

**No. 60**  
**STATE OF MICHIGAN**  
**Journal of the Senate**  
**93rd Legislature**  
**REGULAR SESSION OF 2006**

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Senate Chamber, Lansing, Thursday, June 15, 2006.

10:00 a.m.

The Senate was called to order by the President pro tempore, Senator Patricia L. Birkholz.

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

Allen—present  
Barcia—present  
Basham—present  
Birkholz—present  
Bishop—present  
Brater—present  
Brown—present  
Cassis—present  
Cherry—present  
Clark-Coleman—present  
Clarke—present  
Cropsey—present  
Emerson—present

Garcia—present  
George—present  
Gilbert—present  
Goschka—present  
Hammerstrom—present  
Hardiman—present  
Jacobs—present  
Jelinek—present  
Johnson—present  
Kuipers—present  
Leland—present  
McManus—present  
Olshove—present

Patterson—present  
Prusi—present  
Sanborn—present  
Schauer—present  
Scott—present  
Sikkema—present  
Stamas—present  
Switalski—present  
Thomas—present  
Toy—present  
Van Woerkom—present  
Whitmer—present

Reverend A. Richard Doss of Mask Memorial Christian Methodist Episcopal Church of Lansing offered the following invocation:

Eternal God, we give thanks as we gather this morning before preparing to do the business of the people. We thank You, Lord, for the opportunity to live in a great state such as ours. We know, Lord, that there are so many issues that are before us this day. We ask, Lord, that You would allow us to rise above any partisan positions and remember those important words of “we, the people”—those in the various districts which are represented this day, especially those who are the least of these who stand in need of safety nets, that they might be uplifted and empowered.

Lord, we also ask this day that we remember the brave men and women who serve on foreign soil, advancing not only our national interest, but representing well our state. And then, Lord, as they return home, we ask that You would be with their families.

Now, Lord, we ask that You would remember us as we celebrate Juneteenth this weekend, for the freedom that is the hallmark and the benchmark of democracy.

In the name of Jesus we pray. Amen.

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

### Motions and Communications

Senator Hammerstrom moved that consideration of the following bill be postponed for today:

**Senate Bill No. 246**

The motion prevailed.

Senator Hammerstrom moved that Senator Garcia be temporarily excused from today’s session.

The motion prevailed.

Senator Schauer moved that Senators Barcia and Leland be temporarily excused from today’s session.

The motion prevailed.

The following communication was received:

Office of the Auditor General

June 13, 2006

Enclosed is a copy of the following audit report:

Performance audit of the Cadillac Local Development Finance Authority.

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

The communication was referred to the Secretary for record.

The Secretary announced that the following House bills were received in the Senate and filed on Wednesday, June 14:

**House Bill Nos. 5132 5581 6005 6183**

The Secretary announced that the following official bills were printed on Wednesday, June 14, and are available at the legislative website:

**Senate Bill Nos. 1299 1300 1301 1302**

**House Bill Nos. 6188 6189 6190 6191**

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

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

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

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

### Recess

Senator Hammerstrom moved that the Senate recess subject to the call of the Chair. The motion prevailed, the time being 10:04 a.m.

10:14 a.m.

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

During the recess, Senator Patterson introduced Tanith Belbin and Ben Agosto, 2006 Olympic Games silver medal recipients for ice dancing, and presented them with a Special Tribute and Senate Resolution No. 149.

Senator Cassis and Ms. Belbin responded briefly.

During the recess, Senator Barcia entered the Senate Chamber.

By unanimous consent the Senate proceeded to the order of  
**Messages from the House**

Senators Garcia and Leland entered the Senate Chamber.

Senator Hammerstrom moved that consideration of the following bills be postponed for today:

**Senate Bill No. 875**

**Senate Bill No. 693**

**Senate Bill No. 541**

The motion prevailed.

#### **Senate Bill No. 582, entitled**

A bill to amend 1969 PA 306, entitled "Administrative procedures act of 1969," by amending sections 46 and 49 (MCL 24.246 and 24.249), section 46 as amended by 1999 PA 262 and section 49 as amended by 2004 PA 23.

The House of Representatives has passed the bill, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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

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

The Senate agreed to the full title.

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

#### **Senate Bill No. 1202, entitled**

A bill to amend 2004 PA 452, entitled "Identity theft protection act," by amending section 5 (MCL 445.65) and by adding section 5a.

The House of Representatives has amended the bill as follows:

1. Amend page 3, following line 9, by inserting:

**"(B) "COVERED SPECIALIZED MOBILE RADIO SERVICE" MEANS A COMMERCIAL MOBILE RADIO SERVICE THAT OFFERS REAL-TIME, 2-WAY SWITCHED VOICE OR DATA SERVICE AND IS INTERCONNECTED WITH THE PUBLIC SWITCHED NETWORK UTILIZING AN IN-NETWORK SWITCHING FACILITY."** and relettering the remaining subdivisions.

The House of Representatives has passed the bill as amended, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

Pursuant to rule 3.202, the bill was laid over one day.

#### **Senate Bill No. 538, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 14501 and 14513 (MCL 324.14501 and 324.14513), section 14501 as amended by 2004 PA 333 and section 14513 as amended by 2004 PA 334.

Substitute (H-1).

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

Senator Brown offered the following amendment to the substitute:

1. Amend page 4, following line 18, by inserting:

**“(D) WITHIN A 1-YEAR PERIOD IMMEDIATELY PRECEDING THE DATE THE APPLICATION WAS SUBMITTED, THE APPLICANT SHALL NOT HAVE BEEN FOUND RESPONSIBLE FOR A CIVIL VIOLATION UNDER THIS ACT THAT RESULTED IN A CIVIL FINE OF \$10,000.00 OR MORE.”.**

The amendment to the substitute was adopted.

The question being on concurring in the House substitute, as amended,

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

**Roll Call No. 516**

**Yeas—23**

Allen	Cropsey	Hardiman	Sikkema
Barcia	Garcia	Jelinek	Stamas
Birkholz	George	Johnson	Switalski
Bishop	Gilbert	Kuipers	Toy
Brown	Goschka	McManus	Van Woerkom
Cassia	Hammerstrom	Sanborn	

**Nays—15**

Basham	Clarke	Olshove	Scott
Brater	Emerson	Patterson	Thomas
Cherry	Jacobs	Prusi	Whitmer
Clark-Coleman	Leland	Schauer	

**Excused—0**

**Not Voting—0**

In The Chair: Birkholz

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.

**Protest**

Senator Brater, under her constitutional right of protest (Art. 4, Sec. 18), protested against concurring in the House substitute to Senate Bill No. 538 and moved that the statement she made during the discussion of the bill be printed as her reasons for voting “no.”

The motion prevailed.

Senator Brater’s statement is as follows:

I think the amendment before us is a good amendment if I understand it, and correct me if I’m wrong, Madam Secretary. But what the amendment does is it restores a provision that the House took out to exclude people who have been guilty of civil violations resulting in a civil fine of \$10,000 or more. That is a good improvement that the Senate is making if we do that right now, but it’ll probably result in sending the bill to conference.

I’m still concerned about the bill as a whole. It has been asserted that this is an energy-saving method which will help our farmers. First of all, there are many better ways to save energy than the current technology that methane digesters use. Second of all, which farmers are we helping? We’ve held events up here in Lansing where we’ve had farmers who are neighbors to these huge animal operations—concentrated animal feed operations, or otherwise known

as CAFOs. People have come to us desperate because of the health problems they are experiencing and the odors that they are living with. There are other farmers who are complaining about these operations.

Let's be clear what this bill does. This bill is a subsidy for CAFOs. It's not all Michigan farmers. It's just a very specific type of large corporate operation. I know some small family farmers are corporations also, so it's difficult to find the terminology to use about them. Some people refer to them as animal factories. They are the equivalent of 1,000 cows cooped up in metal barns. They are not really barns; they are more like metal warehouses, where the animals don't even have room to turn around. Their excrement goes down in slats that then is collected, and these industrial operations need to find something to do with the excrement. They so far have not found a very good way of disposing of it.

There is legislation pending in both the Senate and the House that would regulate these operations. Some of them are not currently considered polluters because we do not have any laws on the books regulating them.

I oppose using taxpayers' money to subsidize these operations. They are large-scale polluters which have been found to cause serious environmental and social damage to their communities. The compost produced from methane digesters contains high levels of phosphorus and nitrogen, which when spread on fields, can seep into groundwater and run off into surface water. In the ag committee this morning, we just spent an hour and a half discussing the dangers of excess phosphorus in our waterways. So it's very contradictory, at the same time we are trying to regulate phosphorus to be approving a subsidy for a technology that spreads more phosphorus into our ecosystem.

The digesters reduce some methane that contributes to the greenhouse effect, but they increase ammonia emissions, another greenhouse gas. In addition, these huge farms are, in part, responsible for putting small and midsize farms out of business. With the difficult budget situation Michigan is facing, state funds should not be used to subsidize CAFOs.

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

The motion prevailed.

Senator Brown's statement is as follows:

If I were to title my remarks on this legislation, I would say that hopefully the second time is the charm. Senate Bill No. 538 will allow eligible farmers to access the Small Business Pollution Prevention Loan Program to purchase and build agricultural energy production systems. These systems, including methane digesters, gasification, and thermal depolymerization, can reduce odor, prevent water pollution, and generate renewable energy. However, they are also extremely expensive. The digesters, for instance, range in price from \$200,000 up to \$2 million, depending upon the scope of the system and the number of animals at the facility.

Senate Bill No. 538 will allow farmers to access this existing loan program to help pay for a portion of these expensive machines. In late 2004, Governor Granholm vetoed legislation similar to Senate Bill No. 538, expressing concerns about the lack of a specific funding source and the fear that environmental polluters may gain access to the loan funds. After over a year of work with the DEQ, the Michigan Ag Department, Senator Van Woerkom, the agriculture community, and the Governor's office, I am confident we have produced legislation that has addressed the Governor's concerns.

The Small Business Pollution Prevention Loan Program is a pre-existing revolving fund started with \$5 million of Clean Michigan Initiative bonds. To date, Madam President, the fund has distributed loans amounting to only \$1.7 million. These systems are a natural fit for the goals of this fund.

Senate Bill No. 538—and I'm concluding—takes great steps to ensure that environmental polluters will not have access to the loans. No loans shall be granted to anyone with a criminal environmental violation within three years of applying. Additionally, the amendment, Madam President, before you will ensure that no loan shall be granted to anyone guilty of a civil environmental infraction resulting in a fine of over \$10,000 within one year of applying.

Colleagues, the bill before you will help Michigan farmers purchase technologies that will allow them to reduce pollution and odors, while producing a valuable alternative source of energy. I urge your support of the amendment and the bill, and I hope the House and Governor concur.

#### **Senate Bill No. 816, entitled**

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 498b. (For text of amendment, see Senate Journal No. 58, p. 1307.)

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

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

#### **Roll Call No. 517**

#### **Yeas—38**

Allen  
Barcia

Clarke  
Cropsey

Jelinek  
Johnson

Schauer  
Scott

Basham	Emerson	Kuipers	Sikkema
Birkholz	Garcia	Leland	Stamas
Bishop	George	McManus	Switalski
Brater	Gilbert	Olshove	Thomas
Brown	Goschka	Patterson	Toy
Cassis	Hammerstrom	Prusi	Van Woerkom
Cherry	Hardiman	Sanborn	Whitmer
Clark-Coleman	Jacobs		

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: Birkholz

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor. The Senate agreed to the full title. The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

**Senate Bill No. 817, entitled**

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” by amending section 16x of chapter XVII (MCL 777.16x), as amended by 2003 PA 313.

Substitute (H-2).

The question being on concurring in the substitute made to the bill by the House, The substitute was concurred in, a majority of the members serving voting therefor, as follows:

**Roll Call No. 518**

**Yeas—38**

Allen	Clarke	Jelinek	Schauer
Barcia	Cropsey	Johnson	Scott
Basham	Emerson	Kuipers	Sikkema
Birkholz	Garcia	Leland	Stamas
Bishop	George	McManus	Switalski
Brater	Gilbert	Olshove	Thomas
Brown	Goschka	Patterson	Toy
Cassis	Hammerstrom	Prusi	Van Woerkom
Cherry	Hardiman	Sanborn	Whitmer
Clark-Coleman	Jacobs		

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: Birkholz

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor. The Senate agreed to the title as amended. The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

**Senate Bill No. 1172, entitled**

A bill to amend 1986 PA 32, entitled "Emergency telephone service enabling act," by amending sections 301, 401, and 717 (MCL 484.1301, 484.1401, and 484.1717), section 301 as amended by 1994 PA 29, section 401 as amended by 1999 PA 81, and section 717 as added by 1999 PA 79, and by adding section 413.

Substitute (H-1).

The question being on concurring in the substitute made to the bill by the House, The substitute was concurred in, a majority of the members serving voting therefor, as follows:

**Roll Call No. 519**

**Yeas—37**

Allen	Clarke	Jacobs	Sanborn
Barcia	Cropsey	Jelinek	Schauer
Basham	Emerson	Johnson	Scott
Birkholz	Garcia	Kuipers	Sikkema
Bishop	George	Leland	Stamas
Brater	Gilbert	McManus	Switalski
Brown	Goschka	Olshove	Toy
Cassis	Hammerstrom	Patterson	Van Woerkom
Cherry	Hardiman	Prusi	Whitmer
Clark-Coleman			

**Nays—0**

**Excused—0**

**Not Voting—1**

Thomas

In The Chair: Birkholz

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor. The Senate agreed to the full title. The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

**Third Reading of Bills**

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

**Senate Bill No. 1260**

**House Bill No. 5324**

**House Bill No. 5328**

**House Bill No. 5329**

**Senate Bill No. 1296**

The motion prevailed.

The following bill was read a third time:

**Senate Bill No. 1260, entitled**

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 21502, 21503, 21506a, and 21552 (MCL 324.21502, 324.21503, 324.21506a, and 324.21552), section 21502 as amended and sections 21506a and 21552 as added by 2004 PA 390 and section 21503 as amended by 1996 PA 181.

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. 520**

**Yeas—37**

Allen	Clarke	Jelinek	Schauer
Barcia	Cropsey	Johnson	Scott
Basham	Garcia	Kuipers	Sikkema
Birkholz	George	Leland	Stamas
Bishop	Gilbert	McManus	Switalski
Brater	Goschka	Olshove	Thomas
Brown	Hammerstrom	Patterson	Toy
Cassis	Hardiman	Prusi	Van Woerkom
Cherry	Jacobs	Sanborn	Whitmer
Clark-Coleman			

**Nays—0**

**Excused—0**

**Not Voting—1**

Emerson

In The Chair: Birkholz

The Senate agreed to the title of the bill.

The following bill was read a third time:

**House Bill No. 5324, entitled**

A bill to amend 1988 PA 161, entitled “Consumer financial services act,” by amending sections 2, 5, 6, and 10g (MCL 487.2052, 487.2055, 487.2056, and 487.2060g), section 2 as amended and section 10g as added by 2002 PA 390 and sections 5 and 6 as amended by 1999 PA 275.

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. 521**

**Yeas—38**

Allen	Clarke	Jelinek	Schauer
Barcia	Cropsey	Johnson	Scott
Basham	Emerson	Kuipers	Sikkema
Birkholz	Garcia	Leland	Stamas
Bishop	George	McManus	Switalski
Brater	Gilbert	Olshove	Thomas



Brown  
Cassis  
Cherry  
Clark-Coleman

Goschka  
Hammerstrom  
Hardiman  
Jacobs

Patterson  
Prusi  
Sanborn

Toy  
Van Woerkom  
Whitmer

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: Birkholz

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 regulate the providing of certain consumer financial services; to provide for licensing of certain financial institutions; to prescribe powers and duties of certain state departments and agencies; to prohibit certain activities; and to provide for remedies and penalties.”.

The Senate agreed to the full title.

The following bill was read a third time:

**House Bill No. 5328, entitled**

A bill to regulate the money transmission services business; to require the licensing of persons engaged in providing money transmission services; to prescribe powers and duties of certain state agencies and officials; to prescribe penalties and provide remedies; 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. 522**

**Yeas—38**

Allen  
Barcia  
Basham  
Birkholz  
Bishop  
Brater  
Brown  
Cassis  
Cherry  
Clark-Coleman

Clarke  
Cropsey  
Emerson  
Garcia  
George  
Gilbert  
Goschka  
Hammerstrom  
Hardiman  
Jacobs

Jelinek  
Johnson  
Kuipers  
Leland  
McManus  
Olshove  
Patterson  
Prusi  
Sanborn

Schauer  
Scott  
Sikkema  
Stamas  
Switalski  
Thomas  
Toy  
Van Woerkom  
Whitmer

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: Birkholz

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

The following bill was read a third time:

**House Bill No. 5329, entitled**

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” by amending section 14p of chapter XVII (MCL 777.14p), as added by 2002 PA 29.

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. 523**

**Yeas—38**

Allen	Clarke	Jelinek	Schauer
Barcia	Cropsey	Johnson	Scott
Basham	Emerson	Kuipers	Sikkema
Birkholz	Garcia	Leland	Stamas
Bishop	George	McManus	Switalski
Brater	Gilbert	Olshove	Thomas
Brown	Goschka	Patterson	Toy
Cassis	Hammerstrom	Prusi	Van Woerkom
Cherry	Hardiman	Sanborn	Whitmer
Clark-Coleman	Jacobs		

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: Birkholz

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:

**Senate Bill No. 1296, entitled**

A bill to amend 1976 PA 451, entitled “The revised school code,” by amending section 1146 (MCL 380.1146).

The question being on the passage of the bill,

Senator Kuipers offered the following substitute:

Substitute (S-1).

The question being on the adoption of the substitute,

Senator Cherry offered the following amendments to the substitute:

1. Amend page 1, line 7, after “(2)” by inserting “**SUBJECT TO SUBSECTION (3),**”.
2. Amend page 2, following line 1, by inserting:

**“(3) IF THE BOARD OF A SCHOOL DISTRICT OR BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY ESTABLISHES A SINGLE-GENDER SCHOOL, CLASS, OR PROGRAM DESCRIBED IN SUBSECTION (1), THE SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY SHALL NOT REQUIRE PARTICIPATION BY ANY OF ITS PUPILS IN THE SINGLE-GENDER SCHOOL, CLASS, OR PROGRAM. THE BOARD OR BOARD OF DIRECTORS SHALL ENSURE THAT PARTICIPATION BY PUPILS IN A SINGLE-GENDER SCHOOL, CLASS, OR PROGRAM IS WHOLLY VOLUNTARY. FOR THE PURPOSES OF THIS SUBSECTION, PARTICIPATION BY A PUPIL IN A SINGLE-GENDER SCHOOL, CLASS, OR PROGRAM IS NOT CONSIDERED TO BE VOLUNTARY UNLESS THE SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY ALSO MAKES AVAILABLE TO THE PUPIL A COMPARABLE COEDUCATIONAL SCHOOL, CLASS, OR PROGRAM.”**

The amendments to the substitute were adopted.

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

The question being on the passage of the bill,

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

**Roll Call No. 524**

**Yeas—33**

Allen	Clarke	Hardiman	Sanborn
Barcia	Cropsey	Jelinek	Schauer
Basham	Emerson	Johnson	Scott
Birkholz	Garcia	Kuipers	Sikkema
Bishop	George	Leland	Stamas
Brown	Gilbert	McManus	Switalski
Cassis	Goschka	Olshove	Thomas
Cherry	Hammerstrom	Prusi	Van Woerkom
Clark-Coleman			

**Nays—5**

Brater	Patterson	Toy	Whitmer
Jacobs			

**Excused—0**

**Not Voting—0**

In The Chair: Birkholz

The Senate agreed to the title of the bill.

### Protest

Senator Brater, under her constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 1296 and moved that the statement she made during the discussion of the bill be printed as her reasons for voting “no.”

The motion prevailed.

Senator Brater’s statement is as follows:

I’m feeling like I’m in a time warp here, back to the 19th century, and I really don’t understand this situation we find ourselves in here today where we’re saying it’s okay for this Legislature to go ahead and pass something that’s unconstitutional. The very same people who normally get up and defend the Constitution of the United States somehow or other are not able to see how this issue fits into it, but I’ll do my best to elucidate that.

We’ve heard a lot of citations of studies and I’m sure you can find people with success rates from both coeducational environments and single-gender environments that are going to have high success rates. Certainly, there are arguments and studies that bear that out on either side. The U.S. Department of Education report, which my good colleague from the 4th District passed out, if you will refer yourselves to page X, it says, “As in previous reviews the results are equivocal.”

So, you can take these studies, line them up, and try to make them say whatever you want, which is usually the case with academic studies. But just to give you some of the studies on the other side, and I’m quoting from my compilation made by the ACLU, “Boys schools emphasize discipline and punishment far more than girls schools. Single-sex programs had the potential to serve as dumping grounds for boys labeled at-risk and difficult to handle. Discipline problems in the boys schools led to high rates of teacher turnover. Sex segregation did not guarantee students protection from harassment. In fact, boys in all-boys schools experienced more homophobic harassment than boys in coeducational environments. Teachers untrained for single-sex environments tended to fall back on their stereotypes about what was appropriate for boys versus girls. For example, in a class about American settlers, boys were taught about survival skills while girls were taught quilting and sewing.” That one really gives me pause.

I remember the days when girls were taught home economics, cooking, and sewing and boys went to shop. I don’t think that’s the type of workforce in the 21st century that we need to be producing here in the state of Michigan. We need to be looking at how we are going to prepare all girls and boys for the workforce of the 21st century, where they’re going to be on a plant floor, in an office environment, in a committee hearing room with men and women who need to know how to work together on an intellectual basis and an analytic basis and treat each other with respect. I don’t see how they are learning to do that in a single-gender environment.

Moreover, the arguments we heard for these classrooms, I think that is what we need for all public education. If we are going to focus our energy on singling out certain academies or certain schools of this nature, how are we going to spread those resources to all of the students and all of the public schools?

Yes, students did tend to do better in schools that had single-gender schools that had smaller class size, better teachers, more funding, more parental involvement, more attention to core subjects, and a clear code of behavior. Those are features of many single-gender academies or schools and those should be features of all public schools—can and should be part of all education. Shouldn’t we be focusing public school resources on helping all kids in all of the schools and give them the resources that they need to do that?

I’m worried that the parents who choose to send their kids to these schools are going to be the parents with the most resources. What if you don’t have a car to take your child to a different part of the city to get them to one of these academies? How are all kids going to benefit from these asserted benefits from these single-gender academies?

As we learned from the ugly days of racial separation in this country, separate but equal can never be equal. I don’t know how that is going to be different based on some of the studies that I’ve cited for single-gender education. The bottom line is, however, that this bill is unconstitutional. It violates the Equal Protection Clause of the United States Constitution and Title IX of the Educational Amendment of 1972. It exposes boys and girls who attend these academies or schools to sex discrimination, and on that basis, I oppose this bill.

Senators Clark-Coleman, Switalski, Thomas, Clarke and Patterson asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Clark-Coleman’s statement is as follows:

I rise in support of Senate Bill No. 1296. I support this bill because I believe that it represents equal opportunity to succeed for boys and girls in Michigan. As a former president of the Detroit Public Schools Board of Education, I am familiar with the kinds of successes that single-gender programs can produce.

We had several of these schools in Detroit in the past. I believe they represent an excellent learning option to some of Detroit’s children. I had the opportunity to visit these schools and saw firsthand the discipline, rigorous academic and social environment that they presented. We know that all children do not learn the same way. We know that children

have different learning styles and can benefit from instruction based on those learning styles. This bill will allow schools in Michigan to offer programs tailored to the needs of the children. This bill is about parental choice. Detroit Public Schools now have a waiting list of parents and students clamoring for same-gender programs and plan to begin these programs in the fall.

With the challenges facing my Detroit district, giving them the option of a tool to help retain and attract students is the reasonable thing to do. Giving parents choices is the appropriate thing to do. I believe that giving children the opportunity to excel is what we are compelled to do.

I urge your support for Senate Bill No. 1296.

Senator Switalski's statement is as follows:

When I was in junior high school, about 90 percent of my attention and energy was focused on a tall, blonde-haired girl named Carla. Madam President, I can assure you that is a conservative estimate. If I had been able to redirect that youthful energy on my studies, who knows what I might have accomplished. I don't know that I would have cured cancer or written the great American novel or perfected the fuel cell, but I surely would be further along toward achieving my ultimate goal of world domination.

Once in awhile, we need to be brave, to be bold, and to think outside of the box, although I find myself in disagreement with many of my friends on this bill. Single-gender education deserves a chance. This bill is about choice. No one is forced to create a single-gender school or classroom, but the protection of state law is there for those schools that so choose. Why would someone choose to create single-gender education? Clearly, for some students, parents, and educators it is a valuable option. Research shows that junior high school math and science participation and performance by girls begins to fall significantly in junior high and that single-gender classes can reverse that decline and help many woman realize their full God-given potential.

I oppose discrimination as strongly as anyone, and I believe that this bill is not discriminatory, but instead is a positive act to empower both boys and girls. I welcome the debate about the constitutionality of this bill. I submit that equal treatment does not have to be the exact same treatment. Men and women are different and policy should be designed to allow each to flourish.

Title IX has allowed women's athletics to flourish not by making women play football, but by spending equivalent scholarship dollars on women's soccer. That's why the U.S. women won the World Cup. Keeping everything the same for everyone ignores our differences. We should celebrate our diversity by tailoring education to help everyone achieve their potential in unique ways.

Birmingham has single-gender classes. They are hugely popular with a waiting list of 100 for 28 slots. You have to win the lottery to get into that class. Malcolm X Academy in Detroit posted the highest math scores among the city's 77 middle schools and was second in the state among 780 schools. Detroit wants to open two single-gender schools. We are all concerned about educational excellence in the city. This approach offers an opportunity to achieve significant gains, and it could act as a trailblazer for others considering this approach.

I urge support for the bill.

Senator Thomas' first statement is as follows:

I want to first thank the chair of the Senate Education Committee for joining with me in recognizing that this is a very important and legitimate public policy discussion that needs to have its day in court. This bill, and its companion bill that we will be deliberating on in the coming days, will help Michigan's children, and I want to thank the Senator from the Education Committee for making this process a reality.

At the outset, I believe it is important to note some information which has been highly relevant to me as I examined this issue and which informed my decision to introduce this particular legislation. A considerable body of research has developed and is continuing to develop in support of the notion that kids sometimes learn better in single-gender environments and that boys and girls actually do learn differently, or they develop at different points in their lives. Furthermore, we all know that there is some value in simply separating boys from girls, and we routinely do this for such classes as athletics and sex education.

Prior to and during the course of this legislation, I have been guided by conversations I have had with experts in the field, such as Dr. Sax at the National Association for Single Sex Public Education, and experts who came to testify before the Senate Education Committee from my own school district in the city of Detroit. After evaluating this issue for some time, I am confident that this Legislature—this Senate—is choosing the right path with this legislation that is before you.

Now, there are some critics who are asking what my purpose is in offering this legislation. It's simple. I want, like all of us, to maximize the educational opportunities for every boy and girl in the state of Michigan. I want to give our public schools the options they need to support new and innovative ways of learning. As science unlocks the mysteries of the brain and finds that boys and girls do, in fact, learn differently, I want to be able to give schools the option to exploit those differences for the benefit of their customers—our children. Also if districts see a benefit in simply keeping boys and girls apart, well, they should have that option. They are in the best position to know what the best course of action is for their constituents.

Frankly, I am somewhat taken aback that some would consider that the courts should re-evaluate this Legislature's determination of what constitutes a sufficient justification to institute a policy. We have made a finding here that we believe, after evaluating the arguments—pro and con—through the committee process and the evidence submitted that it is important to make an alternative available for public school children in Michigan. That, frankly, should be enough justification for the legislation. However, let's take a moment to address the thoughts of those who believe that a justification is, in fact, warranted. It is clear that there are differences in performance with boys and girls. Eighth grade girls score 11 points higher than boys on standardized reading tests and 21 points higher on writing tests. In high school, that gap rises to 16 points and 24 points, respectively.

It is clear that there are differences in expectations between girls and boys. High school girls are 22 percent more likely to plan on going to college, while boys are 30 percent more likely to use cocaine. There are also profound differences in the statistics regarding issues related to learning and development. Boys from the ages of 5 to 14 are 200 percent more likely to commit suicide than girls. Young boys are 47 percent more likely to have developmental disabilities. Boys are more likely to be scared of going to school, and the list of differences goes on and on and on.

Let me point out that these differences are not inherent differences. These are simply statistical differences. Nothing prevents an individual from beating the statistics I've just addressed, but we, as policymakers, must if we are to responsibly deliberate on the future of Michigan's children, we must address these statistics. It seems clear to me that we should not, indeed we cannot, ignore these differences in performance and these differences in aptitude, but rather we should meet them head-on.

In addition to these broad statistical differences, I also hope that this bill will address subtle pedagogical differences that all teachers suffer from in the course of their daily duties. Let me provide an example:

Let's say that an experienced English teacher knows that boys groan at the notion of reading *King Lear*, but they love reading *Othello*, or that girls somehow feel the opposite way. In the current system, here are the teacher's alternatives: The teacher might teach both plays and bore half the class; the teacher might skip both plays and teach something less valuable to the students' educational achievement; or alternate between the two, boring the boys one year and the girls the next year. If the classroom only has girls or only has boys, that issue simply goes away.

Have we made a gender-based distinction here, or are we simply letting the power of the teacher's legitimate observation dictate that lesson plan? Who is to say whether *Lear* or *Othello* provides a better key to the world of Shakespeare? Let's put that in the hands of the teachers to actually make that decision. There is no inherent difference in the way that boys read *Othello* versus the way that girls read *King Lear*, but if the teachers' experience bears out a difference, shouldn't we let them explore it in the most efficient and effective way?

Science is informing us that this is the right way to go. Books like *Raising Cain* and *Reviving Ophelia* teach us that there are different approaches to teaching boys and girls. *Raising Cain* author, Dr. Michael Thompson, says that the way in which girls learn has been raised to "the gold standard" and that "boys are treated like defective girls" by our schools. We cannot afford to go down this path again if we are truly concerned about success for all of our kids.

You might ask, "Well, do these schools work?" Well, I would suggest to you that many schools throughout the United States are actually trying to address these issues through the alternative of single-gender schools. As I noted yesterday and the Senator from Roseville has noted, these programs exist all over the United States and, actually, all over the state of Michigan. Schools in Philadelphia; New York; Chicago; Houston; Palo Alto, California; Pasadena, California; all are providing these opportunities. I want to provide all Michigan school districts with that same opportunity.

Certainly, there are analogies in the parochial school system here in Michigan, whether you refer to Academy of the Sacred Heart, historically girls, but now a girls and boys separated school, or Warren De La Salle, which is an all-boys school. Think of these statistics as you measure whether or not single-gender education works. One hundred percent of Sacred Heart graduates go to college, and 98 percent of those graduates actually got into their first choice of colleges. De La Salle has more than 80 years of excellent results at its boys-only education, first in the city of Detroit and now in the city of Warren. Single-gender schools, quite frankly, have always been present in the elite private schools on the East Coast, including colleges like Bryn Mawr.

Nationwide, this movement has gained much momentum and public participation. Reports indicate that parents value them as well. Why? Because there are more than 200 schools across the United States that offer this option and the list continues to grow. The largest single-gender public school is in Philadelphia. It is the Philadelphia High School for Girls. It was established in 1848 and it currently enrolls 1,500 young women. The principal reports that some of the main advantages of their program include increased leadership opportunities for girls and classrooms free from sexual harassment issues.

There are also programs that target subgroups, such as Milwaukee's Spectrum High School, which serves about 100 at-risk girls, or look at Seattle's Thurgood Marshall Elementary School, which serves minority and low-income students through single-gender classrooms. At Thurgood Marshall in Seattle, only 10 percent of boys were actually meeting state standards when they enrolled in this elementary school program, but after only one year in their single gender environment, that number rose to 66 percent, reaching that statewide standard.

Clearly, there is something going on about single-gender schools, and it's not right to deny those benefits to all people, simply because their parents cannot afford a parochial or a private education.

So here is the crux of the issue. We all want our public schools to do better. We want to give public schools the tools necessary to make district-specific decisions to best serve their students. They know better than we what the needs of their specific students are. I will move—I believe this Legislature should move—heaven and earth to make any resource available to any public school district in the state of Michigan if it will improve achievement. This legislation is critical to the future success and viability of all public schools and all teachers in Michigan. I sincerely hope that this Legislature will join me in this fight and make single-gender education a legal reality in the state of Michigan.

Senator Clarke's statement is as follows:

The Senator from Ann Arbor indicated that—paraphrasing her— this was like going back in time. Well, for me, it is like going back in time, but not that long ago. Back to 1991 when I was a very young State Representative in an era before there were term limits, back in Detroit I had a conversation with a young lady. She was a single parent. She told me, "Representative Clarke, I'd love to send my son to one of those male academies, but I don't have \$10,000 to pay for the tuition." So what I thought was why don't I create that same type of academy in the public school system? So I drafted a bill to create and authorize single-gender classes in schools in the public school system. I was roundly and soundly opposed by many members of my own party, the House, and the interest groups, and my measure did not succeed at the time.

In the last 15 years, there has been compelling documentation about the effectiveness of these programs, and I want to commend the Senator from Northwest Detroit for outlining the support of these kinds of schools and classrooms in a very compelling way. I do, though, feel that the Senator from Ann Arbor's concerns about gender stereotyping should be considered seriously. The practical matter of it is that when you have schools of choice, those kids who have parents responsible enough to choose for them are the ones who are likely to get enrolled. Increasingly nowadays, there are many students who don't have parents who are responsible and who may not even have parents at all. They are on their own, even though they are underage as minors.

Ultimately, I feel that there are some boys who will learn by being in a classroom of only other boys and there are some girls who will fully realize, better fully realize their potential by attending an all-girls school. I'd like their families to have that ability to choose those classrooms and schools for their children. And because of that, I do support this measure, and 15 years later, I do feel vindicated.

Senator Patterson's statement is as follows:

I've listened carefully, but all the rhetoric spewed forth about the benefits of single-gender education begs the question. The threshold issue for all of us, who took our oaths of office after and only after swearing to uphold the Constitution of the United States and Michigan, is—and we must answer unequivocally—is this bill violative of the 14th Amendment, the Equal Protection Clause, not the separate but equal clause? That is the test.

Interestingly, I've sat in this very chamber and listened to about all the benefits of diversity and now we are casting all those benefits aside. How does this bill meet that test? I was charmed and fascinated by the Senator from the 10th Senate District, who may have been distracted, but he seems to have fared pretty well. He is relatively well-adjusted.

The U.S. Department of Education study circulated is illustrative and informative in what it does not say. I would commend to your consideration Roman numeral, page 17, and it does not say what many people here are attempting to suggest are the reasons to ignore the constitutional charge. Expected outcomes not seen are reductions in teenage pregnancies, college performance enhancement, differential treatment by teachers, parental satisfaction, and so on.

If you are comfortable in your belief that you can discharge your oath of office, vote for this. I am not.

Senator Thomas' second statement is as follows:

I want to thank the Senator from the 18th District, my seatmate, whom I very rarely disagree with, for pointing out that there are studies that say that results are ambiguous, but choosing between those studies, frankly, is the quintessential job that we do. We are always asked to make a choice between competing studies.

I'd like to now turn to answer some of the questions raised by the Senator from the 7th District regarding the legal, constitutional argument behind this legislation. I believe that this issue is quite clear at its basic level. It is abundantly clear that government may distinguish between the sexes without running afoul of the Equal Protection Clause of the United States Constitution. As Justice Ginsburg admitted in perhaps the most compelling case to date on this, it's a 1996 case involving the Virginia Military Institute. Justice Ginsburg wrote education to be sure is not a one-size-fits-all business. Further, it is clear that Title IX does not block districts from actually offering single-gender programs, but only from programs that are not comparable. Well, we've addressed this quite specifically in the legislation before you in really saying that these programs must be comparable. At the state level, the Michigan courts have already stated quite clearly, and I quote, "Merely because the state engages in a practice that treats men and women differently, it does not necessarily mean that it engages in unlawful discrimination. Rather, the test is whether the gender-based treatment serves a sufficiently important governmental interest and is substantially related to the achievement of that interest."

As I have already covered through the justification, I don't really need to go over that now. Additionally, there are federal decisions that do not provide cause for constitutional concern. Again VMI only extends to efforts in which a state tries to equate a long-standing, well-funded, respected institution for boys with a brand new affiliation with a small private women's college. The Virginia women's program, in the VMI case, had fewer faculty, poorly paid and less credentialed faculty, and a lower-achieving student body. The Supreme Court correctly rejected this as a pale shadow of the prestigious Virginia Military Institute. That is simply not the case in the legislation before us here today. Under this bill, again, boys and girls in the state of Michigan will be afforded comparable opportunities. The word "comparable" is paramount. Comparable clearly makes this a constitutional endeavor.

I hope this will address some of the concerns of my colleagues. This is good legislation. It is not unconstitutional. It is legislation whose time has come. Let's not stand behind weak legal opinions. Do the right thing on this legislation and support Senate Bill No. 1296.

By unanimous consent the Senate proceeded to the order of  
**Resolutions**

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

**Senate Resolution No. 71**

The motion prevailed.

Senator Stamas offered the following resolution:

**Senate Resolution No. 151.**

A resolution to memorialize the United States Postal Service and the United States Congress to keep open the Gaylord, Michigan, mail processing center.

Whereas, Gaylord, Michigan, is the largest city in Otsego County and one of the fastest growing and economically vibrant cities in northern Michigan. The Gaylord Post Office handles mail in the 487 zip codes, which covers a sprawling area from Grayling to Sault Saint Marie and from Petoskey to Alpena. The post office's mail plant processes packages and flats, such as magazines, newspapers, legal documents, and mail larger than letter-size; and

Whereas, In April 2006, the United States Postal Service concluded an Area Mail Processing (AMP) survey to determine whether or not to consolidate Gaylord mail processing operations into the Traverse City Processing & Distribution Center. The postal service is considering consolidation in order to reduce the \$8 million deficit of the Greater Michigan Postal District, which includes Wisconsin, Illinois, and Indiana. District postal officials are expected to receive final word from Washington, D.C., in either June or July of this year; and

Whereas, If both packaging and flats processing are eliminated, then nearly 80 full-time employees are expected to be transferred out of the region to other postal facilities. This transfer will have a detrimental impact on the Gaylord economy as well-paying jobs flee the area. Moreover, closing the Gaylord mail processing operations will result in a lower standard of service because without the processing center mail cannot be delivered to this vast region in an efficient and timely manner; now, therefore, be it

Resolved by the Senate, That we memorialize the United States Postal Service and the United States Congress to keep open the Gaylord, Michigan, mail processing center; and be it further

Resolved, That copies of this resolution be transmitted to the United States Postmaster General, the President of the United States Senate, the Speaker of the 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 Hammerstrom 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 Hammerstrom moved that the resolution be referred to the Committee on Local, Urban and State Affairs.

The motion prevailed.

### Introduction and Referral of Bills

Senator Switalski introduced

**Senate Bill No. 1309, entitled**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 625, 625a, 625g, and 625m (MCL 257.625, 257.625a, 257.625g, and 257.625m), section 625 as amended by 2004 PA 62 and sections 625a, 625g, and 625m as amended by 2003 PA 61.

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



Senator Switalski introduced

**Senate Bill No. 1310, entitled**

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending sections 33 and 48 of chapter XVII (MCL 777.33 and 777.48), as amended by 2003 PA 134.

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

Senators Schauer, Prusi, Switalski, Olshove, Cherry, Cropsey and Whitmer introduced

**Senate Bill No. 1311, entitled**

A bill to amend 1909 PA 17, entitled "An act to prohibit or limit the access by prisoners and by employees of correctional facilities to certain weapons and to alcoholic liquor, drugs, medicines, poisons, and controlled substances in, on, or outside of correctional facilities; to prohibit or limit the bringing into or onto certain facilities and real property, and the disposition of, certain weapons and substances; to prohibit or limit the selling, giving, or furnishing of certain weapons and substances to prisoners; to prohibit the control or possession of certain weapons and substances by prisoners; and to prescribe penalties," (MCL 800.281 to 800.285) by amending the title, as amended by 1982 PA 343, and by adding section 3a.

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

Senators Switalski, Prusi, Schauer, Olshove, Cherry, Cropsey and Whitmer introduced

**Senate Bill No. 1312, entitled**

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 17g of chapter XVII (MCL 777.17g), as added by 2002 PA 28.

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

Senators Goschka, Kuipers, Cropsey, Barcia, Johnson, Stamas and Hardiman introduced

**Senate Bill No. 1313, entitled**

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 9f (MCL 211.9f), as amended by 2004 PA 79.

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

Senators Goschka, Kuipers, Cropsey, Barcia and Johnson introduced

**Senate Bill No. 1314, entitled**

A bill to amend 1893 PA 206, entitled "The general property tax act," (MCL 211.1 to 211.157) by adding section 7jj.

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

**House Bill No. 5132, entitled**

A bill to amend 1982 PA 540, entitled "Library of Michigan act," by amending section 9 (MCL 397.19), as amended by 1983 PA 114.

The House of Representatives has passed the bill.

The bill was read a first and second time by title and referred to the Committee on Local, Urban and State Affairs.

**House Bill No. 5581, entitled**

A bill to amend 1990 PA 187, entitled "The pupil transportation act," by amending section 55 (MCL 257.1855), as amended by 2006 PA 108.

The House of Representatives has passed the bill.

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

**House Bill No. 6005, entitled**

A bill to amend 1975 PA 197, entitled "An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance

of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials,” by amending section 3b (MCL 125.1653b), as amended by 1993 PA 323.

The House of Representatives has passed the bill.

The bill was read a first and second time by title and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

### **House Bill No. 6183, entitled**

A bill to amend 1975 PA 228, entitled “Single business tax act,” by amending sections 38g, 39c, and 71 (MCL 208.38g, 208.39c, and 208.71), section 38g as amended by 2006 PA 112, section 39c as amended by 2006 PA 53, and section 71 as amended by 1999 PA 115.

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 Finance.

### **Statements**

Senators Cropsey, Scott and George asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Cropsey’s statement is as follows:

On this day in the year 1215, King John signed the Magna Carta, and 791 years later, a substantial portion of our legal system and how our government addresses violations of law and imprisonment are predicated on that almost 800-year-old document. As I mentioned earlier this week, we have already paroled large numbers of prisoners, equivalent to emptying our prisons every four years.

I’ve been told that the prisoner advocacy group called Citizens Alliance on Prisons and Public Spending, or CAPPs, has visited almost every Senator. They regularly produce slick booklets and put out press releases that advocate for releasing prisoners and closing prisons, and my office is regularly contacted by other offices asking about their prisoner profiles and the data they present to the media.

This group appears to me to be utilizing four unspoken assumptions that they want you to adopt so that their arguments make sense. These apparent assumptions are dangerous to the public, but first I need to address their publications and manipulation of their facts and figures. CAPPs has twice presented testimony before committees I chair that are patently out of context with facts and figures that don’t support their position, cavalierly ignored. Their conclusions are unsupported by the very study they quoted, as well as by other studies, and they left out a very significant qualifier that the study itself stated needed to be taken into account.

Recently, CAPPs released their report entitled, “Foreign Nationals in Michigan Prisons: An Examining of Costs.” As an aside, I asked the Department of Corrections two years ago to work on the issue of deporting foreign nationals, and they have been doing so and some foreign nationals have been deported. It is a difficult task, and I commend the Department of Corrections for their work.

CAPPs states, and I quote, “A Department of Corrections list dated February 3, 2006, identifies 731 foreign nationals still in Michigan prisons.” I have a list of foreign nationals, but it is a list of people born in foreign countries. What CAPPs failed to ask are some basic questions about citizenship, and they point out that at least 109 prisoners on the list are American citizens. CAPPs states that “...because of their felony convictions virtually all are now subject to deportation.” They then qualify that by stating, “44 are from countries where repatriation may not be possible.” The truth is that at least 160, not 44, cannot be deported to their country because we do not have treaties with those countries. For example, Cuba emptied their prisons and gave us the Mariel boatlift back in the 1980s. We have 78 Cubans in prison.

The problem is that while prisoners can be indeed deported back to Cuba, Cuba only allows 20 or 30 at a time and only infrequently. The national backlog of Cuban felons from the United States to be deported is about 5,000. The bottom line is that Cubans technically can be deported, but in real life, they can’t be. In addition to the 160 prisoners who can’t really be deported, 14 prisoners from Lebanon cannot be deported and eight more from India cannot be deported.

They fail to mention that the department spent 12 manpower-intensive months working to get just two German prisoners deported. Other countries don’t want these people back, and to base a budget on assumptions that doesn’t work in real life, is problematic.

CAPPs got the main number wrong and failed to exercise due diligence in analyzing the raw data. Further, they fail to point out that at least 13 were Michigan prisoners, earlier were deported, illegally returned to Michigan, and

victimized us by committing new crimes serious enough to land them in prison again. Did you catch that? We deported 13; they left. They came back, re-victimized us, and now we have them in prison. I don't want them deported again to go back and re-victimize us. Four more cannot be deported because their country, Yugoslavia, no longer exists.

The prisoner profiles are far worse. Significant facts are left out, and the dangerous unspoken assumptions skew the impression they appear to want us to have. I will address those next week.

My suggestion to the media is to not accept their facts and figures at face value. They always need to be double-checked.

Senator Scott's statement is as follows:

My story today is from Ecorse, Michigan. She writes, "My story has to do with both auto and homeowners insurance. My husband and I bought a home in Ecorse in 1994. We couldn't afford to live anywhere else. It wasn't until two years later when our homeowners insurance increased that we found out we paid more insurance because Ecorse is considered part of Detroit. As far as State Farm was concerned, we once paid \$800 a year for our premium, which is paid in escrow. Now we pay \$1,600 a year. That is double in about six years' time. Our mortgage has increased from \$279 to \$390 to \$440—the amount we pay now, all because of our homeowner's insurance. After we increased our deductible to \$1,000, I asked our agent if there was any way we could further lower our premium. She said no, not unless we repair/remodel our home. Our home is in need of a number of repairs and could use remodeling, but we don't have the income to do this. So, we are penalized. We have looked for homeowners insurance elsewhere, but no other company will insure us; our home is not high enough in value for any other company except State Farm.

As for our auto insurance, we pay \$285 a month. While it is true that part of this is due to our 20-year-old son living with us and driving our car, we used to pay about \$100 less with my two sons on the policy. One son has since moved away. Even though we all have clear driving records, our agent said that had nothing to do with the rate increase. It was due to a number of factors. The most important one she said is due to our living in Ecorse. The second factor is that we have debts which caused our credit records to look worse (despite the fact that we always pay our bills on time). Our Allstate agent said Ecorse is considered a high crime area because it shares part of its border with Detroit. This is incorrect information. The city of River Rouge shares its border with Detroit, but Allstate won't lower our premium. My oldest son lives in Flat Rock and drives a 2005 Toyota. He pays about \$100 per month less than we pay. My husband and I drive a 2000 Neon that is worth very little."

Senator George's statement is as follows:

I wanted to congratulate the people of West Virginia and the Governor there, Governor Joe Manchin, on being one of three states to receive Medicaid waivers under new provisions in the federal Deficit Reduction Act that will allow the issuance of waivers for programs that include incentives for healthy lifestyles.

In West Virginia, there is going to be a novel program established where Medicaid recipients can have an account called a Healthy Rewards account where they will accrue credits for certain behaviors, such as not smoking, not using the emergency room unnecessarily, being in compliance with doctor's instructions, or showing up for visits. Then those credits can be used to defer their co-pays or to pay their premiums for their Medicaid coverage. The credits can also be used to provide expanded benefits like adult dental coverage or nutritional education that might not be otherwise covered.

So this is a novel program that I wanted to draw the members' attention to. I wanted to point out too that last year when this chamber suggested such a program in the budget process, the administration's response was, "Well, no, we don't think that belongs as a provision in our budget negotiations." But this year when the Governor made her Michigan First health proposal, she did ask for us to include a line in the budget for that.

I want to point out that, once again, the administration's request to expand Medicaid is really an ideal time to make changes such that are being made in West Virginia. Now last week, our Governor had an article in the National Governor's Association newsletter talking about her Michigan First program. She cites the increase in the cost of health care and the importance of attending to that problem. Her solution though, again, is to simply expand health care coverage. She doesn't at all mention in the article the need to address recipients' behavior or really the goal of having a healthier Michigan, which I think should be the overriding goal.

I would like to call on the administration to follow the lead set by Governor Manchin in West Virginia and two other states and follow the lead that was set by this chamber last year when we pushed for provisions in the budget that called for incentives to create healthy behaviors. That truly is the best way to make Michigan healthier.

### Committee Reports

The Committee on Natural Resources and Environmental Affairs reported

**House Bill No. 5479, entitled**

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1263 (MCL 380.1263), as amended by 1990 PA 159.

With the recommendation that the substitute (S-2) be adopted and that the bill then pass.  
The committee further recommends that the bill be given immediate effect.

Patricia L. Birkholz  
Chairperson

To Report Out:

Yeas: Senators Birkholz, Patterson, Van Woerkom, Brater and Basham

Nays: None

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

The Committee on Transportation reported

**Senate Bill No. 1290, entitled**

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

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.

Judson S. Gilbert II  
Chairperson

To Report Out:

Yeas: Senators Gilbert, Kuipers, Leland and Basham

Nays: None

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

The Committee on Transportation reported

**House Bill No. 5060, entitled**

A bill to amend 1911 PA 149, entitled "An act to provide for the acquisition by purchase, condemnation and otherwise by state agencies and public corporations of private property for the use or benefit of the public, and to define the terms "public corporations," "state agencies" and "private property" as used herein," by amending section 3 (MCL 213.23).

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.

Judson S. Gilbert II  
Chairperson

To Report Out:

Yeas: Senators Gilbert, Kuipers, Leland and Basham

Nays: None

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

The Committee on Transportation reported

**House Bill No. 5817, entitled**

A bill to amend 1965 PA 40, entitled "An act to authorize and require public agencies to pay allowances for the expense of moving personal property from real property acquired for public purposes," by amending section 2 (MCL 213.352), as amended by 1991 PA 21.

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

1. Amend page 2, line 1, after "~~\$1,000.00~~" by striking out "\$5,200.00" and inserting "\$5,250.00".

2. Amend page 2, line 9, after "(C)" by striking out the balance of the subdivision and inserting "**INSTEAD OF ANY OTHER PAYMENT UNDER THIS ACT, OTHER STATE LAW, OR FEDERAL LAW, AN OCCUPANT OF RESIDENTIAL PROPERTY WHO HAS A LEASEHOLD INTEREST OF LESS THAN 6 MONTHS IS ENTITLED TO ELECT A FIXED PAYMENT OF \$3,500.00. IF THE OCCUPANT DOES NOT ELECT THIS FIXED PAYMENT, THE OCCUPANT MAY RECEIVE A MOVING ALLOWANCE AS DETERMINED UNDER SUBDIVISIONS (A) AND (B).**".

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

**"(3) A PERSON SHALL NOT RECEIVE ANY PAYMENT UNDER THIS SECTION IF THAT PERSON RECEIVES A PAYMENT UNDER FEDERAL, STATE, OR LOCAL LAW THAT HAS THE SAME PURPOSE AND EFFECT AS PAYMENT UNDER THIS SECTION.**

**(4) IN ORDER TO RECEIVE A MOVING EXPENSE PAYMENT OR MOVING ALLOWANCE UNDER THIS SECTION, THE PERSON SHALL BE A LAWFUL OCCUPANT OF THE PROPERTY ON THE DATE OF THE EXECUTION OF A WRITTEN AGREEMENT UNDER SUBSECTION (1) OR THE DATE OF TRANSFER OF TITLE TO THE PROPERTY IN A CONDEMNATION PROCEEDING.**

**(5) A PERSON WHO INITIALLY ENTERS INTO OCCUPANCY OF THE PROPERTY AFTER THE DATE OF THE EXECUTION OF A WRITTEN AGREEMENT UNDER SUBSECTION (1) OR THE DATE OF TRANSFER OF TITLE TO THE PROPERTY IN A CONDEMNATION PROCEEDING IS NOT ELIGIBLE TO RECEIVE A MOVING EXPENSE PAYMENT OR MOVING ALLOWANCE UNDER THIS SECTION.**” and renumbering the remaining subsections.

4. Amend page 2, line 18, after “**SUBSECTION**” by striking out “**(2)(C)**” and inserting “**(1)(C)**”.

5. Amend page 2, line 19, after “**RECOVER**” by striking out “**THE \$5,200.00**” and inserting “**A FIXED PAYMENT OR A**”.

6. Amend page 2, line 20, by striking out all of line 20 and inserting “**UNDER SUBSECTION (1).**”.

7. Amend page 2, line 21, after “**TO**” by striking out “**(3)**” and inserting “**(6)**”.

8. Amend page 2, line 25, by striking out “**CONTRADICTORY**” and inserting “**CONFLICTING**”.

9. Amend page 2, following line 25, by inserting:

“Enacting section 1. This amendatory act takes effect December 23, 2006.” and renumbering the remaining enacting section.

10. Amend page 3, line 4, by striking out all of line 4 through the balance of the enacting section.

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

Judson S. Gilbert II  
Chairperson

To Report Out:

Yeas: Senators Gilbert, Kuipers, Leland and Basham

Nays: None

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

The Committee on Transportation reported

**House Bill No. 5818, entitled**

A bill to amend 1980 PA 87, entitled “The uniform condemnation procedures act,” by amending section 16 (MCL 213.66), as amended by 1996 PA 474.

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

1. Amend page 3, line 11, after “**A**” by striking out “**HIGHWAY**” and inserting “**GOVERNMENT-OWNED TRANSPORTATION PROJECT**”.

2. Amend page 3, following line 19, by inserting:

“Enacting section 1. This amendatory act takes effect December 23, 2006.” and renumbering the remaining enacting section.

3. Amend page 3, line 25, by striking out all of line 25 through the balance of the enacting section.

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

Judson S. Gilbert II  
Chairperson

To Report Out:

Yeas: Senators Gilbert, Kuipers, Leland and Basham

Nays: None

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

The Committee on Transportation reported

**House Bill No. 5819, entitled**

A bill to amend 1980 PA 87, entitled “The uniform condemnation procedures act,” by amending section 9 (MCL 213.59), as amended by 1996 PA 474.

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

1. Amend page 2, line 10, after “**OPPORTUNITY**” by inserting a comma and “**NOT TO EXCEED 180 DAYS AFTER THE DATE MOVING EXPENSES ARE PAID,**”.

2. Amend page 2, line 11, after “**DWELLING**” by striking out the balance of the line through “**PAID,**” on line 12.

3. Amend page 2, line 17, after “**ANY**” by striking out “**CONTRADICTORY**” and inserting “**CONFLICTING**”.

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

**“(6) AS USED IN THIS SECTION, “COMPARABLE REPLACEMENT DWELLING” MEANS ANY DWELLING THAT IS ALL OF THE FOLLOWING:**

**(A) DECENT, SAFE, AND SANITARY.**

**(B) ADEQUATE IN SIZE TO ACCOMMODATE THE OCCUPANTS.**

**(C) WITHIN THE FINANCIAL MEANS OF THE INDIVIDUAL.**

**(D) FUNCTIONALLY EQUIVALENT.**

**(E) IN AN AREA NOT SUBJECT TO UNREASONABLE ADVERSE ENVIRONMENTAL CONDITIONS.**

**(F) IN A LOCATION GENERALLY NOT LESS DESIRABLE THAN THE LOCATION OF THE INDIVIDUAL'S DWELLING WITH RESPECT TO PUBLIC UTILITIES, FACILITIES, SERVICES, AND THE INDIVIDUAL'S PLACE OF EMPLOYMENT.**

Enacting section 1. This amendatory act takes effect December 23, 2006.” and renumbering the remaining enacting section.

5. Amend page 3, line 24, by striking out all of line 24 through the balance of the enacting section.

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

Judson S. Gilbert II  
Chairperson

To Report Out:

Yeas: Senators Gilbert, Kuipers, Leland and Basham

Nays: None

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

The Committee on Transportation reported

**House Bill No. 6084, entitled**

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” by amending sections 248f, 302, 302a, 303, 306, 307, 307a, 312e, 312f, 314, 319b, 319f, 319g, 324, 732, 801c, 811k, and 907 (MCL 257.248f, 257.302, 257.302a, 257.303, 257.306, 257.307, 257.307a, 257.312e, 257.312f, 257.314, 257.319b, 257.319f, 257.319g, 257.324, 257.732, 257.801c, 257.811k, and 257.907), section 248f as added by 1993 PA 300, section 302 as amended by 1991 PA 100, section 302a as added by 1990 PA 181, sections 303 and 307 as amended by 2005 PA 142, sections 306, 312e, 312f, and 314 as amended by 2004 PA 362, section 307a as added by 1988 PA 346, sections 319b, 319g, and 732 as amended by 2004 PA 495, section 319f as added by 1996 PA 404, section 324 as amended by 2001 PA 159, section 801c as amended by 1980 PA 281, section 811k as added by 2000 PA 73, and section 907 as amended by 2005 PA 1, and by adding section 303a.

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.

Judson S. Gilbert II  
Chairperson

To Report Out:

Yeas: Senators Gilbert, Kuipers, Leland and Basham

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, June 13, 2006, at 1:00 p.m., Room 110, Farnum Building

Present: Senators Gilbert (C), Kuipers, Leland and Basham

Absent: Senator Goschka

#### Scheduled Meetings

**Commerce and Labor** - Tuesday, June 20, 3:00 p.m., Room 100, Farnum Building (373-2413)

**Judiciary** - Tuesday, June 20, 1:00 p.m., Room 210, Farnum Building (373-3760)

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

The President pro tempore, Senator Birkholz, declared the Senate adjourned until Tuesday, June 20, 2006, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate

