

No. 75
STATE OF MICHIGAN
Journal of the Senate
97th Legislature
REGULAR SESSION OF 2013

Senate Chamber, Lansing, Thursday, September 26, 2013.

10:00 a.m.

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

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

Ananich—present
Anderson—present
Bieda—present
Booher—present
Brandenburg—present
Casperson—present
Caswell—present
Colbeck—present
Emmons—present
Green—excused
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

Pastor Darius Walden of The Tabernacle Church of God Congregation of Warren offered the following invocation:

Father, I come to You today as Your son and thanking You today that we can share this opportunity to work in government; to work in community. I pray a blessing on the proceedings today. I ask that You be amongst the decisions that are made today. I pray that You would give favor to this state. We have been through some rough times, but by Your grace, we are coming out.

I also pray personally today for the members of this great assembly, for their families, healing of their bodies, and the strength of their marriages; the growth of their intellect and their capacity and their goals in life. I pray that all of those things will receive Your favor and Your blessing.

There may be some in this place today, God, who have family members or are dealing with things that are not able to be talked about in public. God, You are near, because Your word tells me that You are near to those who have a broken heart. I pray that You would be near to those today who are the most stressed out of all people, God; those who have a broken heart; those who have needs in their districts; in the areas that they serve; and in the communities that they represent here today. May all of those whom they serve feel the strength and the full faith and confidence in the work that goes on in these halls today.

We ask this because we know that You hear us when we pray, because You said in Jeremiah 33:3, "Call upon Me and I will answer you and I will show you great and mighty things that you do not know." Today, God, I confess that we need You. We need You to show us what we don't know.

Thank you for hearing our prayer in the name above all names. Amen.

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

Motions and Communications

Senator Proos entered the Senate Chamber.

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

Senator Meekhof moved that Senator Kahn be temporarily excused from today's session.
The motion prevailed.

Senator Meekhof moved that Senator Green be excused from today's session.
The motion prevailed.

Senators Hunter and Kahn entered the Senate Chamber.

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

The motion prevailed.

Senator Schuitmaker's statement is as follows:

It's a special and also sad day, because Matthew Merrill, who has worked in our office since March of this year, has been such a great asset to our team. He has been responsible for communicating with constituents, performing casework on their behalf, assisting staff with research, and doing other projects around the office. He is always willing to go above and beyond what is expected.

After nearly eight months with us, Matt is now moving on to complete his final year at Michigan State University. Matt then plans to attend Cooley Law School in the fall of next year. I would like to present this tribute to Matt Merrill and thank him for his service to the Michigan Senate and to the people of the 20th District.

The following communication was received and read:
Office of the Auditor General

September 24, 2013

Enclosed is a copy of the following audit report:

Performance audit of the 21st Century Jobs Trust Fund Programs administered by the Michigan Strategic Fund.

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

The audit report was referred to the Committee on Government Operations.

The Secretary announced that the following House bills were received in the Senate and filed on Wednesday, September 25:

House Bill Nos. 4585 4930 4937

The Secretary announced the enrollment printing and presentation to the Governor on Wednesday, September 25, for his approval the following bills:

Enrolled Senate Bill No. 50 at 10:58 a.m.

Enrolled Senate Bill No. 257 at 2:40 p.m.

The Secretary announced that the following bills were printed and filed on Wednesday, September 25, and are available at the Michigan Legislature website:

Senate Bill Nos. 533 534 535 536 537 538 539 540

House Bill Nos. 4998 4999 5000 5001 5002 5003 5004 5005

Recess

Senator Meekhof moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 10:08 a.m.

11:11 a.m.

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

During the recess, Senator Johnson entered the Senate Chamber.

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:

House Bill No. 4229

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

Messages from the Governor

The following message from the Governor was received:

Date: September 25, 2013

Time: 2:50 p.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 50 (Public Act No. 119), being

An act to amend 1994 PA 451, entitled “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 protect the people’s right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 81101, 81115, 81122, 81129, 81133, and 81147 (MCL 324.81101, 324.81115, 324.81122, 324.81129, 324.81133, and 324.81147), section 81101 as amended by 2012 PA 246, sections 81115, 81129, and 81147 as amended by 2008 PA 240, section 81122 as added by 1995 PA 58, and section 81133 as amended by 2012 PA 340; and to repeal acts and parts of acts.

(Filed with the Secretary of State on September 25, 2013, at 3:32 p.m.)

Respectfully,
Rick Snyder
Governor

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, Lieutenant Governor Calley, designated Senator Jansen as Chairperson.

After some time spent therein, the Committee arose; and the President, Lieutenant Governor Calley, having resumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bill:

House Bill No. 4355, entitled

A bill to amend 1978 PA 59, entitled "Condominium act," by amending section 57 (MCL 559.157).

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

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

House Bill No. 4344, entitled

A bill to amend 1965 PA 203, entitled "Commission on law enforcement standards act," by amending section 2 (MCL 28.602), as amended by 2004 PA 379.

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

1. Amend page 1, line 5, after "means" by striking out "either" and inserting "ANY".
2. Amend page 2, following line 3, by inserting:

"(iii) A DETERMINATION BY THE COMMISSION THAT A PERSON SATISFIES ALL OF THE FOLLOWING CONDITIONS:

(A) THE PERSON IS THE CHIEF OF POLICE OF A POLICE DEPARTMENT OF A CITY WITH A POPULATION OF NOT LESS THAN 600,000 ACCORDING TO THE MOST RECENT DECENNIAL CENSUS.

(B) THE PERSON WAS EMPLOYED AS A LAW ENFORCEMENT OFFICER OF ANOTHER STATE WITHIN THE PREVIOUS 12 MONTHS, AND THAT STATE MAINTAINS STANDARDS SUBSTANTIALLY SIMILAR TO LAW ENFORCEMENT OFFICER MINIMUM STANDARDS."

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

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

Senate Bill No. 428, entitled

A bill to amend 1915 PA 63, entitled "An act to provide for the furnishing of suitable flag holders and United States flags for the graves of veterans who served in the armed forces of the United States for the marking and designation of the graves for memorial purposes; and to provide a penalty for the removal or destruction of the flag holders and United States flags when placed," by amending sections 1 and 1a (MCL 35.831 and 35.831a), as amended by 2006 PA 627.

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 amendments, the following bill:

House Bill No. 4229, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending sections 6, 20, 21f, 24c, 25e, 26a, 74, 95, 107, and 147a (MCL 388.1606, 388.1620, 388.1621f, 388.1624c, 388.1625e, 388.1626a, 388.1674, 388.1695, 388.1707, and 388.1747a), sections 6, 24c, 26a, 74, 95, 107, and 147a as amended and sections 21f and 25e as added by 2013 PA 60 and section 20 as amended by 2013 PA 97.

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

1. Amend page 14, line 19, after "OR" by striking out "**340.1682**" and inserting "**340.1862**".
2. Amend page 51, following line 12, by striking out all of section 95.
3. Amend page 51, following line 12, following section 95, by inserting:

"Sec. 104b. (1) In order to receive state aid under this act, a district shall comply with this section and shall administer the Michigan merit examination to pupils in grade 11, and to pupils in grade 12 who did not take the complete Michigan merit examination in grade 11, as provided in this section.

(2) For the purposes of this section, the department of management and budget shall contract with 1 or more providers to develop, supply, and score the Michigan merit examination. The Michigan merit examination shall consist of all of the following:

(a) Assessment instruments that measure English language arts, mathematics, reading, and science and are used by colleges and universities in this state for entrance or placement purposes. This shall include a writing component in which the pupil produces an extended writing sample. The Michigan merit examination shall not require any other extended writing sample.

(b) One or more tests from 1 or more test developers that assess a pupil's ability to apply at least reading and mathematics skills in a manner that is intended to allow employers to use the results in making employment decisions. The department of management and budget and the superintendent shall ensure that any test or tests selected under this subdivision have all the components necessary to allow a pupil to be eligible to receive the results of a nationally recognized evaluation of workforce readiness if the pupil's test performance is adequate.

(c) A social studies component.

(d) Any other component that is necessary to obtain the approval of the United States department of education to use the Michigan merit examination for the purposes of the ~~federal~~ no child left behind act of 2001, Public Law 107-110.

(3) In addition to all other requirements of this section, all of the following apply to the Michigan merit examination:

(a) The department of management and budget and the superintendent shall ensure that any contractor used for scoring the Michigan merit examination supplies an individual report for each pupil that will identify for the pupil's parents and teachers whether the pupil met expectations or failed to meet expectations for each standard, to allow the pupil's parents and teachers to assess and remedy problems before the pupil moves to the next grade.

(b) The department of management and budget and the superintendent shall ensure that any contractor used for scoring, developing, or processing the Michigan merit examination meets quality management standards commonly used in the assessment industry, including at least meeting level 2 of the capability maturity model developed by the software engineering institute of Carnegie Mellon university for the first year the Michigan merit examination is offered to all grade 11 pupils and at least meeting level 3 of the capability maturity model for subsequent years.

(c) The department of management and budget and the superintendent shall ensure that any contract for scoring, administering, or developing the Michigan merit examination includes specific deadlines for all steps of the assessment process, including, but not limited to, deadlines for the correct testing materials to be supplied to schools and for the correct results to be returned to schools, and includes penalties for noncompliance with these deadlines.

(d) The superintendent shall ensure that the Michigan merit examination meets all of the following:

(i) Is designed to test pupils on grade level content expectations or course content expectations, as appropriate, in all subjects tested.

(ii) Complies with requirements of the no child left behind act of 2001, Public Law 107-110.

(iii) Is consistent with the code of fair testing practices in education prepared by the joint committee on testing practices of the American psychological association.

(iv) Is factually accurate. If the superintendent determines that a question is not factually accurate and should be excluded from scoring, the state board and the superintendent shall ensure that the question is excluded from scoring.

(4) A district shall include on each pupil's high school transcript all of the following:

(a) For each high school graduate who has completed the Michigan merit examination under this section, the pupil's scaled score on each subject area component of the Michigan merit examination.

(b) The number of school days the pupil was in attendance at school each school year during high school and the total number of school days in session for each of those school years.

(5) The superintendent shall work with the provider or providers of the Michigan merit examination to produce Michigan merit examination subject area scores for each pupil participating in the Michigan merit examination, including scaling and merging of test items for the different subject area components. The superintendent shall design and distribute to districts, intermediate districts, and nonpublic schools a simple and concise document that describes the scoring for each subject area and indicates the scaled score ranges for each subject area.

(6) The Michigan merit examination shall be administered each year after March 1 and before June 1 to pupils in grade 11. The superintendent shall ensure that the Michigan merit examination is scored and the scores are returned to pupils, their parents or legal guardians, and districts not later than the beginning of the pupil's first semester of grade 12. The returned scores shall indicate at least the pupil's scaled score for each subject area component and the range of scaled scores for each subject area. In reporting the scores to pupils, parents, and schools, the superintendent shall provide standards-specific, meaningful, and timely feedback on the pupil's performance on the Michigan merit examination.

(7) A district shall administer the complete Michigan merit examination to a pupil only once and shall not administer the complete Michigan merit examination to the same pupil more than once. If a pupil does not take the complete Michigan merit examination in grade 11, the district shall administer the complete Michigan merit examination to the pupil in grade 12. If a pupil chooses to retake the college entrance examination component of the Michigan merit examination, as described in subsection (2)(a), the pupil may do so through the provider of the college entrance examination component and the cost of the retake is the responsibility of the pupil unless all of the following are met:

(a) The pupil has taken the complete Michigan merit examination.

(b) The pupil did not qualify for a Michigan promise grant under section 6 of the Michigan promise grant act, 2006 PA 479, MCL 390.1626, based on the pupil's performance on the complete Michigan merit examination.

(c) The pupil meets the income eligibility criteria for free breakfast, lunch, or milk, as determined under the Richard B. Russell national school lunch act, 42 USC 1751 to 1769i.

(d) The pupil has applied to the provider of the college entrance examination component for a scholarship or fee waiver to cover the cost of the retake and that application has been denied.

(e) After taking the complete Michigan merit examination, the pupil has not already received a free retake of the college entrance examination component paid for either by this state or through a scholarship or fee waiver by the provider.

(8) The superintendent shall ensure that the length of the Michigan merit examination and the combined total time necessary to administer all of the components of the Michigan merit examination are the shortest possible that will still maintain the degree of reliability and validity of the Michigan merit examination results determined necessary by the superintendent. The superintendent shall ensure that the maximum total combined length of time that schools are required to set aside for pupils to answer all test questions on the Michigan merit examination does not exceed 8 hours if the superintendent determines that sufficient alignment to applicable Michigan merit curriculum content standards can be achieved within that time limit.

(9) A district shall provide accommodations to a pupil with disabilities for the Michigan merit examination, as provided under section 504 of title V of the rehabilitation act of 1973, 29 USC 794; subtitle A of title II of the Americans with disabilities act of 1990, 42 USC 12131 to 12134; the individuals with disabilities education act amendments of 1997, Public Law 105-17; and the implementing regulations for those statutes. The provider or providers of the Michigan merit examination and the superintendent shall mutually agree upon the accommodations to be provided under this subsection.

(10) To the greatest extent possible, the Michigan merit examination shall be based on grade level content expectations or course content expectations, as appropriate. Not later than July 1, 2008, the department shall identify specific grade level content expectations to be taught before and after the middle of grade 11, so that teachers will know what content will be covered within the Michigan merit examination.

(11) A child who is a student in a nonpublic school or home school may take the Michigan merit examination under this section. To take the Michigan merit examination, a child who is a student in a home school shall contact the district in which the child resides, and that district shall administer the Michigan merit examination, or the child may take the Michigan merit examination at a nonpublic school if allowed by the nonpublic school. Upon request from a nonpublic school, the superintendent shall direct the provider or providers to supply the Michigan merit examination to the nonpublic school and the nonpublic school may administer the Michigan merit examination. If a district administers the Michigan merit examination under this subsection to a child who is not enrolled in the district, the scores for that child are not considered for any purpose to be scores of a pupil of the district.

(12) In contracting under subsection (2), the department of management and budget shall consider a contractor that provides electronically-scored essays with the ability to score constructed response feedback in multiple languages and provide ongoing instruction and feedback.

(13) The purpose of the Michigan merit examination is to assess pupil performance in mathematics, science, social studies, and English language arts for the purpose of improving academic achievement and establishing a statewide standard of competency. The assessment under this section provides a common measure of data that will contribute to the improvement of Michigan schools' curriculum and instruction by encouraging alignment with Michigan's curriculum framework standards and promotes pupil participation in higher level mathematics, science, social studies, and English language arts courses. These standards are based upon the expectations of what pupils should learn through high school and are aligned with national standards.

(14) FOR A PUPIL ENROLLED IN A MIDDLE COLLEGE PROGRAM, OTHER THAN A MIDDLE COLLEGE OPERATED AS A SHARED EDUCATIONAL ENTITY OR A SPECIALIZED SHARED EDUCATIONAL ENTITY, IF THE PUPIL RECEIVES AT LEAST 50% OF HIS OR HER INSTRUCTION AT THE HIGH SCHOOL WHILE IN GRADE 11, THE MICHIGAN MERIT EXAMINATION SHALL BE ADMINISTERED TO THE PUPIL AT THE HIGH SCHOOL AT WHICH THE PUPIL RECEIVES HIGH SCHOOL INSTRUCTION, AND THE DEPARTMENT SHALL INCLUDE THE PUPIL'S SCORES ON THE MICHIGAN MERIT EXAMINATION IN THE SCORES FOR THAT HIGH SCHOOL FOR ALL PURPOSES FOR WHICH A SCHOOL'S OR DISTRICT'S RESULTS ARE REPORTED. THE DEPARTMENT SHALL ALLOW THE MIDDLE COLLEGE PROGRAM TO USE A 5-YEAR GRADUATION RATE FOR DETERMINING ADEQUATE YEARLY PROGRESS. AS USED IN THIS SUBSECTION, "MIDDLE COLLEGE" MEANS A PROGRAM CONSISTING OF A SERIES OF COURSES AND OTHER REQUIREMENTS AND CONDITIONS, INCLUDING AN EARLY COLLEGE OR OTHER PROGRAM CREATED UNDER A MEMORANDUM OF UNDERSTANDING, THAT ALLOWS A PUPIL TO GRADUATE FROM HIGH SCHOOL WITH BOTH A HIGH SCHOOL DIPLOMA AND A CERTIFICATE OR DEGREE FROM A COMMUNITY COLLEGE OR STATE PUBLIC UNIVERSITY.

(15) ~~(14)~~ As used in this section:

(a) "English language arts" means reading and writing.

(b) "Social studies" means United States history, world history, world geography, economics, and American government."

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

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:

House Bill No. 4229

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

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

Senate Bill No. 311

Senate Bill No. 397

Senate Bill No. 398

House Bill No. 4229

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 311, entitled

A bill to amend 1915 PA 31, entitled "Youth tobacco act," by amending sections 1 and 2 (MCL 722.641 and 722.642), as amended by 2006 PA 236.

The question being on the passage of the bill,

Senator Hopgood offered the following amendments:

1. Amend page 1, line 1, after "person" by inserting a comma and **"INCLUDING A PERSON WHO SELLS TOBACCO PRODUCTS AT RETAIL AND THE CLERK, AGENT, AND EMPLOYEE OF A PERSON WHO SELLS TOBACCO PRODUCTS AT RETAIL,"**.

2. Amend page 1, line 2, after "person" by inserting a comma and **"INCLUDING A PERSON WHO SELLS TOBACCO PRODUCTS AT RETAIL AND THE CLERK, AGENT, AND EMPLOYEE OF A PERSON WHO SELLS TOBACCO PRODUCTS AT RETAIL,"**.

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

The question being on the passage of the bill,

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

Roll Call No. 373

Yeas—37

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

Nays—0

Excused—1

Green

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

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

The motion prevailed.

Senator Hopgood’s statement is as follows:

I rise to support my amendment to Senate Bill No. 311. I first want to start off by commending the Senator from the 9th District for his work on this issue. This is an issue that we see far too often in our communities. Too many of our youth have access to tobacco products, and we know that because there have been surveys out in our communities to see if establishments are willing and able to sell tobacco products to minors. It happens far too often. This is definitely an issue that needs to be addressed.

I was brought this amendment by some people in my district who are concerned about not extending the fines to the businesses; to the establishments that are actually reaping the benefits of the sales to minors, which is not allowed. We have a bunch of prevention folks out in the communities; groups and organizations are concerned about this, as well as the Michigan District Judges Association, which would like to see the businesses included in the fine structure.

This is also an equity issue. In this bill, we’re raising some of the fines to a pretty significant level for the clerks, for the people behind the counter who very often make maybe \$10 or \$12 an hour. Once again, the establishment is reaping the benefits monetarily from these illegal sales. We need to make sure that there’s some equity involved in this issue. We will have better compliance, quite frankly, if the establishments are included in this. Many already provide great leadership. That will, in fact, continue to happen and to a greater degree, I’m sure of that. Let’s really try to make a difference.

This bill is a good piece of policy, but this amendment will really take us further along the steps in terms of reducing the purchase by minors of tobacco products. I ask for the members’ support.

The following bill was read a third time:

Senate Bill No. 397, entitled

A bill to amend 2010 PA 275, entitled “Next Michigan development act,” by amending section 5 (MCL 125.2955).

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. 374

Yeas—33

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

Nays—4

Brandenburg	Caswell	Colbeck	Hune
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Excused—1

Green

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 398, entitled

A bill to amend 2010 PA 275, entitled "Next Michigan development act," by amending section 4 (MCL 125.2954).

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. 375

Yeas—33

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

Nays—4

Brandenburg	Caswell	Colbeck	Hune
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Excused—1

Green

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

House Bill No. 4229, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending sections 6, 20, 21f, 24c, 25e, 26a, 74, 95, 107, and 147a (MCL 388.1606, 388.1620, 388.1621f, 388.1624c, 388.1625e, 388.1626a, 388.1674, 388.1695, 388.1707, and 388.1747a), sections 6, 24c, 26a, 74, 95, 107, and 147a as amended and sections 21f and 25e as added by 2013 PA 60 and section 20 as amended by 2013 PA 97.

The question being on the passage of the bill,

Senator Smith offered the following amendments:

1. Amend page 23, following line 12, by inserting:

"Sec. 11. (1) For the fiscal year ending September 30, 2013, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of \$10,928,614,200.00 from the state school aid fund and the sum of \$282,400,000.00 from the general fund. For the fiscal year ending September 30, 2014, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of ~~\$11,211,382,300.00~~ **\$11,311,382,300.00** from the state school aid fund, the sum of \$156,000,000.00 from the MPSERS retirement obligation reform reserve fund created under section 147b, and the sum of ~~\$234,900,000.00~~ **\$287,900,000.00** from the general fund. In addition, all other available federal funds, except those otherwise appropriated under section 11p, are appropriated for the fiscal year ending September 30, 2013 and for the fiscal year ending September 30, 2014.

(2) The appropriations under this section shall be allocated as provided in this article. Money appropriated under this section from the general fund shall be expended to fund the purposes of this article before the expenditure of money appropriated under this section from the state school aid fund.

(3) Any general fund allocations under this article that are not expended by the end of the state fiscal year are transferred to the school aid stabilization fund created under section 11a.”

2. Amend page 36, following line 16, by inserting:

“(15) FOR 2013-2014, THE AMOUNT OF A DISTRICT’S FOUNDATION ALLOWANCE IS THE AMOUNT OF THAT DISTRICT’S FOUNDATION ALLOWANCE, AS OTHERWISE CALCULATED UNDER THIS SECTION, PLUS \$100.00.” and renumbering the remaining subsection.

3. Amend page 44, following line 18, by inserting:

“Sec. 22b. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$3,215,000,000.00 for 2012-2013 and there is allocated an amount not to exceed ~~\$3,373,700,000.00~~ **\$3,526,700,000.00** for 2013-2014 for discretionary nonmandated payments to districts under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) Subject to subsection (3) and section 296, the allocation to a district under this section shall be an amount equal to the sum of the amounts calculated under sections 20, 51a(2), 51a(3), and 51a(11), minus the sum of the allocations to the district under sections 22a and 51c.

(3) In order to receive an allocation under subsection (1), each district shall do all of the following:

(a) Comply with section 1280b of the revised school code, MCL 380.1280b.

(b) Comply with sections 1278a and 1278b of the revised school code, MCL 380.1278a and 380.1278b.

(c) Furnish data and other information required by state and federal law to the center and the department in the form and manner specified by the center or the department, as applicable.

(d) Comply with section 1230g of the revised school code, MCL 380.1230g.

(e) Comply with section 21f.

(4) Districts are encouraged to use funds allocated under this section for the purchase and support of payroll, human resources, and other business function software that is compatible with that of the intermediate district in which the district is located and with other districts located within that intermediate district.

(5) From the allocation in subsection (1), the department shall pay up to \$1,000,000.00 in litigation costs incurred by this state related to commercial or industrial property tax appeals, including, but not limited to, appeals of classification, that impact revenues dedicated to the state school aid fund.

(6) From the allocation in subsection (1), the department shall pay up to \$1,000,000.00 in litigation costs incurred by this state associated with lawsuits filed by 1 or more districts or intermediate districts against this state. If the allocation under this section is insufficient to fully fund all payments required under this section, the payments under this subsection shall be made in full before any proration of remaining payments under this section.

(7) It is the intent of the legislature that all constitutional obligations of this state have been fully funded under sections 22a, 31d, 51a, 51c, and 152a. If a claim is made by an entity receiving funds under this article that challenges the legislative determination of the adequacy of this funding or alleges that there exists an unfunded constitutional requirement, the state budget director may escrow or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the claim before making any payments to districts under subsection (2). If funds are escrowed, the escrowed funds are a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of litigation. The work project shall be completed upon resolution of the litigation.

(8) If the local claims review board or a court of competent jurisdiction makes a final determination that this state is in violation of section 29 of article IX of the state constitution of 1963 regarding state payments to districts, the state budget director shall use work project funds under subsection (7) or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the amount owed to districts before making any payments to districts under subsection (2).

(9) If a claim is made in court that challenges the legislative determination of the adequacy of funding for this state’s constitutional obligations or alleges that there exists an unfunded constitutional requirement, any interested party may seek an expedited review of the claim by the local claims review board. If the claim exceeds \$10,000,000.00, this state may remove the action to the court of appeals, and the court of appeals shall have and shall exercise jurisdiction over the claim.

(10) If payments resulting from a final determination by the local claims review board or a court of competent jurisdiction that there has been a violation of section 29 of article IX of the state constitution of 1963 exceed the amount allocated for discretionary nonmandated payments under this section, the legislature shall provide for adequate funding for this state’s constitutional obligations at its next legislative session.

(11) If a lawsuit challenging payments made to districts related to costs reimbursed by federal title XIX medicaid funds is filed against this state, then, for the purpose of addressing potential liability under such a lawsuit, the state budget director may

place funds allocated under this section in escrow or allocate money from the funds otherwise allocated under this section, up to a maximum of 50% of the amount allocated in subsection (1). If funds are placed in escrow under this subsection, those funds are a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of the litigation. The work project shall be completed upon resolution of the litigation. In addition, this state reserves the right to terminate future federal title XIX medicaid reimbursement payments to districts if the amount or allocation of reimbursed funds is challenged in the lawsuit. As used in this subsection, "title XIX" means title XIX of the social security act, 42 USC 1396 to 1396v."

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

Senator Hunter requested the yeas and nays.

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

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

Roll Call No. 376**Yeas—16**

Ananich	Hansen	Johnson	Smith
Anderson	Hood	Jones	Warren
Bieda	Hopgood	Nofs	Whitmer
Gregory	Hunter	Rocca	Young

Nays—21

Booher	Hildenbrand	Marleau	Proos
Brandenburg	Hune	Meekhof	Richardville
Casperson	Jansen	Moolenaar	Robertson
Caswell	Kahn	Pappageorge	Schuitmaker
Colbeck	Kowall	Pavlov	Walker
Emmons			

Excused—1

Green

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. 377**Yeas—37**

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

Nays—0

Excused—1

Green

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 Brandenburg offered to amend the title to read as follows:

A bill to amend 1979 PA 94, entitled “An act to make appropriations to aid in the support of the public schools, the intermediate school districts, community colleges, and public universities of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts,” by amending sections 6, 20, 21f, 24c, 25e, 26a, 74, 104b, 107, and 147a (MCL 388.1606, 388.1620, 388.1621f, 388.1624c, 388.1625e, 388.1626a, 388.1674, 388.1704b, 388.1707, and 388.1747a), sections 6, 24c, 26a, 74, 107, and 147a as amended and sections 21f and 25e as added by 2013 PA 60, section 20 as amended by 2013 PA 97, and section 104b as amended by 2008 PA 268.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

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

The motion prevailed.

Senator Smith’s statement is as follows:

I rise to offer an amendment to the supplemental bill before us that would increase school funding for all Michigan’s public schools by \$100 per pupil. The need to do this couldn’t be more clear. After several years of public school cuts and a push for for-profit charter and cyber schools by legislative Republicans and Governor Snyder, our schools are in crisis. Class sizes are growing. Physical schools and entire school districts are closing, increasing costs and capacity at neighboring school districts.

This is not a Democratic problem. This is not an urban problem. It’s our problem. When Governor Snyder took office, we had just over 20 school districts operating in a deficit. Today, that number has more than doubled to nearly 60. One out of every two school districts in this state is in a deficit under Governor Snyder’s leadership, yet school funding over the last few years has drastically decreased, with an historic cut of nearly \$2 billion to public school aid funding under Governor Snyder and this majority.

Since 2008, Michigan has cut school funding by 9 percent, more than 35 other states. This amendment is another opportunity to recalibrate your priorities. This amendment will not make our schools whole. This amendment will not make your drastic school cuts over the last few years right. But this amendment would help this body start to make amends to our schools, our teachers, our parents, and most importantly, our kids. Now all it needs is your vote. I urge my colleagues to support your local schools and support this amendment.

Senator Kahn’s statement is as follows:

Mr. President, I rise in regard to the notion that there’s been a \$2 billion defunding of the K-12 system over the past few years, as the maker of the amendment stated. I want you to know, Mr. President, and the body to know that in 2008-09 the gross spending was \$13,259,806,800.00 for K-12. This year, it’s \$13,366,703,600.00. That’s not a \$2 billion decrease; it’s an over \$100 million increase.

Secondly, we have improved the ability of the schools to have a safety valve on their legacy costs, which they did not have before.

Thirdly, we’ve added the notions of best practices, performance funding, technology grants, and early childhood funding to the mix.

Not only do I oppose this amendment, but I'd like to remind the chamber and all members that they can proudly state that they have not only defended education, but they have increased it. And they have increased the opportunity for safety, responsibility, accountability, and incentives.

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 at the head of the Third Reading of Bills calendar:

House Bill No. 4344

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

The following bill was read a third time:

House Bill No. 4344, entitled

A bill to amend 1965 PA 203, entitled "Commission on law enforcement standards act," by amending section 2 (MCL 28.602), as amended by 2004 PA 379.

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. 378

Yeas—36

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

Nays—1

Young

Excused—1

Green

Not Voting—0

In The Chair: President

The President pro tempore, Senator Schuitmaker, assumed the Chair.

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 creation of the commission on law enforcement standards; to prescribe its membership, powers, and duties; to prescribe the reporting responsibilities of certain state and local agencies; to provide for additional

costs in criminal cases; to provide for the establishment of the law enforcement officers training fund; and to provide for disbursement of allocations from the law enforcement officers training fund to local agencies of government participating in a police training program.”

The Senate agreed to the full title.

Protest

Senator Young, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of House Bill No. 4344.

Senator Young’s statement is as follows:

Mr. President, I would just like to say that I was against this bill because I thought that the amendment that the Senator from the 24th District put on the bill basically gave the emergency manager too much power. I think in a time when people are losing their jobs; in a time when folks are losing their pensions; in a time when they’re having their health care stripped away from them; in a time when they’re talking about rationing out who’s going to get lights and who’s not; in a time when they’re talking about who’s going to get garbage service and who isn’t, I think to give this man more power, when he has already been the biggest threat to democracy that I have ever seen in my lifetime, I don’t think we need to give the political version of a Detroit despot more power. I don’t think we need to give a municipal marauder more authority to do what he wants to do. I think he has enough as is.

I think this amendment is unconstitutional. I think it’s illegal. That’s why I couldn’t vote for this bill. I wanted to explain that, because my principles would not allow me to do that. Democracy is not just about voting; it’s about the virtues and values of this state. We will not be that pleasant peninsula, that shining city on the hill if we do not have democracy.

What are we as a state if we don’t have the right to vote? Voting is not just about exercising your franchise; it’s about being able to have that virtue that every voice is heard. That right is being taken away. The people of Detroit are being disenfranchised. That amendment furthers that agenda, so I voted against the bill.

By unanimous consent the Senate proceeded to the order of

Resolutions

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

Senate Resolution No. 34

The motion prevailed.

Senators Jones and Hune offered the following resolution:

Senate Resolution No. 88.

A resolution to urge the Congress of the United States to adopt House Concurrent Resolution No. 50, regarding the National Railroad Monument in Durand, Michigan.

Whereas, Railroads are an integral part of our nation’s past, present, and future. The railroad industry played a vital role in building and developing the United States. This role should not be forgotten; and

Whereas, Durand, Michigan, is at the historic crossroads of three major railroads and is home to one of the largest surviving train stations in the United States. The existing statuary, structures, and historic railroad equipment at Diamond District Park in Durand make it an ideal location for a National Railroad Memorial; and

Whereas, Congressional House Concurrent Resolution No. 50 would designate a National Railroad Monument located in Diamond District Park in historic downtown Durand, Michigan, as the National Railroad Memorial. This recognition would help draw visitors from around the world to the educational programming and exhibits in Durand. It would help ensure that current and future generations do not forget the historical importance of the railroad industry to our nation; now, therefore, be it

Resolved by the Senate, That we urge the Congress of the United States to adopt House Concurrent Resolution No. 50, regarding the National Railroad Monument in Durand; 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.

Pending the order that, under rule 3.204, the 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 resolution,

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

The motion prevailed.

Senators Booher, Brandenburg, Hansen, Marleau, Pappageorge, Proos and Warren were named co-sponsors of the resolution.

Introduction and Referral of Bills

Senators Jones, Proos, Marleau, Robertson, Nofs and Schuitmaker introduced

Senate Bill No. 554, entitled

A bill to amend 1995 PA 279, entitled "Horse racing law of 1995," (MCL 431.301 to 431.336) by adding section 9b. The bill was read a first and second time by title and referred to the Committee on Banking and Financial Institutions.

Senators Jones, Proos, Marleau, Robertson, Nofs and Schuitmaker introduced

Senate Bill No. 555, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," (MCL 436.1101 to 436.2303) by adding section 1024.

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

Senators Jones, Proos, Marleau, Robertson, Nofs and Schuitmaker introduced

Senate Bill No. 556, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending section 57v (MCL 400.57v), as added by 2012 PA 197.

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

Senator Schuitmaker introduced

Senate Bill No. 557, entitled

A bill to amend 1974 PA 258, entitled "Mental health code," (MCL 330.1001 to 330.2106) by adding section 207b. The bill was read a first and second time by title and referred to the Committee on Judiciary.

Senator Schuitmaker introduced

Senate Bill No. 558, entitled

A bill to amend 1974 PA 258, entitled "Mental health code," (MCL 330.1001 to 330.2106) by adding section 207a; and to repeal acts and parts of acts.

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

Senators Booher, Colbeck, Robertson, Schuitmaker, Kahn, Pappageorge, Brandenburg and Caswell introduced

Senate Bill No. 559, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending sections 209 and 245 (MCL 388.1809 and 388.1845), as amended by 2013 PA 60.

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

House Bill No. 4585, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 2007 and 2008 (MCL 339.2007 and 339.2008), section 2007 as amended by 1992 PA 103.

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 Regulatory Reform.

House Bill No. 4930, entitled

A bill to amend 1929 PA 269, entitled "An act to protect benevolent, humane, fraternal or charitable corporations in the use of their names and emblems; to provide penalties for the violation thereof; and to repeal Act No. 255 of the Public Acts of 1909," by repealing section 3 (MCL 430.53).

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

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

House Bill No. 4937, entitled

A bill to amend 2000 PA 322, entitled "Julian-Stille value-added act," by amending the title and section 3 (MCL 285.303); and to repeal acts and parts of acts.

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

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

Committee Reports

The Committee on Appropriations reported

House Bill No. 4229, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending sections 6, 20, 21f, 24c, 25e, 26a, 74, 95, 107, and 147a (MCL 388.1606, 388.1620, 388.1621f, 388.1624c, 388.1625e, 388.1626a, 388.1674, 388.1695, 388.1707, and 388.1747a), sections 6, 24c, 26a, 74, 95, 107, and 147a as amended and sections 21f and 25e as added by 2013 PA 60 and section 20 as amended by 2013 PA 97.

With the recommendation that the following amendment be adopted and that the bill then pass:

1. Amend page 14, line 19, after "**OR**" by striking out "**340.1682**" and inserting "**340.1862**".

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

Roger Kahn, M.D.
Chairperson

To Report Out:

Yeas: Senators Kahn, Moolenaar, Jansen, Pappageorge, Booher, Colbeck, Green, Proos, Schuitmaker, Walker, Anderson, Gregory, Hood, Hopgood and Johnson

Nays: Senator Caswell

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

COMMITTEE ATTENDANCE REPORT

The Committee on Appropriations submitted the following:

Meeting held on Wednesday, September 25, 2013, at 2:31 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Kahn (C), Moolenaar, Jansen, Pappageorge, Booher, Caswell, Colbeck, Green, Proos, Schuitmaker, Walker, Anderson, Gregory, Hood, Hopgood and Johnson

COMMITTEE ATTENDANCE REPORT

The Committee on Economic Development submitted the following:

Meeting held on Wednesday, September 25, 2013, at 1:30 p.m., Room 110, Farnum Building

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

Scheduled Meetings

Appropriations -

Subcommittees -

Agriculture and Rural Development - Tuesday, October 1, 3:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-2768) (CANCELED)

Human Services Department - Wednesday, October 2, 2:00 p.m., Rooms 402 and 403, and Tuesdays, October 8, October 22, and November 5, 2:00 p.m., Room 405, Capitol Building (373-2768)

State Police and Military Affairs - Thursday, October 3, 8:00 a.m. and Thursday, October 10, 3:00 p.m., Rooms 402 and 403, Capitol Building (373-2768)

Finance - Wednesday, October 2, 12:30 p.m., Room 210, Farnum Building (373-5307)

Legislative Council - Thursday, October 3, 9:30 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-0212)

Outdoor Recreation and Tourism - Thursday, October 3, 12:30 p.m., Room 110, Farnum Building (373-5312)

Transportation - Tuesday, October 1, 12:30 p.m., Room 100, Farnum Building (373-5314)

Senator Meekhof moved that the Senate adjourn.
The motion prevailed, the time being 11:51 a.m.

The President pro tempore, Senator Schuitmaker, declared the Senate adjourned until Tuesday, October 1, 2013, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

