senator Meekhof 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:

Senate Bill No. 383

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

The following bill was read a third time:

House Bill No. 4167, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 12e of chapter XVII (MCL 777.12e), as amended by 2008 PA 297.

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. 264

Yeas—38

Anderson	Gregory	Kahn	Richardville
Bieda	Hansen	Kowall	Robertson
Booher	Hildenbrand	Marleau	Rocca
Brandenburg	Hood	Meekhof	Schuitmaker
Casperson	Hopgood	Moolenaar	Smith
Caswell	Hune	Nofs	Walker
Colbeck	Hunter	Pappageorge	Warren
Emmons	Jansen	Pavlov	Whitmer
Gleason	Johnson	Proos	Young
Green	Jones		

Nays—0

Excused—0

Not Voting—0

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, 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.”

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 4168, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” by amending section 601b (MCL 257.601b), as amended by 2008 PA 296.

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. 265

Yeas—38

Anderson	Gregory	Kahn	Richardville
Bieda	Hansen	Kowall	Robertson
Booher	Hildenbrand	Marleau	Rocca
Brandenburg	Hood	Meekhof	Schuitmaker
Casperson	Hopgood	Moolenaar	Smith
Caswell	Hune	Nofs	Walker
Colbeck	Hunter	Pappageorge	Warren
Emmons	Jansen	Pavlov	Whitmer
Gleason	Johnson	Proos	Young
Green	Jones		

Nays—0

Excused—0

Not Voting—0

In The Chair: Schuitmaker

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor.

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

“An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and

distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date.”.

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 4231, entitled

A bill to amend 1998 PA 386, entitled “Estates and protected individuals code,” (MCL 700.1101 to 700.8206) by adding section 5109.

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. 266

Yeas—38

Anderson	Gregory	Kahn	Richardville
Bieda	Hansen	Kowall	Robertson
Booher	Hildenbrand	Marleau	Rocca
Brandenburg	Hood	Meekhof	Schuitmaker
Casperson	Hopgood	Moolenaar	Smith
Caswell	Hune	Nofs	Walker
Colbeck	Hunter	Pappageorge	Warren
Emmons	Jansen	Pavlov	Whitmer
Gleason	Johnson	Proos	Young
Green	Jones		

Nays—0

Excused—0

Not Voting—0

In The Chair: Schuitmaker

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

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

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

“An act to codify, revise, consolidate, and classify aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating to trusts, and relating to the affairs of certain individuals under legal incapacity; to provide for the powers and procedures of the court that has jurisdiction over these matters; to provide for the validity and effect of certain transfers, contracts, and deposits that relate to death; to provide procedures to facilitate enforcement of certain trusts; and to repeal acts and parts of acts.”.

The Senate agreed to the full title.

The following bill was read a third time:

Senate Bill No. 331, entitled

A bill to amend 1998 PA 58, entitled “Michigan liquor control code of 1998,” by amending section 229 (MCL 436.1229), as amended by 2005 PA 288; 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. 267

Yeas—38

Anderson	Gregory	Kahn	Richardville
Bieda	Hansen	Kowall	Robertson
Booher	Hildenbrand	Marleau	Rocca
Brandenburg	Hood	Meekhof	Schuitmaker
Casperson	Hopgood	Moolenaar	Smith
Caswell	Hune	Nofs	Walker
Colbeck	Hunter	Pappageorge	Warren
Emmons	Jansen	Pavlov	Whitmer
Gleason	Johnson	Proos	Young
Green	Jones		

Nays—0

Excused—0

Not Voting—0

In The Chair: Schuitmaker

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 383, entitled

A bill to amend 2007 PA 36, entitled “Michigan business tax act,” by amending sections 455, 457, and 459 (MCL 208.1455, 208.1457, and 208.1459), section 455 as amended by 2010 PA 312, section 457 as added by 2008 PA 86, and section 459 as added by 2008 PA 74.

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. 268

Yeas—37

Anderson	Gregory	Jones	Proos
Bieda	Hansen	Kahn	Richardville
Booher	Hildenbrand	Kowall	Robertson
Brandenburg	Hood	Marleau	Rocca
Casperson	Hopgood	Meekhof	Schuitmaker
Caswell	Hune	Moolenaar	Smith
Colbeck	Hunter	Nofs	Walker
Emmons	Jansen	Pappageorge	Warren

Gleason
Green

Johnson

Pavlov

Whitmer

Nays—1

Young

Excused—0

Not Voting—0

In The Chair: Schuitmaker

The Senate agreed to the title of the bill.

Senators Bieda, Brandenburg, Casperson, Gleason, Hildenbrand, Hunter, Johnson, Kahn, Marleau, Meekhof, Pappageorge, Pavlov and Richardville were named co-sponsors of the bill.

Resolutions

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

House Concurrent Resolution No. 7

House Concurrent Resolution No. 8

Senate Resolution No. 34

The motion prevailed.

House Concurrent Resolution No. 12.

A concurrent resolution to express opposition to the federal government withholding road funding to the states based on passage of the Safe Teen and Novice Driver Uniform Protection Act (STAND UP Act).

Whereas, The federal government continues to overstep its bounds and involve itself in issues that should clearly be left up to the states by ignoring the tenets of the Tenth Amendment to the U.S. Constitution and by misapplying the Commerce Clause. In many cases the federal government attempts to use the denial of federal funding as budgetary coercion in areas the federal government knows it has no authority in which to otherwise interfere; and

Whereas, Michigan, on its own, already has one of the more robust three-stage graduated licensing programs in the country, and overall traffic related deaths are at record lows. Despite these facts, members of Congress have introduced the Safe Teen and Novice Driver Uniform Protection Act (STAND UP Act), that, if passed, would subject Michigan to minimum federal requirements for state graduated driver license laws or else face the withholding of a portion of federal highway program funds by the U.S. Department of Transportation; and

Whereas, Despite the success of Michigan's current driver licensure laws, Michigan would not currently be in compliance with the STAND UP Act. It would require our young drivers to delay the beginning of the licensing process and submit them to restrictions for longer periods of time. In many cases, the proposed federal law would make defacto curfew changes for our nation's youth, which should be decisions made by the states and local authorities. Unreasonable restrictions can also stress families who rely on teen drivers for errands, chores, or sibling care, and youth who participate in sports leagues, church-related events, or live in rural areas where mass transit options are not available. There do not appear to be provisions in the proposal for emergency driving exceptions, and in many cases the law will put more young drivers on the road, not fewer; and

Whereas, When mandated restrictions on driver licensure are necessary, state, rather than federal, oversight is more appropriate. The STAND UP Act is an example of the federal government overreaching its constitutionally delegated powers and intruding on sovereign state control. The Tenth Amendment to the Constitution of the United States defines the scope of federal power as being that specifically granted by the Constitution and no more. This federal mandate violates the Constitution, which reserves sovereign powers not granted to the federal government for the states; now, therefore, be it

Resolved by the House of Representatives, That we oppose the withholding of federal road funding based on passage of the STAND UP Act; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

The House of Representatives has adopted the concurrent resolution.

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

Senator Meekhof moved that the rule be suspended.

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

The question being on the adoption of the concurrent resolution,

Senator Meekhof moved that the concurrent resolution be referred to the Committee on Transportation.

The motion prevailed.

Senators Booher, Caswell, Green, Kowall and Proos were named co-sponsors of the concurrent resolution.

Introduction and Referral of Bills

Senator Johnson introduced

Senate Bill No. 399, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," (MCL 436.1101 to 436.2303) by adding section 1026.

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

Senator Pavlov introduced

Senate Bill No. 400, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding section 1255a.

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

Senators Casperson, Caswell, Nofs, Brandenburg, Jones, Marleau, Booher, Robertson, Rocca and Hildenbrand introduced

Senate Bill No. 401, entitled

A bill to amend 1964 PA 286, entitled "An act to provide for the organization, powers, and duties of the state transportation commission and the state transportation department; to provide for the appointment, powers, and duties of the state transportation director; to abolish the office of state highway commissioner and the commissioner's advisory board and to transfer their powers and duties; to provide for penalties and remedies; and to repeal certain acts and parts of acts," by amending section 7a (MCL 247.807a), as amended by 1981 PA 122, and by adding section 7b.

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

Senator Schuitmaker introduced

Senate Bill No. 402, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding section 5139.

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

Senator Schuitmaker introduced

Senate Bill No. 403, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 309 (MCL 257.309), as amended by 2004 PA 362.

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

House Bill No. 4565, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 7212 (MCL 333.7212), as amended by 2010 PA 171.

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

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

Committee Reports

The Committee on Economic Development reported

Senate Bill No. 383, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending sections 455, 457, and 459 (MCL 208.1455, 208.1457, and 208.1459), section 455 as amended by 2010 PA 312, section 457 as added by 2008 PA 86, and section 459 as added by 2008 PA 74.

With the recommendation that the bill pass.

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

Michael W. Kowall
Chairperson

To Report Out:

Yeas: Senators Kowall, Hildenbrand, Nofs, Emmons and Smith

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Economic Development submitted the following:

Meeting held on Tuesday, May 31, 2011, at 8:42 a.m., Rooms 402 and 403, Capitol Building

Present: Senators Kowall (C), Hildenbrand, Nofs, Emmons and Smith

Excused: Senators Hansen and Hunter

The Committee on Judiciary reported

Senate Bill No. 393, entitled

A bill to amend 2006 PA 88, entitled "Inmate reimbursement to municipalities act," by amending section 2 (MCL 801.312).

With the recommendation that the bill pass.

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

Rick Jones
Chairperson

To Report Out:

Yeas: Senators Jones, Schuitmaker and Bieda

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submitted the following:

Meeting held on Tuesday, May 31, 2011, at 2:30 p.m., Room 110, Farnum Building

Present: Senators Jones (C), Schuitmaker and Bieda

Absent: Senator Rocca

The Committee on Transportation reported

House Bill No. 4533, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 310e (MCL 257.310e), as amended by 2010 PA 268.

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

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

Thomas A. Casperson
Chairperson

To Report Out:

Yeas: Senators Casperson, Kowall, Brandenburg, Pavlov and Gleason

Nays: None

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

COMMITTEE ATTENDANCE REPORT

The Committee on Transportation submitted the following:

Meeting held on Tuesday, May 31, 2011, at 12:30 p.m., Room 100, Farnum Building

Present: Senators Casperson (C), Kowall, Brandenburg, Pavlov and Gleason

Excused: Senator Hood

COMMITTEE ATTENDANCE REPORT

The Committee on Energy and Technology submitted the following:

Meeting held on Tuesday, May 31, 2011, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower

Present: Senators Nofs (C), Proos, Jones, Marleau, Schuitmaker, Walker, Hopgood, Bieda and Young

Scheduled Meetings

Appropriations - Wednesday, June 8, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1760)

Senator Meekhof moved that the Senate adjourn.

The motion prevailed, the time being 10:40 a.m.

In pursuance of the order previously made, the President pro tempore, Senator Schuitmaker, declared the Senate adjourned until Tuesday, June 7, 2011, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

