

No. 28
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, March 22, 2000.

10:00 a.m.

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

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

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

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

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

Reverend Jerry Cimijotti of St. John's Episcopal Church of Midland offered the following invocation:

Heavenly Father, You are the fountain of all wisdom and righteousness. Your will is gracious and good. Your law is truth.

We ask that You would guide and bless the Senators assembled here today that they may enact laws that please You and benefit the people they serve. Help them to administer their authority in the light of Your grace and truth. Give them wisdom, courage, and foresight to provide for the needs of this state and all its people.

May Your purposes, O God, be fulfilled here and around the world. In Christ's name we pray. Amen.

Senators Young and Bennett entered the Senate Chamber.

Recess

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

The motion prevailed, the time being 10:04 a.m.

11:37 a.m.

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

During the recess, Senators Miller, Murphy, Dunaskiss, A. Smith and McCotter entered the Senate Chamber.

Motions and Communications

The following communication was received:

Vermont State Senate

March 20, 2000

Attached is J.R.S. 78, relating to the need for national leadership to address the high cost of medically necessary prescription drugs.

Deborah L. Markowitz
Secretary of State

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 Tuesday, March 21:
House Bill Nos. 4327 5124 5126 5127 5131

The Secretary announced the enrollment printing and presentation to the Governor on Tuesday, March 21, for his approval the following bills:

Enrolled Senate Bill No. 180 at 3:15 p.m.

Enrolled Senate Bill No. 525 at 3:17 p.m.

Enrolled Senate Bill No. 770 at 3:19 p.m.

Enrolled Senate Bill No. 829 at 3:21 p.m.

Enrolled Senate Bill No. 1040 at 3:23 p.m.

Enrolled Senate Bill No. 827 at 3:25 p.m.

Senator Emerson moved that Senator V. Smith be excused from today's session.

The motion prevailed.

Senator Rogers moved that rule 3.902 be suspended to allow the guests of Senator McManus admittance to the Senate floor.

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

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

By unanimous consent the Senate proceeded to consideration of the following bill:
Senate Bill No. 965, entitled

A bill to make appropriations for the department of corrections and certain state purposes related to corrections for the fiscal year ending September 30, 2001; to provide for the expenditure of the appropriations; to provide for reports; to provide for the creation of certain advisory committees and boards; to prescribe certain powers and duties of the department of corrections, certain other state officers and agencies, and certain advisory committees and boards; to provide for the collection of certain funds; and to provide for the disposition of fees and other income received by certain state agencies.

The above bill was read a third time.

The question being on the passage of the bill,

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

Roll Call No. 96

Yeas—35

Bennett	Emmons	Leland	Shugars
Bullard	Gast	McCotter	Sikkema
Byrum	Goschka	McManus	Smith, A.
Cherry	Gougeon	Murphy	Steil
DeBeaussaert	Hammerstrom	North	Stille
DeGrow	Hart	Peters	Van Regenmorter
Dingell	Hoffman	Rogers	Vaughn
Dunaskiss	Johnson	Schuette	Young
Emerson	Koivisto	Schwarz	

Nays—1

Jaye

Excused—1

Smith, V.

Not Voting—1

Miller

In The Chair: President

The Senate agreed to the title of the bill.

Senator Cherry moved that Senator Miller be temporarily excused from today's session.
The motion prevailed.

Senator Miller entered the Senate Chamber.

The following bill was read a third time:

Senate Bill No. 964, entitled

A bill to make appropriations for the department of community health and certain state purposes related to mental health, public health, and medical services for the fiscal years ending September 30, 2000 and September 30, 2001; to provide for the expenditure of those appropriations; to create funds; to require and provide for reports; to prescribe the powers and duties of certain local and state agencies and departments; to provide for disposition of fees and other income received by the various state agencies; and to repeal acts and parts of acts.

The question being on the passage of the bill,

Senator Emerson offered the following amendment:

1. Amend page 66, following line 12, by inserting:

“Sec. 1618. It is the intent of the legislature that at least 50% of the inflation update provided to nursing homes for fiscal year 2000-2001 be used for a wage and enhanced or expanded benefit pass-through to nursing home workers. Employee benefits shall include, but are not limited to, health benefits, retirement benefits, and quality of life benefits including, but not limited to, day care services. Nursing facilities shall be required to document that these wage increases and enhanced or expanded benefits were actually provided. No nursing facility shall be permitted to apply for this funding unless the facility has a minimum entry level salary of \$6.90 per hour for nurse aides.”.

The question being on the adoption of the amendment,

Senator Emerson requested the yeas and nays.

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

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

Roll Call No. 97

Yeas—17

Bullard	Emerson	Koivisto	Peters
Byrum	Goschka	Leland	Smith, A.
Cherry	Hammerstrom	Miller	Vaughn
DeBeaussaert	Hart	Murphy	Young
Dingell			

Nays—20

Bennett	Gougeon	McManus	Shugars
DeGrow	Hoffman	North	Sikkema
Dunaskiss	Jaye	Rogers	Steil
Emmons	Johnson	Schuette	Stille
Gast	McCotter	Schwarz	Van Regenmorter

Excused—1

Smith, V.

Not Voting—0

In The Chair: President

Senator Miller stated that had he been present when the vote was taken on the passage of the following bill, he would have voted “yea”:

Senate Bill No. 965

Senator Byrum offered the following amendments:

1. Amend page 2, line 7, by striking out “8,440,081,100” and inserting “8,469,581,100”.
2. Amend page 2, line 11, by striking out “8,367,993,800” and inserting “8,397,493,800”.
3. Amend page 2, line 17, by striking out “70,094,500” and inserting “395,094,500”.
4. Amend page 2, line 18, by striking out “2,636,991,200” and inserting “2,641,491,200”.
5. Amend page 15, line 4, by striking out “1,500,000” and inserting “6,000,000”.
6. Amend page 15, line 6, by striking out “88,946,800” and inserting “93,446,800”.
7. Amend page 15, line 14, by striking out “35,746,200” and inserting “40,246,200”.
8. Amend page 16, line 16, by striking out “37,500,700” and inserting “62,500,700”.
9. Amend page 16, line 24, by striking out “4,280,150,600” and inserting “4,305,150,600”.
10. Amend page 17, line 4, by striking out “5,414,950,300” and inserting “5,439,950,300”.
11. Amend page 17, line 11, by striking out “58,000,000” and inserting “83,000,000”.
12. Amend page 17, line 21, by striking out “3,007,085,700.00” and inserting “3,036,585,700.00” and adjusting the subtotals, totals, and section 201 accordingly.
13. Amend page 86, line 2, after “below” by striking out “200%” and inserting “300%”.
14. Amend page 86, following line 14, by inserting:

“(5) It is the intent of the legislature that the Michigan emergency pharmaceutical program shall continue after January 1, 2001.

(6) An elderly person or couple with a household income at or below 300% of poverty and more than 200% of poverty, who otherwise meets the eligibility criteria of this section, may participate in the EPIC program.”.

The question being on the adoption of the amendments,

Senator Byrum 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. 98

Yeas—17

Byrum	Goschka	Leland	Rogers
Cherry	Hammerstrom	Miller	Smith, A.
DeBeaussaert	Hart	Murphy	Vaughn
Dingell	Koivisto	Peters	Young
Emerson			

Nays—20

Bennett	Gast	McCotter	Shugars
Bullard	Gougeon	McManus	Sikkema
DeGrow	Hoffman	North	Steil
Dunaskiss	Jaye	Schuette	Stille
Emmons	Johnson	Schwarz	Van Regenmorter

Excused—1

Smith, V.

Not Voting—0

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

The motion prevailed.

Senator Byrum's statement is as follows:

This amendment would continue funding for the Michigan Emergency Prescription Drug Program into the year 2001. This program is a necessary safety net for many of Michigan's seniors. Too often seniors find themselves in an unforeseeable financial bind and are not able to afford necessary prescription drugs. They are forced to choose between purchasing their prescription drugs or paying their utility bills. By continuing the MEPPS program for true emergencies, we are providing seniors who are in an immediate need for prescription assistance immediate access for those prescriptions.

This program would operate at the same time as the proposed EPIC program. For many reasons there will be seniors who choose not to immediately enroll in the EPIC program. Nevertheless, these seniors may find themselves in need of emergency assistance. If they are not provided assistance prior to applying for the insurance program, waiting to see if they are covered, and then waiting again to see if their prescription is covered by the insurer, assistance may come too late. Unfortunately, we have learned from the Medicaid and MICHild programs that enrollment in these type of programs take much longer than a reasonable person would expect.

This amendment specifies that it is this Legislature's intent to continue a safety net prescription drug program beyond the first of the year. Although we all hope that EPIC is functioning by the first of the year, we have no guarantee that this will happen. It was initially supposed to be implemented in July, and this did not happen. Since then I have not been able to obtain any details on the proposed program, and I am skeptical that it really will be operative by January. This amendment protects seniors against another possible delay. If, after EPIC gets up and running, the Legislature determines that the MEPPS program is no longer necessary, that would be the appropriate time to phase out the MEPPS program.

This amendment also expands eligibility for the EPIC program to seniors within 300 percent of the federal poverty level. Seniors support this expansion because it is currently very difficult for them to access a prescription drug insurance program. The cost of this expansion will be manageable because EPIC is designed as a cost sharing program, and thus, most seniors with incomes above 200 percent of the federal poverty level will be paying their entire cost of program participation.

Please support this amendment. It protects vulnerable seniors who are in need of short-term prescription drug assistance as well as expands the EPIC program to seniors who have worked hard their entire lives but who cannot find affordable prescription coverage elsewhere.

Senator Gougeon's first statement, in which Senators Emmons, McManus and Shugars concurred, is as follows:

I rise once again to oppose the Byrum Amendment No. 3. I think the colleagues and the body know that we're increasing the home and community-based waivers from 9,000 to 15,000 slots. But the focus of this budget has been the hospitals and doctor fees and out-patient fees in particular that have not been adjusted in more than eight years.

This amendment would cost us \$10 million that we are currently putting into hospitals and out-patient fees, and it is certainly worthwhile. I understand where the maker of the amendment is coming from, and we'll certainly look at it if we have additional monies in target. But I would tell all of you that we have put out for bid again all the qualified health plans, and we expect them to come in at a larger amount, perhaps a significantly larger amount, than they have currently bid. We have dedicated \$133 million of the increase into hospitals and out-patient doctor fees. We could conceivably be looking at a \$300-\$400 million increase just in this field alone. So looking at the home and community-based waiver and the fees that we get, while worthwhile, is not the highest priority that we have in this budget. But it certainly is a significant priority, and I will pledge to you that we will consider this when we get to targets.

Senator Gougeon's second statement, in which Senators Emmons, McManus and Shugars concurred, is as follows:

I rise to oppose the Byrum amendment. First of all, continuing MEPPS, while at the same time we have EPIC up and running, will cost us 4.5 million additional dollars in General Fund. Expanding the eligibility to 300 percent of poverty will cost us \$25 million in additional tax settlement dollars that are currently in the trust fund. I would urge this body to oppose this amendment. It will start January 1, the EPIC program, at 200 percent of the poverty level. We haven't tried this program before, but it's predicated on the fact that we eliminate the MEPPS program, which will continue up to December 31, and we also eliminate the prescription tax credit to fund it at a total of \$56 million.

We don't know yet because the program is brand new whether \$56 million will be sufficient funding to provide prescriptions for everybody at 200 percent of the poverty level, and going up to 300 percent of the poverty level will be that much more of an unknown. So for these reasons we will be enrolling as well, Mr. President, those people currently in MEPPS, and they will have their prescriptions through EPIC. So there's no reason we need to run a duplicate program. I would urge the body to reject the Byrum amendment.

Senator Byrum offered the following amendments:

1. Amend page 2, line 7, by striking out “8,440,081,100” and inserting “8,450,081,100”.
2. Amend page 2, line 11, by striking out “8,367,993,800” and inserting “8,377,993,800”.
3. Amend page 2, line 13, by striking out “4,401,148,400” and inserting “4,406,766,400”.
4. Amend page 2, line 18, by striking out “2,636,991,200” and inserting “2,641,373,200”.
5. Amend page 16, line 15, by striking out “1,153,380,400” and inserting “1,163,380,400”.
6. Amend page 16, line 24, by striking out “4,280,150,600” and inserting “4,290,150,600”.
7. Amend page 17, line 4, by striking out “5,414,950,300” and inserting “5,424,950,300”.
8. Amend page 17, line 7, by striking out “3,148,168,900” and inserting “3,153,786,900”.
9. Amend page 17, line 13, by striking out “1,286,633,200” and inserting “1,291,015,200”.
10. Amend page 17, line 21, by striking out “3,007,085,700.00” and inserting “3,011,467,700.00”. and adjusting the subtotals, totals, and section 201 accordingly.
11. Amend page 88, following line 6, by inserting:

“Sec. 1701. From the funds appropriated in part 1 for long-term care services, the department shall increase the reimbursement rate for providers paid through the home- and community-based waiver program by 8%, effective October 1, 2000.”

The question being on the adoption of the amendments,
 Senator Byrum 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. 99

Yeas—17

Byrum	Gast	Koivisto	Peters
Cherry	Goschka	Leland	Smith, A.
DeBeaussaert	Hammerstrom	Miller	Vaughn
Dingell	Hart	Murphy	Young
Emerson			

Nays—20

Bennett	Gougeon	McManus	Shugars
Bullard	Hoffman	North	Sikkema
DeGrow	Jaye	Rogers	Steil
Dunaskiss	Johnson	Schuette	Stille
Emmons	McCotter	Schwarz	Van Regenmorter

Excused—1

Smith, V.

Not Voting—0

In The Chair: President

Protests

Senators Gougeon, Shugars, North, McCotter, McManus, Johnson and Rogers, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendments offered by Senator Byrum to Senate Bill No. 964.

Senator Gougeon moved that the statement he made during the discussion of the amendments be printed as his reasons for voting “no.”

The motion prevailed.

Senator Gougeon's statement, in which Senators Shugars, North, McCotter, McManus, Johnson and Rogers concurred, is as follows:

I have listened to the arguments, and I wish to just reiterate that January 1 is the starting date for the elder prescription insurance coverage program. There's no confusion about that. We're readying the rules for that now. Those at 100 percent of the poverty rate will be able to obtain prescriptions free, and those are the same people who currently get assistance from MEPPS. Those up to 200 percent of the poverty level will be receiving prescriptions at a rising fee schedule as the program is right now.

Should we increase this to 300 percent of the poverty level, then we're going to have to come up with a fee schedule that is just simply not going to work. We won't know the amount of dollars that we have to work with. All that's known right now is that the federal government is currently working on a prescription program for Medicare. This state simply does not have the dollars to take care of prescription Medicare funding. We are doing the best we can with those most needy citizens of this state, and I would ask that we would not dilute this program with the available dollars that we have by going up to 300 percent of the poverty level.

So again, I would urge a "no" vote on the Byrum amendment.

Senator Byrum offered the following amendment:

1. Amend page 79, following line 21, by inserting:

"Sec. 1683. The MICHild enrollment broker shall maintain office hours of 8:00 a.m. to 8:00 p.m. on Monday through Friday and 8:00 a.m. to 1:00 p.m. on Saturdays."

The question being on the adoption of the amendment,

Senator Byrum requested the yeas and nays.

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

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

Roll Call No. 100

Yeas—15

Byrum	Emerson	Leland	Smith, A.
Cherry	Goschka	Miller	Vaughn
DeBeaussaert	Hart	Murphy	Young
Dingell	Koivisto	Peters	

Nays—22

Bennett	Gougeon	McManus	Shugars
Bullard	Hammerstrom	North	Sikkema
DeGrow	Hoffman	Rogers	Steil
Dunaskiss	Jaye	Schuette	Stille
Emmons	Johnson	Schwarz	Van Regenmorter
Gast	McCotter		

Excused—1

Smith, V.

Not Voting—0

Protests

Senators Emmons, Rogers, Hammerstrom, Van Regenmorter, Johnson, Stille, Steil, Shugars, McCotter, North and McManus, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senator Byrum to Senate Bill No. 964.

Senator Emmons moved that the statements she made during the discussion of the amendment be printed as her reasons for voting “no.”

The motion prevailed.

Senator Emmons’ statement, in which Senators Rogers, Hammerstrom, Van Regenmorter, Johnson, Stille, Steil, Shugars, McCotter, North and McManus concurred, is as follows:

I would oppose this amendment because I don’t really think it does anything. If we really wanted to do something about this problem of MICHild, we would get the administration in Washington to let us enroll people in MICHild even though they are eligible for Medicaid, and they cannot do that now. There are many people who would love to be part of MICHild, and they really don’t want to be part of Medicaid because MICHild is a much better program. So ours is not the problem. The requirements of the federal governmental bureaucracy is. I would oppose this amendment.

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

The motion prevailed.

Senator Gougeon’s statement is as follows:

Again I rise to oppose this Byrum amendment. Mr. President and colleagues, we have the enrollment broker for MICHild under contract. Their current hours are 8 a.m. to 8 p.m. Monday through Wednesday, 8 a.m. to 6 p.m. Thursday through Friday, and 9 a.m. to 1 p.m. on Saturday. Furthermore, these current hours are based on call demand that is monitored daily.

I think the hours were scheduled based on demand are sufficient. We don’t need to identify in statute, in particular in the DCH budget, hours that we have contracted for the MICHild enrollment broker as this amendment proposes to do when we already have just about the same hours that are proposed. Therefore, I would urge that we turn the Byrum Amendment No. 4 down.

Senator Byrum offered the following amendments:

1. Amend page 2, line 7, by striking out “8,440,081,100” and inserting “8,441,081,100”.
2. Amend page 2, line 11, by striking out “8,367,993,800” and inserting “8,368,993,800”.
3. Amend page 2, line 18, by striking out “2,636,991,200” and inserting “2,637,991,200”.
4. Amend page 4, following line 17, by inserting:
“Community mental health suicide prevention services..... 1,000,000”.
5. Amend page 4, line 26, by striking out “1,786,741,500” and inserting “1,787,741,500”.
6. Amend page 5, line 6, by striking out “1,020,928,800” and inserting “1,021,928,000”.
7. Amend page 17, line 21, by striking out “3,007,085,700.00” and inserting “3,008,085,700.00”. and adjusting the subtotals, totals, and section 201 accordingly.
8. Amend page 40, following line 27, by inserting:

“Sec. 418. From the funds appropriated in part 1 for community mental health suicide prevention services, the department shall make allocations to community mental health boards that submit proposals meeting department-developed guidelines for new programs targeted to at-risk juveniles to prevent suicide.”.

The question being on the adoption of the amendments,

Senator Byrum 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. 101

Yeas—18

Byrum	Goschka	Leland	Rogers
Cherry	Hammerstrom	Miller	Smith, A.
DeBeaussaert	Hart	Murphy	Vaughn
Dingell	Johnson	Peters	Young
Emerson	Koivisto		

Nays—19

Bennett	Gast	McManus	Sikkema
Bullard	Gougeon	North	Steil
DeGrow	Hoffman	Schuette	Stille
Dunaskiss	Jaye	Schwarz	Van Regenmorter
Emmons	McCotter	Shugars	

Excused—1

Smith, V.

Not Voting—0

In The Chair: President

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

The motion prevailed.

Senator Gougeon's statement is as follows:

I rise to oppose the Byrum Amendment No. 5 which would add \$1 million to the community mental health line. Relative to the community mental health line, it's not a lot of money. We are currently spending \$1.6 million in the DCH budget on community mental health. We're spending \$100 million of that on substance abuse. We spend \$170 million on children's mental health issues. We certainly have enough money within this budget, and we'll certainly take a look at targets if there's an opportunity to add an economic increase to community mental health. But they're doing a good job in my judgment now with the dollars that we have available to work with, and adding additional programs like this is simply not needed because we're already using those dollars for these purposes. For those reasons, I would request that the body turn down the Byrum Amendment No. 5.

Senator Rogers offered the following amendment:

1. Amend page 88, following line 16, by inserting:

“Sec. 2202. (1) For fiscal year 1999-2000, the department shall increase hospital inpatient payment rates by \$71.00 per Medicaid inpatient day on a 1-time basis, for hospitals that currently receive less than \$76.00 per Medicaid inpatient day in disproportionate share payments and have greater than 10% Medicaid bed occupancy.

(2) This section is retroactive to October 1, 1999, and aggregate payments under this section shall not exceed \$18,000,000.00. In the event it appears that the full year cost will exceed that amount, the department shall prorate the increase in payment rates accordingly.”.

The question being on the adoption of the amendment,

Senator Shugars requested the yeas and nays.

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

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

Roll Call No. 102**Yeas—37**

Bennett	Gast	Leland	Schwarz
Bullard	Goschka	McCotter	Shugars
Byrum	Gougeon	McManus	Sikkema
Cherry	Hammerstrom	Miller	Smith, A.
DeBeaussaert	Hart	Murphy	Steil
DeGrow	Hoffman	North	Stille
Dingell	Jaye	Peters	Van Regenmorter

Dunaskiss
Emerson
Emmons

Johnson
Koivisto

Rogers
Schuette

Vaughn
Young

Nays—0

Excused—1

Smith, V.

Not Voting—0

In The Chair: President

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

The motion prevailed.

Senator Rogers' statement is as follows:

With our efforts here in the chambers under Republican leadership, we've been making a distinct effort to make sure that Medicaid works for hospitals and works for people in the state. One of the things that we have found is that in the DSH formula, a disproportionate share of hospital formula, those hospitals that are serving 10 percent or over as the percentage of their Medicaid occupancy rate are not really being funded equitably. What this amendment does is take \$18 million—actually \$8 million—in lapsed funds that will be matched by \$10 million in federal funds and disperses that to those hospitals that are shouldering the burden of those extra Medicaid patients who aren't really receiving the true benefit. I think in the future, Mr. President, we ought to look at the formula and how we allocate those funds for DSH hospitals. But right now this is the pressure valve that keeps them going.

It's really a supplemental. It's a one-time payment. It's our effort to say "thank you" for taking care of those who are most needy in our state. Thank you for shouldering that burden.

Again, it's \$8 million of lapsed funds. This is not new money. It takes no money away from any other program. It's not spending new money, which I think is awful important as we work our way through the amendments on these bills. This is very much a common sense approach to help those people who need it most and say "thank you" to those hospitals that are shouldering this burden. I would urge the body's support.

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. 103

Yeas—36

Bennett
Bullard
Byrum
Cherry
DeBeaussaert
DeGrow
Dingell
Dunaskiss
Emerson

Emmons
Gast
Goschka
Gougeon
Hammerstrom
Hart
Hoffman
Johnson
Koivisto

Leland
McCotter
McManus
Miller
Murphy
North
Peters
Rogers
Schuette

Schwarz
Shugars
Sikkema
Smith, A.
Steil
Stille
Van Regenmorter
Vaughn
Young

Nays—1

Jaye

Excused—1

Smith, V.

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

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

The motion prevailed.

Senator Gougeon's statement is as follows:

Just a few short words before we get to the vote on Senate Bill No. 964 as amended. That is, to extend my appreciation to the members of the committee and their staff. We have met quite a number of times to mark up this bill, and I appreciate all of their input.

Then I wanted to respond to the member of the subcommittee from the 18th District. Yes, indeed, I will, as a priority, be working to increase the disproportionate share payment in targets. I will be asking for target dollars for that purpose as well as graduate medical education. As I explained earlier, those are both priorities that testimonies indicated to us are badly needed throughout the state of Michigan.

We want to be able to respond to that, as we have throughout this budget in focusing this year on hospitals and doctors as we have. I think we have done a good job of looking at that. I hope we do an even better job when this bill gets over to the House, and we know what dollars we have to work with within targets.

For now, we have done about as well as we can. I would urge the body to support Senate Bill No. 964 as amended.

Senator Rogers' statement is as follows:

Just a quick response to the Senator from the 29th District that really displays the true difference here. They're adding money on an ongoing basis from the General Fund that would go in every year, and it gets bigger and bigger with no idea how to pay for it. This amendment has the dollars identified from lapsed funds as a one-time payment for hospitals that are truly shouldering a heavy burden with a higher percentage—a disproportionate share—of Medicaid in-patient percentage for their beds. That is a huge difference.

Really, I think the reason why we have done so well at least on this side of the aisle of getting control of the budget is because we make the numbers balance at the end of the day. That is the huge difference between the amendments proposed earlier to this budget and this amendment. We found the dollars. It's lapsed money. It's a one-time payment this year to help them out when they need it most—big difference. I know balancing that budget is hard, but I think that works for Michigan families, and I would encourage the other side of the aisle to join us in those efforts.

The following bill was read a third time:

Senate Bill No. 966, entitled

A bill to make appropriations for the department of education and certain other purposes relating to education for the fiscal year ending September 30, 2001; to provide for the expenditure of the appropriations; to prescribe the powers and duties of certain state departments, school districts, and other governmental bodies; and to provide for the disposition of fees and other income received by certain legal entities and state agencies.

The question being on the passage of the bill,

Senator Peters offered the following amendments:

1. Amend page 10, following line 14, by inserting:
 "Class size reduction grants - state share 50,275,700".
2. Amend page 12, line 6, by striking out "\$17,599,000" and inserting "\$67,874,700" and adjusting the subtotals, totals, and section 201 accordingly.
3. Amend page 31, following line 15, by inserting:
 "Sec. 710. The funds appropriated in part 1 for class size reduction grants - state share shall be distributed in the same form and manner as the federal class size reduction grants."

The question being on the adoption of the amendments,
Senator Peters requested the yeas and nays.
The yeas and nays were ordered, 1/5 of the members present voting therefor.

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

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

Roll Call No. 104

Yeas—17

Byrum	Goschka	Leland	Rogers
Cherry	Hammerstrom	Miller	Smith, A.
DeBeaussaert	Hart	Murphy	Vaughn
Dingell	Koivisto	Peters	Young
Emerson			

Nays—20

Bennett	Gast	McCotter	Shugars
Bullard	Gougeon	McManus	Sikkema
DeGrow	Hoffman	North	Steil
Dunaskiss	Jaye	Schuette	Stille
Emmons	Johnson	Schwarz	Van Regenmorter

Excused—1

Smith, V.

Not Voting—0

In The Chair: Schwarz

Senator Byrum offered the following amendments:

1. Amend page 10, following line 19, by inserting:
 "Parental involvement grants..... 700,000".
2. Amend page 12, line 6, by striking out "17,599,000" and inserting "18,299,000" and adjusting the subtotals, totals, and section 201 accordingly.
3. Amend page 31, following line 15, by inserting:
 "Sec. 710. (1) From the funds appropriated in part 1 for parental involvement grants, the department shall make available grants to districts, intermediate districts, and multipurpose collaborative boards for the purpose of collaborative community efforts to increase parent involvement in their children's education and to enhance parent education programs regarding the role of parents as their children's first teacher and the importance of parental involvement in preparing children for school.
 (2) The funds allocated under subsection (1) shall be distributed by the department on a competitive grant basis. The grants shall be for programs for families with preschool children from birth to age 5. The maximum grant award shall not exceed \$100,000.00. Grant awards shall be matched on a 1-to-1 ratio with local funding. The department shall report to the state budget office and to the house and senate appropriations committees the total applications received, the grants awarded, and the programs proposed."

The question being on the adoption of the amendments,
Senator Byrum 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. 105**Yeas—17**

Byrum
Cherry
DeBeaussaert
Dingell
Dunaskiss

Emerson
Goschka
Hammerstrom
Hart

Koivisto
Leland
Miller
Murphy

Peters
Smith, A.
Vaughn
Young

Nays—20

Bennett
Bullard
DeGrow
Emmons
Gast

Gougeon
Hoffman
Jaye
Johnson
McCotter

McManus
North
Rogers
Schuette
Schwarz

Shugars
Sikkema
Steil
Stille
Van Regenmorter

Excused—1

Smith, V.

Not Voting—0

In The Chair: Schwarz

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. 106**Yeas—36**

Bennett
Bullard
Byrum
Cherry
DeBeaussaert
DeGrow
Dingell
Dunaskiss
Emerson

Emmons
Gast
Goschka
Gougeon
Hammerstrom
Hart
Hoffman
Johnson
Koivisto

Leland
McCotter
McManus
Miller
Murphy
North
Peters
Rogers
Schuette

Schwarz
Shugars
Sikkema
Smith, A.
Steil
Stille
Van Regenmorter
Vaughn
Young

Nays—1

Jaye

Excused—1

Smith, V.

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 1044, entitled

A bill to amend 1979 PA 94, entitled “The state school aid act of 1979,” by amending sections 3, 6, 8, 11, 11f, 11g, 19, 20, 20j, 21b, 24, 26a, 31a, 31c, 31d, 32, 36, 36a, 39, 40, 41, 51a, 53a, 54, 56, 57, 61a, 62, 63, 67, 68, 74, 81, 91c, 94, 99, 101, 102, 104a, 105, 105b, 105c, 107, 147, 151, 152, and 163 (MCL 388.1603, 388.1606, 388.1608, 388.1611, 388.1611f, 388.1611g, 388.1619, 388.1620, 388.1620j, 388.1621b, 388.1624, 388.1626a, 388.1631a, 388.1631c, 388.1631d, 388.1632, 388.1636, 388.1636a, 388.1639, 388.1640, 388.1641, 388.1651a, 388.1653a, 388.1654, 388.1656, 388.1657, 388.1661a, 388.1662, 388.1663, 388.1667, 388.1668, 388.1674, 388.1681, 388.1691c, 388.1694, 388.1699, 388.1701, 388.1702, 388.1704a, 388.1705, 388.1705b, 388.1705c, 388.1707, 388.1747, 388.1751, 388.1752, and 388.1763), sections 6, 11, 11f, 11g, 20, 24, 26a, 31a, 31c, 36, 36a, 41, 51a, 53a, 54, 56, 57, 61a, 62, 63, 67, 68, 74, 81, 94, 99, 101, 104a, 105, 107, and 147 as amended and sections 20j, 31d, 32, and 105c as added by 1999 PA 119, sections 3 and 151 as amended by 1997 PA 93, sections 8 and 39 as amended by 1997 PA 142, sections 19, 21b, 102, and 163 as amended by 1996 PA 300, section 40 as amended by 1991 PA 118, section 91c as added by 1995 PA 130, section 105b as added by 1997 PA 24, and section 152 as amended by 1993 PA 175, and by adding sections 20l, 22a, 22b, 22c, 51c, 94a, 101b, and 108; and to repeal acts and parts of acts.

The question being on the passage of the bill,

Senator Byrum offered the following amendments:

1. Amend page 21, line 8, by striking out “\$10,189,744,900.00” and inserting “\$10,207,744,900.00”.
2. Amend page 21, line 14, after “OF” by striking out “\$10,720,544,800.00” and inserting “\$10,738,544,800.00”.
3. Amend page 21, line 20, after “OF” by striking out “\$11,049,477,000.00” and inserting “\$11,067,477,000.00”.
4. Amend page 81, line 25, after “EXCEED” by striking out “\$67,500,000.00” and inserting “\$85,500,000.00”.

The question being on the adoption of the amendments,

Senator Byrum 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. 107

Yeas—16

Byrum	Emerson	Koivisto	Peters
Cherry	Goschka	Leland	Smith, A.
DeBeaussaert	Hammerstrom	Miller	Vaughn
Dingell	Hart	Murphy	Young

Nays—21

Bennett	Gougeon	McManus	Shugars
Bullard	Hoffman	North	Sikkema
DeGrow	Jaye	Rogers	Steil
Dunaskiss	Johnson	Schuette	Stille
Emmons	McCotter	Schwarz	Van Regenmorter
Gast			

Excused—1

Smith, V.

Not Voting—0

In The Chair: Schwarz

Senator Hart offered the following amendments:

1. Amend page 21, line 8, by striking out "\$10,189,744,900.00" and inserting "\$10,209,744,900.00".
2. Amend page 21, line 14, after "OF" by striking out "\$10,720,544,800.00" and inserting "\$10,740,544,800.00".
3. Amend page 21, line 20, after "OF" by striking out "\$11,049,477,000.00" and inserting "\$11,069,477,000.00".
4. Amend page 128, following line 21, by inserting:

"SEC. 96. (1) FROM THE STATE SCHOOL AID FUND MONEY APPROPRIATED IN SECTION 11, THERE IS ALLOCATED AN AMOUNT NOT TO EXCEED \$20,000,000.00 EACH FISCAL YEAR FOR 2000-2001, 2001-2002, AND 2002-2003 FOR PROVIDING GRANTS TO DISTRICTS FOR AFTER-SCHOOL PROGRAMS.

(2) TO BE ELIGIBLE FOR FUNDING UNDER THIS SECTION, DISTRICTS SHALL COLLABORATE WITH OTHER PUBLIC AND NONPROFIT AGENCIES AND ORGANIZATIONS, LOCAL BUSINESSES, EDUCATIONAL ENTITIES, RECREATIONAL, AND OTHER COMMUNITY AND HUMAN SERVICE ENTITIES FOR THE PURPOSE OF MEETING THE NEEDS OF, AND EXPANDING THE OPPORTUNITIES AVAILABLE TO, THE STUDENTS OF THE SCHOOL DISTRICT.

(3) THE PROVIDED ACTIVITIES SHALL OFFER SIGNIFICANT EXPANDED LEARNING OPPORTUNITIES FOR CHILDREN AND YOUTH.

(4) AMONG THE DESIRED OUTCOMES FOR THESE PROGRAMS ARE ACCESS TO ENRICHING LEARNING ACTIVITIES, ACCESS TO SAFE AND HEALTHY ENVIRONMENTS AND PARTNERSHIPS WITH FAMILIES, SCHOOLS AND COMMUNITIES.

(5) TO COMPETE FOR A GRANT UNDER THIS SECTION, A DISTRICT SHALL APPLY TO THE SUPERINTENDENT IN THE FORM AND MANNER PRESCRIBED BY THE SUPERINTENDENT. THE DEPARTMENT SHALL MAKE APPLICATIONS AVAILABLE FOR THIS PURPOSE."

The question being on the adoption of the amendments,

Senator Peters 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. 108**Yeas—16**

Byrum
Cherry
DeBeaussaert
Dingell

Emerson
Goschka
Hammerstrom
Hart

Koivisto
Leland
Miller
Murphy

Peters
Smith, A.
Vaughn
Young

Nays—21

Bennett
Bullard
DeGrow
Dunaskiss
Emmons
Gast

Gougeon
Hoffman
Jaye
Johnson
McCotter

McManus
North
Rogers
Schuette
Schwarz

Shugars
Sikkema
Steil
Stille
Van Regenmorter

Excused—1

Smith, V.

Not Voting—0

In The Chair: Schwarz

Senator Hart asked and was granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Hart's first statement is as follows:

This amendment would invest some \$30 million a year in after-school programs for our children. During this past year, I visited a number of these after-school programs in Dearborn, Dearborn Heights, Garden City, and Allen Park, and I want to tell you that they're all successful. The need for these programs is quite clear. Families have changed over the years, and many children live in homes where both parents work or where they are being raised by a single parent.

Making sure that our children have safe havens during the after-school hours is crucial. Some students need extra help beyond what they can get in a traditional school day. After-school programs not only provide children a safe haven for those after-school hours, but they can give academic opportunities as well. According to a study published jointly by the U.S. Departments of Education and Justice, children who participate in after-school programs showed improved behavior in school.

I urge your support for this amendment.

Senator Hart's second statement is as follows:

I agree with the previous speaker from the 14th District. In deference to the speaker from the 32nd District, while you agree with me in part, you forgot one thing. The affluence of every district in the state of Michigan is different. There are districts that can't afford it, and for those districts you're saying it's already in effect in a number of school districts. That's true because they're more affluent; that's why. But we've got to be more uniform throughout the state if we possibly can.

Senators DeBeaussaert and Miller offered the following amendments:

1. Amend page 21, line 3, after "and" by striking out the balance of the line through "(2)," on line 4.
2. Amend page 21, line 10, after "and" by striking out the comma and "SUBJECT TO SUBSECTION (2)."
3. Amend page 21, line 16, after "AND" by striking out the comma and "SUBJECT TO SUBSECTION (2)."
4. Amend page 21, line 22, after "AND" by striking out the comma and "SUBJECT TO SUBSECTION (2)."
5. Amend page 21, line 26, by striking out all of subsection (2) and renumbering the remaining subsections.
6. Amend page 34, line 25, after "\$8,427,900,000.00" by inserting "FOR 2000-2001 AN AMOUNT NOT TO EXCEED \$9,346,963,500.00, FOR 2001-2002 AN AMOUNT NOT TO EXCEED \$9,836,988,200.00, AND FOR 2002-2003 AN AMOUNT NOT TO EXCEED \$10,101,970,800.00".
7. Amend page 50, line 16, by striking out all of subsection (19) and renumbering the remaining subsections.
8. Amend page 51, line 7, after "membership" by striking out "excluding special education pupils".
9. Amend page 52, line 13, after "allocated" by inserting "EACH FISCAL YEAR".
10. Amend page 52, line 13, after "1999-2000" by inserting a comma and "FOR 2000-2001, FOR 2001-2002, AND FOR 2002-2003".
11. Amend page 53, line 6, after "membership" by striking out the balance of the section and inserting a period.
12. Amend page 54, line 7, after "20" by striking out the balance of the line through "22B" on line 8.
13. Amend page 55, line 23, by striking out all of sections 22A and 22B.
14. Amend page 61, line 23, after "EXCEED" by striking out "\$17,388,400.00" and inserting "\$18,317,600.00".
15. Amend page 90, line 26, after "(a)" by striking out "The" and inserting "FOR 1999-2000 ONLY, THE".
16. Amend page 98, line 22, after "DISTRICTS" by striking out the balance of the section and inserting a period.

The question being on the adoption of the amendments,

Senator DeBeaussaert 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. 109

Yeas—16

Byrum	Emerson	Koivisto	Peters
Cherry	Goschka	Leland	Smith, A.
DeBeaussaert	Hammerstrom	Miller	Vaughn
Dingell	Hart	Murphy	Young

Nays—21

Bennett	Gougeon	McManus	Shugars
Bullard	Hoffman	North	Sikkema
DeGrow	Jaye	Rogers	Steil
Dunaskiss	Johnson	Schuette	Stille
Emmons	McCotter	Schwarz	Van Regenmorter
Gast			

Excused—1

Smith, V.

Not Voting—0

In The Chair: Schwarz

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

The motion prevailed.

Senator DeBeaussaert's statement is as follows:

Today the Senate has an opportunity to do the right thing and end the decades of losing litigation regarding special education funding in Michigan. The DeBeaussaert/Miller amendment before you would add the \$400 million necessary to fully and fairly fund special education services in this state.

For two decades the Legislature has been challenged and has been found by the courts to have failed to live up to its constitutional obligations regarding special education funding and Proposal A. The economic growth we have experienced nationally provides in the state healthy balances in our School Aid Fund, and the opportunity for us is now to end this battle, I think, to fully and fairly fund special education and stop forcing all the schools of this state from shortchanging other programs for all students in order to make up for the shortfall in state funds for the services that are mandated for special education.

Senate Bill No. 1044 before you acknowledges that we have not met our constitutional obligation to our children on Proposal A. It acknowledges that by restructuring the manner in which school aid payments are made. There really is no attempt to sugar-coat it. The Governor's budget office message said of the new scheme to make these payments to schools that "no district will receive more or less dollars than they would otherwise receive under the current formula." It simply recalculates making those payments in what has been called by some the "three buckets"—simply moving those dollars around without it providing additional revenue for the special education mandates. Opponents of the proposal refer to it rather than the three buckets as a three-card monte with the schoolchildren of this state left as the unfortunate victims at the end of the game.

Unfortunately, the local school boards that are visiting this Capitol today will tell you that they're then left to do the real dirty work of robbing Peter to pay Paula—of shortchanging programs for all students in this state for doing the things we've talked about, like after-school programs and smaller class sizes, because they have to divert those dollars to pay for the special education services that are mandated but not fully reimbursed.

The last time we discussed this issue the Minority Leader read into the record part of a Traverse City newspaper editorial calling on the Legislature to fully fund special education and end the litigation. Today I've placed on your desks a recent editorial from the *Bay City Times* on this issue. I'll conclude with just part of that editorial. "The executive branch in both the Blanchard and Engler administrations just won't say, 'We've had it; no more. We'll pay you what we owe you.' That's stubbornness beyond common sense. Lawmakers have the power and should use it to rewrite what the Governor proposes, do it to protect the public purse from excessive legal warring, and to protect all students. Just say the war is over and pay the bills owed."

Senator Peters offered the following amendments:

1. Amend page 21, line 8, by striking out "\$10,189,744,900.00" and inserting "\$10,225,744,900.00".
2. Amend page 21, line 14, after "OF" by striking out "\$10,720,544,800.00" and inserting "\$10,756,544,800.00".
3. Amend page 21, line 20, after "OF" by striking out "\$11,049,477,000.00" and inserting "\$11,085,477,000.00".
4. Amend page 128, following line 21, by inserting:

"SEC. 95. (1) FROM THE STATE SCHOOL AID FUND MONEY APPROPRIATED IN SECTION 11, THERE IS ALLOCATED AN AMOUNT NOT TO EXCEED \$36,000,000.00 EACH FISCAL YEAR FOR 2000-2001, 2001-2002, AND 2002-2003 FOR PROVIDING TEACHER TRAINING.

(2) ACTIVITIES FUNDED UNDER THIS SECTION SHALL FOCUS ON TEACHERS AS CENTRAL TO STUDENT LEARNING; REFLECT BEST AVAILABLE RESEARCH AND PRACTICE IN TEACHING AND LEARNING; ENABLE TEACHERS TO DEVELOP FURTHER EXPERTISE IN SUBJECT CONTENT, TEACHING STRATEGIES, USE OF TECHNOLOGY AND OTHER ESSENTIAL ELEMENTS IN TEACHING TO HIGH STANDARDS; AND BE EVALUATED ON THE BASIS OF THEIR IMPACT ON TEACHER EFFECTIVENESS AND STUDENT LEARNING.

(3) FUNDS SHALL BE ALLOCATED UNDER THIS SECTION TO DISTRICTS BASED ON THE NUMBER OF TEACHERS EMPLOYED BY THE DISTRICT.”.

The question being on the adoption of the amendments,

Senator Peters 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. 110

Yeas—16

Byrum	Emerson	Koivisto	Peters
Cherry	Goschka	Leland	Smith, A.
DeBeaussaert	Hammerstrom	Miller	Vaughn
Dingell	Hart	Murphy	Young

Nays—21

Bennett	Gougeon	McManus	Shugars
Bullard	Hoffman	North	Sikkema
DeGrow	Jaye	Rogers	Steil
Dunaskiss	Johnson	Schuette	Stille
Emmons	McCotter	Schwarz	Van Regenmorter
Gast			

Excused—1

Smith, V.

Not Voting—0

In The Chair: Schwarz

Senator Byrum offered the following amendments:

1. Amend page 21, line 8, by striking out “\$10,189,744,900.00” and inserting “\$10,189,844,900.00”.
2. Amend page 21, line 14, after “OF” by striking out “\$10,720,544,800.00” and inserting “\$10,720,644,800.00”.
3. Amend page 21, line 20, after “OF” by striking out “\$11,049,477,000.00” and inserting “\$11,049,577,000.00”.
4. Amend page 128, following line 21, by inserting:

“SEC. 96. (1) FROM THE FUNDS APPROPRIATED IN SECTION 11, THERE IS ALLOCATED AN AMOUNT NOT TO EXCEED \$100,000.00 EACH FISCAL YEAR FOR 2000-2001, 2001-2002, AND 2002-2003 TO PROVIDE FUNDS TO ASSIST DISTRICTS TO DISPLAY A UNITED STATES FLAG IN EACH CLASSROOM. TO RECEIVE FUNDS UNDER THIS SECTION, A DISTRICT SHALL APPLY TO THE DEPARTMENT IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT AND SHALL AGREE TO USE THE FUNDS TO PURCHASE UNITED STATES FLAGS AND TO DISPLAY A UNITED STATES FLAG IN EACH CLASSROOM.

(2) THE DEPARTMENT SHALL GIVE PRIORITY IN ALLOCATING FUNDS UNDER THIS SECTION TO DISTRICTS DETERMINED BY THE DEPARTMENT TO HAVE THE GREATEST NEED FOR THE FUNDING UNDER THIS SECTION IN ORDER TO BE ABLE TO AFFORD TO DISPLAY A FLAG IN EACH CLASSROOM.”.

The question being on the adoption of the amendments,
Senator Byrum 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. 111

Yeas—17

Byrum	Goschka	Leland	Peters
Cherry	Hart	McCotter	Smith, A.
DeBeaussaert	Jaye	Miller	Vaughn
Dingell	Koivisto	Murphy	Young
Dunaskiss			

Nays—20

Bennett	Gast	McManus	Shugars
Bullard	Gougeon	North	Sikkema
DeGrow	Hammerstrom	Rogers	Steil
Emerson	Hoffman	Schuette	Stille
Emmons	Johnson	Schwarz	Van Regenmorter

Excused—1

Smith, V.

Not Voting—0

In The Chair: Schwarz

Protest

Senator Rogers, under his constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senator Byrum to Senate Bill No. 1044 and moved that the statement he made during the discussion of the amendment be printed as his reasons for voting “no.”

The motion prevailed.

Senator Rogers’ statement is as follows:

Spending more money does not a good citizen make. There are some great programs out there now where VFW halls and Legion halls, who are dying to get into schools and sometimes, quite frankly, are oftentimes turned away, provide citizenship programs for kids to connect them to patriotism—why they served their country as a veteran of a foreign war. That is the way we change the hearts and minds of those young people. Spending more money and taking it away from things that we ought to be spending our dollars for education on is not the answer.

Every school that I have been into, when I have been in reading, actually has a flag in the classroom. I have yet to have been to one classroom that does not have a flag. Just propping a flag up in the corner will do nothing if we do not stand up for what it means underneath it. I would encourage the Senator from the 25th District to get involved in some of those VFW programs and those American Legion programs and help them get connected to the schools. Some of those schools are not allowing those folks in. It is a great program. It does neat things for kids. It gives them the opportunity to connect with the patriotism that comes from behind the flag, not the material of the flag.

Senator Emerson offered the following amendment:

1. Amend page 50, following line 20, by inserting:

“(21) IF AN AMENDMENT TO SECTION 2 OF ARTICLE VIII OF THE STATE CONSTITUTION OF 1963 ALLOWING STATE AID TO SOME OR ALL NONPUBLIC SCHOOLS IS APPROVED BY THE VOTERS OF THIS STATE, EACH FOUNDATION ALLOWANCE OR PER PUPIL PAYMENT CALCULATION UNDER THIS SECTION MAY BE REDUCED.” and renumbering the remaining subsection.

The question being on the adoption of the amendment,

Senator Schuette requested the yeas and nays.

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

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

Roll Call No. 112

Yeas—21

Bullard	Emerson	Leland	Schwarz
Byrum	Gast	Miller	Smith, A.
Cherry	Hart	Murphy	Stille
DeBeaussaert	Johnson	North	Vaughn
DeGrow	Koivisto	Peters	Young
Dingell			

Nays—16

Bennett	Gougeon	McCotter	Shugars
Dunaskiss	Hammerstrom	McManus	Sikkema
Emmons	Hoffman	Rogers	Steil
Goschka	Jaye	Schuette	Van Regenmorter

Excused—1

Smith, V.

Not Voting—0

In The Chair: Schwarz

Protests

Senators Bennett, Van Regenmorter, McCotter, Schuette, Emmons, McManus, Shugars, Jaye and Hammerstrom, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senator Emerson to Senate Bill No. 1044.

Senators Bennett, Van Regenmorter, Schuette, Emmons and McManus moved that the statements they made during the discussion of the amendment be printed as their reasons for voting “no.”

The motion prevailed.

Senator Bennett’s statement, in which Senators Shugars and Jaye concurred, is as follows:

I rise to urge that we defeat the amendment. A lot has been said on this issue. I believe what we are attempting to do by putting this in is politicizing the budget process.

I rise for an observation. This is the sixth amendment that has been offered on Senate Bill No. 1044. My friends on the other side of the aisle in the first five amendments have offered up a nearly half a billion dollars in additional spending for this budget. Now they get up on this issue, and over what could be a problem—we don’t know what that

problem may or may not be at this point in time—are trying to put in there a scare tactic that we may have to go back and reduce the budget. Well, I question the sincerity of that when the first five amendments had nearly a half a billion dollars in additional spending.

I urge its defeat.

Senator Van Regenmorter's statement, in which Senators Shugars and Jaye concurred, is as follows:

However one feels about the issue of the voucher proposal, this would set a terrible precedent. Comments were just made a few minutes ago by those in favor of the amendments saying, "It tells the public what might happen." I heard the words, "what may happen." There was a term used that said the public should go to the polls informed. I guess none of us would disagree with any of those except in this context. I believe it violates the spirit of Michigan's Campaign Finance Act and the spirit of the Legislative Council rules. You will remember we cannot use official stationery, official documents, or anything that belongs to the state to advocate for or against a ballot proposal. I think, essentially, that's what's happening here, at least, in concept if we retain this language. Let's think about it. Why then would we stop here? Let's take the petition drive being conducted by a number of the local communities to put the local control issue on the ballot. Maybe we ought to say in the revenue sharing bill if that passes that it may affect revenue, it may affect local ordinance promulgation, and so on. There is no end to what we could suggest in statute to try to sway the vote of the public one way or the other. The immense power of state government should not be used in an attempt to sway a public vote on a ballot proposal. I urge that we reject this amendment.

Senator McCotter's statement, in which Senators Shugars and Jaye concurred, is as follows:

I would again just like to say that the vote today can be misconstrued of the proponents who voted for that amendment that you have already locked yourself into a situation whereby you will reduce the per pupil foundation funding \$100 per student if the Kids First! Yes! proposal passes. The reason I voted "no" is I will not lock myself into any mechanism by which we have to fund the Kids First! Yes! proposal if it passes. I would prefer and I will strive to find other ways to fund it, if it passes, than to go after public education.

Senator Schuette's statement, in which Senators Shugars, Jaye and Hammerstrom concurred, is as follows:

I think it's important everyone understand what this amendment does. The Emerson amendment today—if you vote for the Emerson amendment, you're voting to cut public funding of education. Very simple, very direct—an effort to reduce funding for public schools. If that's your take on where we ought to go in this process, then you should vote for the Emerson amendment. Or if you want to be sure that we are maintaining our commitment to public schools and if you want to have an appropriation bill for K-12 education that is policy neutral, then you should vote this down, cast it away, and reaffirm our commitment to children, Michigan kids, and leaders of tomorrow.

There's no compromise that was going through the process. It's a thinly veiled, implied statement about reducing funding to public schools. I don't think we should talk about the voucher issue at all in this appropriations process. It shouldn't be about vouchers. This ought to be about funding schools.

We have the ability and the agility to make decisions about what might happen a year from now or two years from now. The voucher issue won't be voted upon until November 7 of this year. Whether or not there is going to be some huge exodus one way or another from different schools—who knows? But there is plenty of time if there is some movement in funding issues, I am absolutely certain and I can guarantee that this Senate and the House will come forward and maintain our commitment to public schools, if that's the case.

Year after year after year we've had increase upon increase upon increase of funding for public schools. I happen to be a proponent of public schools in Michigan. My wife and I are products of the public schools. Our daughter goes to the same public school we went to. I want to make sure there's not a reduction whatsoever in public education funding. Hence, this budget now for the upcoming fiscal year should reflect that, and injecting this policy debate is not correct and not appropriate to do so.

We should not vote for a reduction in public education by this amendment. We should say "no." We should reject the Emerson amendment, and let it all be very clear. This is an effort that says we're going to reduce public education in the future. It's not necessary. It's also not accurate, and it shouldn't be in the bill. I'd urge rejection of the Emerson amendment.

Senator Emmons' statement, in which Senators Shugars and Jaye concurred, is as follows:

I oppose this amendment. I want to make it very, very, very clear. This Legislature is not going to decrease funding to public schools. Period. That's why this was taken out yesterday. It needs to be out of here. This is only politics, and I ask the defeat of putting this back in.

Senator McManus' statement, in which Senators Shugars and Jaye concurred, is as follows:

I rise to oppose the Emerson amendment not only for the reasons that have been stated before, but because the voucher proposal that will take place in November is done by the people of the state. It's not a legislative issue. If the people of the state vote that they want vouchers, we will fund it. If they vote not to, the program is over with.

I don't believe anybody in this room is going to vote against funding public schools. I've got kids in all kinds of schools, grandkids, and kids who are done. But I have grandchildren in public schools, the same as some of the rest of you. We're not about to cut public funding for schools. To put this in the ballot is supposition. I could take the land use thing we're coming up with, to follow up on the previous Senator's comments. We're coming with the use valuation for agricultural property. I suppose we could put in there that might affect some townships, a new town hall, or it might affect something else. Might, might, might. Maybe, maybe, maybe.

There's no place in this bill for this paragraph. We got it out of there yesterday, and let's leave it out. I urge you to vote "no" on it.

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

The motion prevailed.

Senator Goschka's statement is as follows:

Fellow colleagues, we have an opportunity today, as members of the state Senate, to stand up and make a very public statement that we are for public education by voting this amendment down. We are the ultimate policy-makers in this state, and I believe that our responsibility is to not in any way put the funding for public education at risk as this amendment clearly does.

I have three children who are in the public schools. My wife is a public school teacher, and I believe in public education. We are duty-bound by the Constitution of this state to fund public education. We must also protect it.

I believe that everyone here needs to understand that this amendment is a foot in the door to take money, precious dollars from the education that our children would otherwise receive. This is not the place, the time, or the day to in any way hurt public education. Those who would vote for this amendment are clearly saying they do not believe in protecting education. I do. Because of that, I will be voting against this amendment. I guarantee you that if the voucher were to pass, the very same people voting for this amendment today would come back after November 7 and work as hard as they possibly could to delete the very language that they will be voting for today.

Why should we put public education at risk? It is needless, and we ought not to do it. Let's take a strong stand today, and protect public education and preserve it. Its funding is very important; we are constitutionally bound to do so. Let's not raise any questions regarding the future of public education. I support it, and that's why I will be voting against this amendment. I urge my colleagues to do the same.

Senator Young's statement is as follows:

I have listened patiently to the comments, and I guess what became somewhat alarming to me were the comments that were just recently made by the good Senator from the 33rd District. What's unfortunate here is no one's really speaking to what, in fact, is happening. Instead it's been stated that, "If you support this amendment, you're against public education." I think that is incorrect. I think what ought to be discussed here is, "Why did public education even come about in the first place?" It was due to the fact that only the privileged were being educated, and there wasn't room in space for people to be educated. Where currently now we have a system in place by which we have indicated that all should have the opportunity to be educated, but within that system we also have the opportunity for those—and I am both a product of public and private schools—the opportunity to seek another avenue not on the backs of those who aren't privileged, but based on the facts still that everyone should have an opportunity to have a public education.

To support this amendment does not mean you are against public education, but one could certainly suggest that it speaks more to fiscal responsibility. You know, we talk about we've never done this, and that is not true. We've done this in many situations, and the largest situation I can speak to speaks to the budget stabilization fund. We're willing to take money out of the system, put it elsewhere, in anticipation of a single economy that may turn it down so that we have a safety net for the programs that this institution, the state Senate side, to put into action. But, on the other hand, the mistake we made is we didn't anticipate what was going to happen in the courts, and we got caught short on the special education needs of people in this state through the Durant decision.

So here we are today with an opportunity to be fiscally responsible to indicate the fact is that if the voucher thing passes, only those who are not supporting the amendment are advocating that it is being used as a campaign to wage against those to put fear in their heart and to vote a certain way. But the truth of the matter is that if the voucher thing passes, we will have to make economic adjustments, the budget would have to reflect that, and it would be our responsibility to not cut the educational system but to make sure that every child in the state of Michigan still has an opportunity to a public education. Now, that's a reality. That's what that is. When I walked in the halls of the Capitol, and I heard that those who are on one side or the other, especially those who don't want this language, jump up and down and talk about politically it can be used to kill their thoughts when just yesterday or the day before or the year before or the last five or six years I have been here, those are the methods that have been used. So let's not try to

characterize this as a way of fighting the ballot proposal one way or the other because we as individuals, I hope, will vote whatever our conscience is.

But I tell you, to me, this is definitely a fight in making sure that every child in the state of Michigan has access to a quality education. That's what that fight is about and showing the example, in fact, that we've got to be fiscally responsible and, in fact, everything that we do is contrary to what the Senator from the 35th District indicated everything we do, in fact, impacts upon public education, whether it be through categoricals, whether it be through restricted funding, whether it be through other methods that we use in the county procedure to take the money away from the books, the locker rooms, the teachers, and the schools as a way of cutting into the dollars of public education. So let's not fool ourselves here, let's not fool the children in the state of Michigan, and certainly let's not fool their voting parents. The fact of the matter is we ought to be fiscally responsible, and in being fiscally responsible, we have to plan ahead for what may happen. And if it doesn't happen, instead of us looking at coming back on the so-called amendment, which is actually going before the people and not before this body, I look to see how many who don't support this amendment would like to use that money to enhance the programs and make sure our children do read and make sure that they go to a clean, safe, and open environment that's conducive to learning. I would hope that we support the amendment, be truthful to people, and make sure that we provide an education to everyone, every child, in the state of Michigan.

Senator Schuette offered the following amendments:

1. Amend page 21, line 2, by striking out "9,515,245,100.00" and inserting "9,519,545,100.00".
2. Amend page 21, line 8, by striking out "10,174,744,900.00" and inserting "10,179,844,300.00".
3. Amend page 21, line 14, by striking out "10,705,544,800.00" and inserting "10,710,944,800.00".
4. Amend page 53, line 11, by inserting:

"SEC. 20K. (1) FROM THE APPROPRIATION IN SECTION 11, THERE IS ALLOCATED AN AMOUNT NOT TO EXCEED \$4,300,000.00 FOR 1999-2000, AN AMOUNT NOT TO EXCEED \$5,100,000.00 FOR 2000-2001, AND AN AMOUNT NOT TO EXCEED \$5,400,000.00 FOR 2001-2002 FOR INTEREST AND PENALTY PAYMENTS TO DISTRICTS UNDER THIS SECTION.

(2) FOR A DISTRICT WHERE THE TOTAL TAXABLE VALUE DECREASES BY MORE THAN 25% IN A CALENDAR YEAR DUE TO A TAX TRIBUNAL JUDGMENT OR COURT DECISION, THE DISTRICT SHALL BE REIMBURSED FOR INTEREST PAID ON TAXES REFUNDED."

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

Senator Schuette offered the following amendment:

1. Amend page 50, following line 20, subsection (20) after "SECTION" by striking out "MAY BE REDUCED" and inserting "IS AUTOMATICALLY INCREASED BY \$50.00."

The question being on the adoption of the amendment,

Senator Schuette requested the yeas and nays.

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

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

Roll Call No. 113

Yeas—11

Bennett	Goschka	Hoffman	Schuette
Dunaskiss	Gougeon	Jaye	Shugars
Emmons	Hammerstrom	McManus	

Nays—25

Bullard	Gast	Miller	Smith, A.
Byrum	Hart	North	Steil
Cherry	Johnson	Peters	Stille
DeBeaussaert	Koivisto	Rogers	Van Regenmorter
DeGrow	Leland	Schwarz	Vaughn
Dingell	McCotter	Sikkema	Young
Emerson			

Excused—1

Smith, V.

Not Voting—1

Murphy

In The Chair: Schwarz

Senators McCotter, Schuette, Goschka and Jaye asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator McCotter's statement is as follows:

I will be voting against the Emerson amendment and the Schuette amendment for the same reasons that I voted against the previous amendment. Which if you think about it is a whole lot of amendments over a very small molehill here.

There's going to be tens of millions of dollars spent in the upcoming months to try to prove the relative merits of this ballot proposal. I would like us all to reflect upon the fact that the decision of what the Senate does or does not leave out in this appropriations bill in the face of \$10 million might not prove to be dispositive. So I think with a little perspective, we have to look at the principle I mentioned previously. Nothing good can come of making a potential appropriation or reduction contingent upon an election.

Senator Schuette's statement is as follows:

Well, a moment or two ago Senator Emerson offered an amendment that placed in this bill and injected the issue of whether we're going to reduce funding for public education, which I think was a mistake. It injected this thinly veiled issue of the voucher, which I think is a mistake. There was a lot of handwringing about how we need to alert folks that there might be a question of funding to public schools, which is wrong. So what this amendment does is give everyone an opportunity to vote for an increase in the per-pupil allowance if the voucher passes. There is much heartache and questions about what will happen if it were to pass; that we better alert the folks. But we all know that we are not going to reduce funding for public education. Then if you are so concerned that we are going to have a reduction, let's add \$50.00 per pupil to the foundation allowance. Then we can clearly go on record of supporting public education without fear that the voucher issue will cause an earthquake here in the state. I ask for support of this amendment.

Senator Goschka's statement is as follows:

I believe that we should support the Schuette amendment. If the majority feels so strongly that public funding of education is at risk, then why would we not as the policy-makers of this state stand up today and take preemptive measures to protect public education by supporting this amendment?

Again, we are duty-bound to protect the education for 1.7 million children in this state, and it would behoove every one of us if, indeed, as was voted earlier, public funding of education is at risk that we should then take steps in this amendment to protect that very same education. We owe it to the children of this state. We must. To turn our back now would be inappropriate, and I hope we will support the children in this state and their education by voting for this amendment.

Senator Jaye's statement is as follows:

I very rarely vote for any budget, and I very rarely vote for any additional appropriation of spending. Occasionally, however, it's necessary to spend public funds in order to guarantee a constitutional liberty. The First Amendment to the U.S. Constitution, in addition to protecting your right to freedom of speech, also protects citizens' fundamental right to petition their government for redress of their grievances. We've had a citizen-based petition initiative, and these folks have gone through the extraordinary hurdles of collecting over 300,000 signatures in less than six months in order to place before the voters for the first time in over 30 years a question on whether some of their own taxpayer dollars should be spent for their children's education.

Now we have in front of us an amendment that removes the poison pill—the poison pill that says we as a Legislature by passing this budget will cut the knees off this petition initiative because that citizen petition initiative says right in the language that will appear on the ballot that funding shall not be reduced for public schools.

I support the Schuette amendment, and if that extra \$50 increase per pupil gets on, I will vote to approve this budget. And we have the money. We have over \$1.2 billion in the state rainy day fund. We have over \$780 million in the surplus K-12 budget, and we have over \$300 million in other unearmarked surplus money.

It is almost impossible to get any issue on the ballot in the state of Michigan with only six months to collect signatures with our weather and with the high hurdle of over 300,000 signatures. Let us not deny citizens the right to have an unbiased vote.

I applaud Senator Schuette for offering this amendment. I'm going to support this amendment to spend the money so that we as a Legislature do not politically fix and diminish the chances for a neutral approach to this debate. I hope you will support the Schuette amendment.

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. 114

Yeas—33

Bennett	Goschka	McCotter	Schwarz
Bullard	Gougeon	McManus	Shugars
Byrum	Hammerstrom	Miller	Sikkema
DeBeaussaert	Hart	Murphy	Steil
DeGrow	Hoffman	North	Stille
Dingell	Johnson	Peters	Van Regenmorter
Dunaskiss	Koivisto	Rogers	Vaughn
Emmons	Leland	Schuette	Young
Gast			

Nays—4

Cherry	Emerson	Jaye	Smith, A.
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Excused—1

Smith, V.

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Protest

Senator Cherry, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 1044 and moved that the statement he made during the discussion of the bill be printed as his reasons for voting "no."

The motion prevailed.

Senator Cherry's statement is as follows:

I rise to urge a "no" vote on the passage of Senate Bill No. 1044. Initially when the Governor during the State of the State message announced that he was going to advocate for a \$6,500 foundation allowance, I was excited. I thought that would be an enormous boost for public education and that it would have helped a number of school districts. It would speed up the closure of the equity gap that started when we initially did Proposal A.

As I began to see the fine print here in the appropriations bill, I began to understand that the foundation allowance increase was going to be spread over three years. Quite frankly, when you begin to stretch it out over that period of time, the increase in this budget is in no great shape and probably would have happened had we done this on a year-by-year-by-year basis. First of all, I don't see where the increase—when you look over the total three-year budget—is significant.

More importantly, in the consideration of this bill, we missed an enormous opportunity to really say that the state of Michigan is going to be responsible and pay its bills. This state in a court case was told that we owed money to Michigan school districts to the total tune of \$400 million. Year after year and including in this budget, we're attempting to dodge that obligation.

Someone earlier during the debate of this bill said we ought to set an example for our schoolchildren. The best example we can set, as they begin to contemplate their own responsibilities as adults, is paying their bills. That is one of the basic responsibilities we all have in life, and it is a responsibility we're going to skirt in this budget. More importantly, we're going to skirt that responsibility—while we're talking about it in previous amendments, how we need to send a message to public education, about how much we cherish it—how important it is. Regardless of what happens on the voucher plans, we're there for public education, except when it comes to paying our bills. That is what this bill says right now.

It is my hope that as it moves through the process, through the House and goes to conference committee, that basic flaw will be remedied. As it stands now, what we are saying when we pass Senate Bill No. 1044 is we are not going to pay our bills. We are not going to comply with the highest court in the state and meet our obligation under the Durant decision. I think on that basis, I will vote “no” on the bill.

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

The motion prevailed.

Senator Jaye's statement is as follows:

One last point that none of the previous individuals have mentioned is that if the voucher initiative passes, we're actually going to have more money in the state budget because a citizen is only going to get a voucher equal to about half, in fact, I think exactly half, of the average statewide grant. So if we're spending approximately \$7,000 a year per pupil and if that pupil leaves public school to parochial school, it's only going to cost the taxpayer \$3,500. So we're actually going to have a windfall, a surplus of money, earmarked, dedicated money for K-12 if the voucher program passes.

So we can afford the Schuette amendment. We can afford to continue at the level of public schools. We should not, in my estimation, by legislative action and shenanigans try to influence the outcome of a ballot proposal that citizens have gone through the extraordinary effort to collect the number of signatures to get an issue on the ballot.

I'll give you an example. I help pay my nephew's tuition to St. Clemens School in Center Line, Michigan. The tuition there in St. Clemens School is about \$3,200 a year. However, Center Line schools spends about \$8,000 a year. So in that one school district alone you can see the difference for the Center Line schoolchildren whose parents want them to go to any religious school or private school of their choice is going to be a windfall in excess of \$3,500 to the public school aid fund. So I hope that the House will take out the language that was put in.

By unanimous consent the Senate returned to the order of

Messages from the House

Senate Bill No. 1006, entitled

A bill to amend 1974 PA 258, entitled “Mental health code,” by amending sections 204a and 210 (MCL 330.1204a and 330.1210), section 204a as added and section 210 as amended by 1995 PA 290.

The House of Representatives has amended the bill as follows:

1. Amend page 1, line 3, after “DEGREE” by striking out “AND” and inserting a comma.
2. Amend page 1, line 4, after “SCHOOL,” by inserting “AND HAS ITS MAIN FACILITY IN A CITY HAVING A POPULATION OF 100,000 OR MORE,”.

3. Amend page 1, following line 9, by striking out all of subsection (2) and inserting:

“(2) A MENTAL HEALTH SERVICES ORGANIZATION OPERATING PURSUANT TO THIS SECTION WHICH INCLUDES AN INSTITUTION OF HIGHER EDUCATION SHALL COMPLY WITH THE PROVISIONS OF SECTION 5 (G) (i) AND (ii) OF MCL 124.505, AND, IF THEY CHOOSE TO PROVIDE SERVICES CURRENTLY BEING PROVIDED BY THE EMPLOYEES OF PUBLIC AGENCIES THAT CREATED THE AGREEMENT, THEY MAY ONLY PROVIDE THOSE SERVICES BY TRANSFERRING THE APPROPRIATE EMPLOYEES OR THROUGH A CONTRACTUAL RELATIONSHIP WITH THE CREATING AGENCIES.”.

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.

Pending the order that, under rule 3.202, the bill be laid over one day,

Senator Rogers moved the rule be suspended.

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

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

Senator Hammerstrom offered the following amendments to the amendments:

1. Amend House Amendment No. 3, page 1, following line 9, subsection (2), after the first "A" by inserting "COMMUNITY".

2. Amend House Amendment No. 3, page 1, following line 9, subsection (2), after "HEALTH" by striking out "SERVICES".

3. Amend House Amendment No. 3, page 1, following line 9, subsection (2), after "(ii)" by striking out the balance of the subsection and inserting "OF THE URBAN COOPERATION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.505.".

The amendments to the amendments were adopted.

Senator Cherry requested the yeas and nays.

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

The amendments were adopted, a majority of the members voting therefor, as follows:

Roll Call No. 115

Yeas—21

Bennett	Gougeon	McCotter	Shugars
Bullard	Hammerstrom	McManus	Sikkema
DeGrow	Hoffman	North	Steil
Dunaskiss	Jaye	Schuette	Stille
Emmons	Johnson	Schwarz	Van Regenmorter
Gast			

Nays—15

Byrum	Emerson	Leland	Smith, A.
Cherry	Goschka	Miller	Vaughn
DeBeaussaert	Hart	Murphy	Young
Dingell	Koivisto	Peters	

Excused—1

Smith, V.

Not Voting—1

Rogers

In The Chair: Schwarz

Senator McCotter moved that Senator Rogers be excused from the balance of today's session.

The motion prevailed.

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

The amendments were concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 116**Yeas—24**

Bennett	Gast	Johnson	Shugars
Bullard	Goschka	McCotter	Sikkema
Byrum	Gougeon	McManus	Smith, A.
DeGrow	Hammerstrom	North	Steil
Dunaskiss	Hoffman	Schuette	Stille
Emmons	Jaye	Schwarz	Van Regenmorter

Nays—12

Cherry	Emerson	Leland	Peters
DeBeaussaert	Hart	Miller	Vaughn
Dingell	Koivisto	Murphy	Young

Excused—2

Rogers	Smith, V.
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Not Voting—0

In The Chair: Schwarz

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

Senate Bill No. 1045, entitled

A bill to amend 1998 PA 386, entitled “Estates and protected individuals code,” by amending sections 1103, 1105, 1106, 1107, 1213, 1214, 1303, 1402, 2114, 2202, 2203, 2205, 2504, 2519, 2702, 2718, 2807, 3102, 3204, 3301, 3401, 3412, 3414, 3505, 3806, 3807, 3901, 3902, 3917, 3921, 3956, 5101, 5204, 5213, 5219, 5308, 5406, 6302, 6306, 7206, 7303, 7409, 7501, and 7507 (MCL 700.1103, 700.1105, 700.1106, 700.1107, 700.1213, 700.1214, 700.1303, 700.1402, 700.2114, 700.2202, 700.2203, 700.2205, 700.2504, 700.2519, 700.2702, 700.2718, 700.2807, 700.3102, 700.3204, 700.3301, 700.3401, 700.3412, 700.3414, 700.3505, 700.3806, 700.3807, 700.3901, 700.3902, 700.3917, 700.3921, 700.3956, 700.5101, 700.5204, 700.5213, 700.5219, 700.5308, 700.5406, 700.6302, 700.6306, 700.7206, 700.7303, 700.7409, 700.7501, and 700.7507); and to repeal acts and parts of acts.

The House of Representatives has amended the bill as follows:

1. Amend page 5, following line 20, by inserting:

“Sec. 1104. As used in this act:

(a) “Environmental law” means a federal, state, or local law, rule, regulation, or ordinance that relates to the protection of the environment or human health.

(b) “Estate” includes the property of the decedent, trust, or other person whose affairs are subject to this act as the property is originally constituted and as it exists throughout administration. Except when used in the term “probate estate”, estate includes the right of an estate described in section 7502 to proceed against a recipient of a nonprobate transfer on death and against a trust subject to a power of revocation as necessary to enable the estate to discharge claims and family allowances.

(c) “Exempt property” means property of a decedent’s estate that is described in section 2404.

(d) “Family allowance” is the allowance prescribed in section 2403.

(e) “Fiduciary” includes, but is not limited to, a personal representative, guardian, conservator, trustee, plenary or partial guardian appointed as provided in chapter 6 of the mental health code, 1974 PA 258, MCL 330.1600 to 330.1644, and successor fiduciary.

(f) "Financial institution" means an organization authorized to do business under state or federal laws relating to a financial institution and includes, but is not limited to, a bank, trust company, savings bank, building and loan association, savings and loan company or association, and credit union.

(g) "Foreign personal representative" means a personal representative appointed by another jurisdiction.

(h) "Formal proceedings" means proceedings conducted before a judge with notice to interested persons.

(i) "General personal representative" means a personal representative other than a special personal representative.

(j) "Governing instrument" means a deed; will; trust; insurance or annuity policy; account with POD designation; security registered in beneficiary form (TOD); pension, profit-sharing, retirement, or similar benefit plan; instrument creating or exercising a power of appointment or a power of attorney; or dispositive, appointive, or nominative instrument of any similar type.

(k) "Guardian" means a person who has qualified as a guardian of a minor or A LEGALLY incapacitated individual under a parental or spousal nomination or a court appointment and includes a limited guardian as described in sections 5205, 5206, and 5306. Guardian does not include a guardian ad litem.

(l) "Hazardous substance" means a substance defined as hazardous or toxic or otherwise regulated by an environmental law.

(m) "Heir" means, except as controlled by section 2720, a person, including the surviving spouse or the state, that is entitled under the statutes of intestate succession to a decedent's property.

(n) "Homestead allowance" means the allowance prescribed in section 2402."

2. Amend page 7, following line 11, by inserting:

"(I) "LEGALLY INCAPACITATED INDIVIDUAL" MEANS AN INDIVIDUAL, OTHER THAN A MINOR, FOR WHOM A GUARDIAN IS APPOINTED UNDER THIS ACT OR AN INDIVIDUAL, OTHER THAN A MINOR, WHO HAS BEEN ADJUDGED BY A COURT TO BE AN INCAPACITATED INDIVIDUAL." and relettering the remaining subdivision.

3. Amend page 8, following line 6, by inserting:

"(v) A PHYSICIAN'S ASSISTANT LICENSED TO PRACTICE IN THIS STATE UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838."

4. Amend page 27, following line 19, by inserting:

"Sec. 2513. Whether or not the provisions relating to a holographic will apply, a will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money. To be admissible under this section as evidence of the intended disposition, the writing must be EITHER IN THE TESTATOR'S HANDWRITING OR signed by the testator AT THE END, and must describe the items and the devisees with reasonable certainty. The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation; and it may be a writing that has no significance apart from its effect on the dispositions made by the will."

5. Amend page 31, line 14, by striking out "signed by me" and inserting a comma and "either in my handwriting or signed by me at the end,".

6. Amend page 36, line 15, after "adults" by inserting "who will not receive assets under this will".

7. Amend page 46, line 21, after the second "or" by inserting "LEGALLY".

8. Amend page 64, following line 23, by inserting:

"Sec. 3924. (1) For the purpose of settling a claim as to which an action is not pending in another court for damages for wrongful death or for a claim existing under this state's laws relating to the survival of actions, if a personal representative petitions the court in writing asking leave to settle the claim and after notice to all persons who may be entitled to damages as provided in section 2922 of the revised judicature act of 1961, being section 600.2922 of the Michigan Compiled Laws, the court may conduct a hearing and approve or reject the settlement.

(2) The proceeds of a court settlement of a cause of action for wrongful death shall be distributed in accordance with all of the following:

(a) The personal representative shall file with the court a petition for authority to distribute the proceeds. Upon the filing of the petition, the court shall order a hearing.

(b) Unless waived, notice of hearing must be given to all persons who may be entitled to damages as provided in section 2922 of the revised judicature act of 1961. A notice under this subdivision must contain both of the following:

(i) The name and address of the personal representative and of the personal representative's attorney.

(ii) A statement that, to recover damages under this section, the person who may be entitled to damages must present a claim for damages to the personal representative on or before the date set for hearing on the petition for distribution of the proceeds, and that failure to present a claim for damages within the time provided bars the person from making a claim to any of the proceeds.

(c) If an interested person is a minor, disappeared person, or incapacitated individual for whom a fiduciary is not appointed, the court shall first appoint a fiduciary or guardian ad litem, and the notice as provided in subdivision (b) shall be given to the fiduciary or guardian ad litem.

(d) After a hearing on the personal representative's petition, the court shall order payment from the proceeds of the decedent's reasonable medical, hospital, funeral, and burial expenses for which the estate is liable. The proceeds shall

not be applied to the payment of any other charges against the decedent's estate. The court shall then enter an order distributing the proceeds to those persons designated in section 2922 of the revised judicature act of 1961 who suffered damages and to the decedent's estate for compensation for conscious pain and suffering, if any, in the amount the court considers fair and equitable considering the relative damages sustained by each of the persons and the decedent's estate.

(e) If none of the persons entitled to the proceeds is a minor, disappeared person, or LEGALLY incapacitated individual and all of the persons entitled to the proceeds execute a sworn stipulation or agreement in writing in which each person's portion of the proceeds is specified, the court order shall be entered in accordance with the stipulation or agreement.

(f) A person who may be entitled to damages under this section must present a claim for damages to the personal representative on or before the date set for hearing on the petition for distribution of the proceeds. Failure to present a claim for damages within the time provided by this section bars the person from making a claim to any of the proceeds.

(g) If a claim for wrongful death is pending in another court, the procedures prescribed in section 2922 of the revised judicature act of 1961 are applicable to the distribution of proceeds of a settlement or judgment.”.

9. Amend page 67, following line 12, by inserting:

“Sec. 5103. By a properly executed power of attorney, a parent or guardian of a minor or a guardian of ~~an~~ A LEGALLY incapacitated individual may delegate to another person, for a period not exceeding 6 months, any of the parent's or guardian's powers regarding care, custody, or property of the minor child or ward, except the power to consent to marriage or adoption of a minor ward or to release of a minor ward for adoption. If a guardian for a minor or LEGALLY incapacitated individual delegates any power under this section, the guardian shall notify the court within 7 days after execution of the power of attorney, and provide the court the name, address, and telephone number of the attorney-in-fact.

Sec. 5202. (1) The parent of an unmarried minor may appoint a guardian for the minor by will or by another writing signed by the parent and attested by at least 2 witnesses.

(2) Subject to the right of the minor under section 5203, if both parents are dead or HAVE BEEN ADJUDGED TO BE LEGALLY incapacitated or the surviving parent has no parental rights or has been adjudged to be LEGALLY incapacitated, a parental appointment becomes effective when the guardian's acceptance is filed in the court in which a nominating instrument is probated or, in the case of a nontestamentary nominating instrument, in the court at the place where the minor resides or is present. If both parents are dead, an effective appointment by the parent who died later has priority.

(3) A parental appointment effected by filing the guardian's acceptance under a will probated in the state of the testator's domicile is effective in this state.

(4) Upon acceptance of appointment, the guardian shall give written notice of acceptance to the minor and to the person having the minor's care or the minor's nearest adult relative.”.

10. Amend page 71, following line 15, by inserting:

“Sec. ~~5301~~ 5301. (1) If serving as guardian, the parent of an unmarried LEGALLY incapacitated individual may appoint by will, or other writing signed by the parent and attested by at least 2 witnesses, a guardian for the LEGALLY incapacitated individual. If both parents are dead or the surviving parent is adjudged LEGALLY incapacitated, a parental appointment becomes effective when, after having given 7 days' prior written notice of intention to do so to the LEGALLY incapacitated individual and to the person having the care of the LEGALLY incapacitated individual or to the nearest adult relative, the guardian files acceptance of appointment in the court in which the will is probated or, in the case of a nontestamentary nominating instrument, in the court at the place where the LEGALLY incapacitated individual resides or is present. The notice must state that the appointment may be terminated by filing a written objection in the court as provided by subsection (4). If both parents are dead, an effective appointment by the parent who died later has priority.

(2) If serving as guardian, the spouse of a married LEGALLY incapacitated individual may appoint by will, or other writing signed by the spouse and attested by at least 2 witnesses, a guardian of the LEGALLY incapacitated individual. The appointment becomes effective when, after having given 7 days' prior written notice of intention to do so to the LEGALLY incapacitated individual and to the person having care of the LEGALLY incapacitated individual or to the nearest adult relative, the guardian files acceptance of appointment in the court in which the will is probated or, in the case of a nontestamentary nominating instrument, in the court at the place where the LEGALLY incapacitated individual resides or is present. The notice must state that the appointment may be terminated by filing a written objection in the court as provided by subsection (4).

(3) An appointment effected by filing the guardian's acceptance under a will probated in the state of the decedent's domicile is effective in this state.

(4) Upon the filing of the LEGALLY incapacitated individual's written objection to a guardian's appointment under this section in either the court in which the will was probated or, for a nontestamentary nominating instrument, the court at the place where the LEGALLY incapacitated individual resides or is present, the appointment is terminated. An objection does not prevent appointment by the court in a proper proceeding of the parental or spousal nominee or another suitable person upon an adjudication of incapacity in a proceeding under sections 5302 to 5317.”.

11. Amend page 71, line 17, by striking out “an” and inserting “A LEGALLY”.

12. Amend page 71, following line 23, by inserting:

“Sec. 5310. (1) On petition of the guardian and subject to the filing and approval of a report prepared as required by section 5314, the court shall accept the guardian’s resignation and make any other order that is appropriate.

(2) The ward or a person interested in the ward’s welfare may petition for an order removing the guardian, appointing a successor guardian, modifying the guardianship’s terms, or terminating the guardianship. A request for this order may be made by informal letter to the court or judge. A person who knowingly interferes with the transmission of this kind of request to the court or judge is subject to a finding of contempt of court.

(3) Except as otherwise provided in the order finding incapacity, upon receiving a petition or request under this section, the court shall set a date for a hearing to be held within 28 days after the receipt of the petition or request. An order finding incapacity may specify a minimum period, not exceeding 182 days, during which a petition or request for a finding that a ward is no longer AN incapacitated INDIVIDUAL, or for an order removing the guardian, modifying the guardianship’s terms, or terminating the guardianship, shall not be filed without special leave of the court.

(4) Before removing a guardian, appointing a successor guardian, modifying the guardianship’s terms, or terminating a guardianship, and following the same procedures to safeguard the ward’s rights as apply to a petition for a guardian’s appointment, the court may send a visitor to the present guardian’s residence and to the place where the ward resides or is detained to observe conditions and report in writing to the court.

Sec. 5312. (1) If an individual does not have a guardian, an emergency exists, and no other person appears to have authority to act in the circumstances, the court shall provide notice to the individual alleged to be incapacitated and shall hold a hearing. Upon a showing that the individual is AN incapacitated INDIVIDUAL, the court may exercise the power of a guardian, or appoint a temporary guardian with only the powers and for the period of time as ordered by the court. A hearing with notice as provided in section 5311 shall be held within 28 days after the court has acted under this subsection.

(2) If an appointed guardian is not effectively performing the guardian’s duties and the court further finds that the LEGALLY incapacitated individual’s welfare requires immediate action, the court may appoint, with or without notice, a temporary guardian for the LEGALLY incapacitated individual for a specified period not to exceed 6 months.

(3) A temporary guardian is entitled to the care and custody of the ward, and the authority of a permanent guardian previously appointed by the court is suspended as long as a temporary guardian has authority. A temporary guardian may be removed at any time. A temporary guardian shall make reports as the court requires. In other respects, the provisions of this act concerning guardians apply to temporary guardians.

Sec. 5313. (1) A competent person, including a nonprofit corporation described in section 5106, may be appointed guardian of ~~an~~ A LEGALLY incapacitated individual. The court shall not appoint as a guardian an agency, public or private, that financially benefits from directly providing housing, medical, or social services to the LEGALLY incapacitated individual.

(2) In appointing a guardian under this section, the court shall appoint a person, if suitable and willing to serve, designated by the individual who is the subject of the petition, including a designation made in a durable power of attorney. If a specific designation is not made or a person designated is not suitable or willing to serve, the court may appoint as a guardian a person named as attorney in fact through a durable power of attorney.

(3) If a person is not designated under subsection (2) or a person designated under subsection (2) is not suitable or willing to serve, the court may appoint as a guardian an individual who is related to the subject of the petition in the following order of preference:

(a) The LEGALLY incapacitated individual’s spouse. This subdivision shall be considered to include a person nominated by will or other writing signed by a deceased spouse.

(b) An adult child of the LEGALLY incapacitated individual.

(c) A parent of the LEGALLY incapacitated individual. This subdivision shall be considered to include a person nominated by will or other writing signed by a deceased parent.

(d) A relative of the LEGALLY incapacitated individual with whom the individual has resided for more than 6 months before the filing of the petition.

(e) A person nominated by the person who is caring for the individual or paying benefits to the individual.

(4) If none of the persons listed in subsection (3) is suitable or willing to serve, the court may appoint any competent person who is suitable and willing to serve.

Sec. 5314. Whenever meaningful communication is possible, ~~an~~ A LEGALLY incapacitated individual’s guardian should consult with the LEGALLY incapacitated individual before making a major decision affecting the LEGALLY incapacitated individual. Except as limited under section 5306, ~~an~~ A LEGALLY incapacitated individual’s guardian is responsible for the ward’s care, custody, and control, but is not liable to third persons by reason of that responsibility for the ward’s acts. In particular and without qualifying the foregoing, a guardian has all of the following powers and duties, except as modified by court order:

(a) To the extent that it is consistent with the terms of an order by a court of competent jurisdiction relating to detention or commitment of the ward, the guardian is entitled to custody of the person of the guardian's ward and may establish the ward's place of residence within or without this state. The guardian must notify the court within 14 days of a change in the ward's place of residence.

(b) If entitled to custody of the ward, the guardian must make provision for the ward's care, comfort, and maintenance and, when appropriate, arrange for the ward's training and education. The guardian has the responsibility of securing services to restore the ward to the best possible state of mental and physical well-being so that the ward can return to self-management at the earliest possible time. Without regard to custodial rights of the ward's person, the guardian must take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence a protective proceeding if the ward's other property is in need of protection.

(c) A guardian may give the consent or approval that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service.

(d) If a conservator for the ward's estate is not appointed, a guardian may:

(i) Institute a proceeding to compel a person under a duty to support the ward or to pay sums for the ward's welfare to perform that duty.

(ii) Receive money and tangible property deliverable to the ward and apply the money and property for the ward's support, care, and education. The guardian shall not use money from the ward's estate for room and board that the guardian or the guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by court order made upon notice to at least 1 of the ward's next of kin, if notice is possible. The guardian shall exercise care to conserve any excess for the ward's needs.

(e) The guardian shall report the condition of the ward and the ward's estate that is subject to the guardian's possession or control, as required by the court, but not less often than annually. A report under this subdivision must contain all of the following:

(i) The ward's current mental, physical, and social condition.

(ii) Any improvement or deterioration in the ward's mental, physical, and social condition that occurred during the past year.

(iii) The ward's present living arrangement and any changes in his or her living arrangement that occurred during the past year.

(iv) Whether the guardian recommends a more suitable living arrangement for the ward.

(v) Medical treatment received by the ward.

(vi) Services received by the ward.

(vii) A list of the guardian's visits with, and activities on behalf of, the ward.

(viii) A recommendation as to the need for continued guardianship.

(f) If a conservator is appointed, the guardian shall pay to the conservator, for management as provided in this act, the amount of the ward's estate received by the guardian in excess of the amount the guardian expends for the ward's current support, care, and education. The guardian shall account to the conservator for the amount expended.

Sec. 5316. To encourage self-reliance and independence in ~~an~~ A LEGALLY incapacitated individual, the court may authorize the individual to function without the consent or supervision of the individual's guardian or conservator in handling part of his or her money or property, including authorizing the individual to maintain an account with a financial institution. To the extent the individual is authorized to function autonomously, a person may deal with the individual as though the individual is mentally competent."

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

A bill to amend 1998 PA 386, entitled "An act to codify, revise, consolidate, and classify aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating to trusts, and relating to the affairs of certain individuals under legal incapacity; to provide for the powers and procedures of the court that has jurisdiction over these matters; to provide for the validity and effect of certain transfers, contracts, and deposits that relate to death; to provide procedures to facilitate enforcement of certain trusts; and to repeal acts and parts of acts," by amending sections 1103, 1104, 1105, 1106, 1107, 1213, 1214, 1303, 1402, 2114, 2202, 2203, 2205, 2504, 2513, 2519, 2702, 2718, 2807, 3102, 3204, 3301, 3401, 3412, 3414, 3505, 3806, 3807, 3901, 3902, 3917, 3921, 3924, 3956, 5101, 5103, 5202, 5204, 5213, 5219, 5301, 5308, 5310, 5312, 5313, 5314, 5316, 5406, 6302, 6306, 7206, 7303, 7409, 7501, and 7507 (MCL 700.1103, 700.1104, 700.1105, 700.1106, 700.1107, 700.1213, 700.1214, 700.1303, 700.1402, 700.2114, 700.2202, 700.2203, 700.2205, 700.2504, 700.2513, 700.2519, 700.2702, 700.2718, 700.2807, 700.3102, 700.3204, 700.3301, 700.3401, 700.3412, 700.3414, 700.3505, 700.3806, 700.3807, 700.3901, 700.3902, 700.3917, 700.3921, 700.3924, 700.3956, 700.5101, 700.5103, 700.5202, 700.5204, 700.5213, 700.5219, 700.5301, 700.5308, 700.5310, 700.5312, 700.5313, 700.5314, 700.5316, 700.5406, 700.6302, 700.6306, 700.7206, 700.7303, 700.7409, 700.7501, and 700.7507); and to repeal acts and parts of acts.

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

By unanimous consent the Senate proceeded to the order of
General Orders

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

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

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

House Bill No. 5485, entitled

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 23e of chapter X and sections 2, 13a, and 18 of chapter XIIA (MCL 710.23e, 712A.2, 712A.13a, and 712A.18), section 23e of chapter X as amended by 1994 PA 373, sections 2 and 13a of chapter XIIA as amended by 1998 PA 530, and section 18 of chapter XIIA as amended by 1999 PA 86.

House Bill No. 5487, entitled

A bill to amend 1974 PA 258, entitled "Mental health code," by amending sections 498h, 498j, 604, and 63 (MCL 330.1498h, 330.1498j, 330.1604, and 330.1632), section 498h as amended by 1996 PA 588 and section 498j as added by 1984 PA 186.

House Bill No. 5488, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 1106, 5653, and 5654 (MCL 333.1106, 333.5653, and 333.5653), section 1106 as amended by 1996 PA 307 and sections 5653 and 5654 as added by 1996 PA 594.

House Bill No. 5489, entitled

A bill to amend 1996 PA 193, entitled "Michigan do-not-resuscitate procedure act," by amending section 2 (MCL 333.1052).

House Bill No. 5490, entitled

A bill to amend 1970 PA 91, entitled "Child custody act of 1970," by amending section 6b (MCL 722.26b), as amended by 1993 PA 259.

House Bill No. 5491, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending sections 11b and 115j (MCL 400.11b and 400.115j), section 11b as amended by 1990 PA 122 and section 115j as added by 1994 PA 238.

House Bill No. 5492, entitled

A bill to amend 1999 PA 276, entitled "Banking code of 1999," by amending section 4402 (MCL 487.14402).

House Bill No. 5493, entitled

A bill to amend 1996 PA 354, entitled "Savings bank act," by amending section 422 (MCL 487.3422).

House Bill No. 5494, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 236 (MCL 257.236), as amended by 1990 PA 181.

House Bill No. 5495, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 20101b and 80312 (MCL 324.20101b and 324.80312), section 20101b as added by 1995 PA 71 and section 80312 as added by 1995 PA 58.

House Bill No. 5496, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 145n (MCL 750.145n), as added by 1994 PA 149.

House Bill No. 5497, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 834 (MCL 600.834), as amended by 1996 PA 388.

The bills were 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. 963, entitled

A bill to make appropriations for community colleges and certain state purposes related to education for the fiscal year ending September 30, 2001; to provide for the expenditures of those appropriations; to establish or continue certain funds, programs, and categories; and to prescribe the powers and duties of certain state departments, institutions, agencies, employees, and officers.

Substitute (S-1).

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

1. Amend page 22, following line 5, by inserting:

"(12) Students who are expected to receive a tuition incentive program scholarship are not eligible for the PASS program as described in this section."

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

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

Senate Bill No. 967, entitled

A bill to make appropriations for the state institutions of higher education and certain state purposes related to education for the fiscal year ending September 30, 2001; to provide for the expenditures of those appropriations; and to prescribe the powers and duties of certain state departments, institutions, agencies, employees, and officers.

Substitute (S-1).

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

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

Senate Bill No. 968, entitled

A bill to make supplemental appropriations for the departments of agriculture, civil rights, civil service, community health, corrections, education, family independence agency, management and budget, natural resources, state, state police, transportation, treasury and higher education and the judicial branch for the fiscal year ending September 30, 2000; to provide for the expenditure of these appropriations, and to repeal acts and parts of acts.

Substitute (S-1).

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

1. Amend page 5, line 14, by striking out "10,000,000" and inserting "1,000,000".

2. Amend page 5, line 20, by striking out "57,254,800" and inserting "48,254,800" and adjusting subtotals, totals and section 201 accordingly.

3. Amend page 34, line 20, after "report" by striking out the balance of the line through "commissioner," on line 21 and inserting "of the distribution of funds in part 1 for".

4. Amend page 34, line 22, by striking out "enhancement" and inserting "enhancements".

5. Amend page 34, line 23, after "transmitted" by striking out "by" and inserting "not later than".

6. Amend page 34, following line 23, by inserting:

"Sec. 302. (1) The office of racing commissioner shall provide a report that details the total dollars wagered and the breaks money from each of the 8 pari-mutuel tracks to each of the following:

(a) Each municipality where the pari-mutuel tracks are located.

(b) The senate and house of representatives appropriation committees.

(c) The fiscal agencies.

(2) The report described in subsection (1) shall be transmitted to the entities described in subsection (1) not later than October 15, 2000."

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

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

House Bill No. 5486, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 816, 841, 880, 880b, 880c, 1021, 1517, and 2922 (MCL 600.816, 600.841, 600.880, 600.880b, 600.880c, 600.1021, 600.1517, and 600.2922), section 816 as amended by 1995 PA 14, sections 841 and 1517 as amended and section 1021 as added by 1996 PA 388, section 880 as amended and sections 880b and 880c as added by 1993 PA 189, and section 2922 as amended by 1985 PA 93.

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

1. Amend page 2, line 24, after "330.1456." by inserting "NOTHING IN THIS SECTION PROHIBITS A JUDGE FROM HOLDING A HEARING REGARDING AN INDIVIDUAL ALLEGED TO NEED PROTECTION AT A SITE THE COURT CONSIDERS APPROPRIATE AS PROVIDED BY SECTION 5406 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.5406."

2. Amend page 12, line 2, after "330.1456." by inserting "NOTHING IN THIS SECTION PROHIBITS A JUDGE FROM HOLDING A HEARING REGARDING AN INDIVIDUAL ALLEGED TO NEED PROTECTION AT A SITE THE COURT CONSIDERS APPROPRIATE AS PROVIDED BY SECTION 5406 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.5406."

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:

House Bill No. 5498, entitled

A bill to amend 1967 PA 224, entitled "Powers of appointment act of 1967," by amending section 4 (MCL 556.114). Substitute (S-1).

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

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator McCotter moved that the following bills, now on the order of Third Reading of Bills, be referred to the Committee on Judiciary:

Senate Bill No. 287, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 626c.

Senate Bill No. 390, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 12 of chapter XVII (MCL 777.12), as added by 1998 PA 317.

The motion prevailed.

Senator McCotter moved that the following bill, now on the order of General Orders, be referred to the Committee on Judiciary:

Senate Bill No. 612, entitled

A bill to amend 1978 PA 59, entitled "Condominium act," by amending sections 3, 6, 10, 45, 47a, 52, 58, 67, 73, 90, 106, 107, 108, 111, 112, 113, 132, and 135 (MCL 559.103, 559.106, 559.110, 559.145, 559.147a, 559.152, 559.158, 559.167, 559.173, 559.190, 559.206, 559.207, 559.208, 559.211, 559.212, 559.213, 559.232, and 559.235), sections 3, 10, 52, 67, 73, 112, and 135 as amended by 1982 PA 538, section 6 as amended by 1983 PA 113, section 47a as amended by 1998 PA 36, and section 90 as amended by 1988 PA 147, and by adding sections 72b, 90a, and 176.

The motion prevailed.

Resolutions

House Concurrent Resolution No. 89.

A concurrent resolution prescribing the legislative schedule.

Resolved by the House of Representatives (the Senate concurring), That when the House of Representatives adjourns on Thursday, March 23, 2000, it stand adjourned until Tuesday, April 11, 2000, at 10:00 a.m.

The House of Representatives has adopted the concurrent resolution.

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

Senator McCotter moved that the rule be suspended.

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

The concurrent resolution was adopted.

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

Senate Concurrent Resolution No. 29

The motion prevailed.

Senate Concurrent Resolution No. 35.

A concurrent resolution prescribing the legislative schedule.

(For text of resolution, see Senate Journal No. 27, p. 365.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

By unanimous consent the Senate proceeded to the order of

Statements

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

The motion prevailed.

Senator McCotter's statement is as follows:

Bob Greene, a writer for *Life* magazine, had an article in their March 2000 edition about an eight-year-old boy named Joseph Duncan. I will not rehash the article as I will ask that it be entered into the record, but I was just struck by it. I have a seven-year-old son, and what happened to Joseph Duncan, a victim of domestic abuse that cost him his life, was very moving to me. I just thought it was worthy, in his memory, to let him know that he will be missed, and he will not be forgotten, and that perhaps now, finally, he will be loved.

Senator McCotter moved that the following article be printed in the Journal.

The motion prevailed.

What Happened to Joseph - Bob Greene

One day last May, during recess on the playground at Washington Elementary School in the small town of Marion, in southern Illinois, an eight-year-old boy named Joseph Duncan told his second-grade teacher that his back burned and stung.

His teacher looked under the child's T-shirt.

What she saw—according to Sergeant Craig Short of the Illinois State Police—were welts and bruises covering his back and buttocks, “the worst she had ever seen.”

When the teacher asked Joseph Duncan what had happened, the child “was reluctant to say,” according to Jess McDonald, director of the Illinois Department of Children and Family Services (DCFS). But when the teacher persisted, he “said he had been whipped with an electrical extension cord . . . later he said it was not the first time this had been done to him.”

The child said the person who had whipped him was his mother's boyfriend—a man named Ernst Bruny, 27. When the teacher said she would try to get the boy some help, the child, according to Sergeant Short, said, “If you tell, I'll get it again.”

But the teacher knew this child was in terrible trouble, and that someone must rescue him. The school called DCFS; an investigator was assigned.

The investigator went to a house where Joseph was living with his mother—Donna Duncan, 29—and Ernst Bruny. Bruny and Duncan “were contrite and cooperative,” DCFS director McDonald said. “They acknowledged that they shouldn't have done it. They said they wouldn't do it again.” The DCFS investigator decided there was no need to remove the child from the house—or to call law enforcement officials.

Soon after, Ernst Bruny and Donna Duncan moved with the boy and an infant daughter to another county—to a rural area known as Lake of Egypt. DCFS had assigned a “housing advocate” to assist them in setting up an appropriate home, but Duncan told the advocates she no longer wanted DCFS services.

On June 18, a DCFS investigator went to Lake of Egypt to check on Joseph. According to DCFS official Martha Allen, the investigator asked him—in the presence of Ernst Bruny and Donna Duncan—how he was doing. The child said, “Fine.” There was no effort, Allen conceded, to speak with the boy privately.

According to Allen, “The family stated that they wanted no more services.” Thus, DCFS closed the case of Joseph Duncan.

Late in the summer, he was enrolled in a new school—Goreville elementary, in Johnson County. One thing seemed unusual, said state’s attorney Brian Trambley: “Even on 100 degree days, when other children were wearing shorts and T-shirts, Joseph would come to school in long-sleeved shirts and long pants.” The clothing covered his arms and legs.

In early September, according to Karen Lill—Joseph’s grandmother, Donna Duncan’s mother—she saw Donna Duncan at a Moto-Mart laundromat. Lill—who said Joseph was a quiet child who always offered to help with chores—said Duncan told her, “I brought him into this world, and I can take him out.” Soon after, Duncan temporarily left Bruny and her two children for Winter Haven, Fla., to work as a nursing assistant in a medical facility.

Joseph Duncan stopped showing up for his third-grade classes at Goreville elementary. Donna Duncan, according to Johnson County Sheriff Elry Falkner, called the school from Florida to say “some family members had paid for Joseph to go to private school in Florida, and that he wouldn’t be coming back.”

Before dawn last September 28, the Johnson County sheriff’s department received a phone call from the Winter Haven, Fla., police, saying that Donna Duncan had made some disturbing comments at work. The comments concerned her son Joseph, and Ernst Bruny.

In darkness, Sheriff Faulkner, a deputy and two police officers drove to Lake of Egypt. When they knocked on the door, Ernst Bruny answered.

“He said that the little girl was in the house with him,” Faulkner said. “He took us to a bedroom and showed her to us. But he said the boy was living in Florida with his mother.”

Faulkner went into a bathroom. “There was a pillow with what looked like blood on it,” he said. “My deputy called me into the master bedroom. In its bathroom, there was a cloth suitcase with a bulge in it.

“In the suitcase were plastic bags, each inside the other. I took a pocket knife out and slit into the bags. I looked inside the bags.

“There was a leg . . .”

According to state’s attorney Trambley’s investigation, Joseph had been beaten two or three times a day for three weeks before he died. During this time he was confined to his room with a bucket in which to urinate and defecate. Trambley said: “He died from blunt trauma to all parts of his body. There was bruising from the top of his head to his feet.”

Ernst Bruny and Donna Duncan are both charged with first-degree murder and are in separate southern Illinois jails awaiting trial. Neither would agree to speak for this story.

At Joseph Duncan’s funeral, his grandmother said one of his classmates showed up with 75 cents. The child said that Joseph had once lent him the money to buy ice cream, and he wanted to pay it back.

We tell children that if they are in trouble, they must tell a teacher or a police officer. We tell them that if they ask an adult for help, they will be protected.

Joseph Duncan told his teacher what was being done to him; he told the truth. The teacher told the Department of Children and Family Services.

And no one saved that little boy. Why should we ever expect the children to believe what we promise?

(The above article published by permission of *Life* magazine.)

By unanimous consent the Senate returned to the order of

Introduction and Referral of Bills

Senator Bullard introduced

Senate Bill No. 1173, entitled

A bill to amend 1969 PA 317, entitled “Worker’s disability compensation act of 1969,” by amending section 230 (MCL 418.230), as amended by 1994 PA 271.

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

Senators Johnson, Rogers, Van Regenmorter, Hammerstrom, Emmons, McCotter, Goschka, Shugars, Bennett, Sikkema, Gast, Schuette, Stille and Jaye introduced

Senate Bill No. 1174, entitled

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” by amending section 24 of chapter VII (MCL 767.24), as amended by 1987 PA 255.

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

House Bill No. 4327, entitled

A bill to amend 1978 PA 33, entitled "An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts," by amending sections 1, 6, and 7 (MCL 722.671, 722.676, and 722.677), sections 6 and 7 as amended by 1999 PA 33.

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 Judiciary.

House Bill No. 5124, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," (MCL 339.101 to 339.2721) by adding article 17A.

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 Judiciary.

House Bill No. 5126, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," (MCL 339.101 to 339.2721) by adding article 17A.

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 Judiciary.

House Bill No. 5127, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," (MCL 339.101 to 339.2721) by adding article 17A.

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 Judiciary.

House Bill No. 5131, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," (MCL 339.101 to 339.2721) by adding article 17A.

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 Judiciary.

Scheduled Meetings

Appropriations -**Subcommittees -**

Agriculture - Wednesdays, March 29, April 5, April 12, and May 10, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

Career Development Strategic Fund Agency - Tuesdays, March 28 and April 11, 1:00 p.m., and Tuesday, May 2, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Consumer and Industry Services - Wednesdays, March 29, April 5, and April 12, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-7350)

Environmental Quality - Thursdays, March 30, April 6, and May 4, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-7350)

Family Independence Agency - Thursday, March 23, 1:00 p.m., Room 100, Farnum Building; Thursday, March 30, 1:00 p.m., Room 100, Farnum Building; Tuesday, April 4, 1:00 p.m., Room 210, Farnum Building; Thursday, April 6, 1:00 p.m., Room 100, Farnum Building; Tuesday, April 11, 1:00 p.m., Room 210, Farnum Building; Thursday, April 13, 3:00 p.m., Room 100, Farnum Building; Tuesday, May 2, 1:00 p.m., Room 210, Farnum Building; and Tuesday, May 9, 1:00 p.m., Room 210, Farnum Building (373-1760)

General Government - Tuesday, March 28, 1:00 p.m., Room 404, Capitol Building; Tuesday, April 4, 1:00 p.m., Room 405, Capitol Building; Tuesday, May 2, 1:00 p.m., Room 404, Capitol Building; Tuesday, May 9, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building; and Wednesday, May 10, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-3447)

Natural Resources - Tuesdays, March 28, April 4, and May 9, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

State Police and Military Affairs - Tuesday, March 28, 1:30 p.m., Room 210, Farnum Building; Tuesdays, April 11 and May 2, 1:30 p.m., Room 405, Capitol Building (373-2426)

Transportation - Thursdays, April 6, April 13, and May 11, 8:30 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2426)

Economic Development, International Trade and Regulatory Affairs - Tuesday, March 28, 1:00 p.m., Room 110, Farnum Building (373-7946)

Government Operations - Thursday, March 23, 1:00 p.m., Room 110, Farnum Building (373-1707)

Health Policy - Tuesday, March 28, 3:00 p.m., Room 100, Farnum Building (373-0793)

Human Resources, Labor, Senior Citizens and Veterans Affairs - Thursday, March 30, 12:00 p.m., Rooms 402 and 403, Capitol Building (373-2417)

Natural Resources and Environmental Affairs - Thursday, March 23, 6:00 p.m., Northwestern Michigan College, Oleson Center - Rooms 1 and 2, 1701 East Front Street, Traverse City; Thursday, April 6, 6:00 p.m., Lake Superior State University, Cisler Student and Conference Center - Ontario-Michigan Room, 650 Easterday Avenue, Sault Ste. Marie; and Monday, April 10, 6:00 p.m., Monroe City Hall, Council Chamber, 120 East First Street, Monroe (373-0797)

Senator McCotter moved that the Senate adjourn.

The motion prevailed, the time being 3:38 p.m.

The President pro tempore, Senator Schwarz, declared the Senate adjourned until Thursday, March 23, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.