

**No. 101**  
**STATE OF MICHIGAN**  
**Journal of the Senate**  
**93rd Legislature**  
**REGULAR SESSION OF 2005**

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Senate Chamber, Lansing, Wednesday, November 9, 2005.

10:00 a.m.

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

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

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

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

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

Reverend Timothy Harmon of Perry Church of the Nazarene of Perry offered the following invocation:

Almighty God, Father in Heaven, whose glory is exalted beyond the Heavens, more glorious than a thousand sunsets, more brilliant than the brightest stars, awaken us today to Your glory. Bathe us with Your brilliance that we might live this day in the light that You give.

I pray for these Senators who serve such a great people in this state of Michigan. I pray that You would instill in their hearts the very compassion and love that You have for the people of this state. I pray that You would give these men and women in this chamber courage in difficult choices, patience in disappointments, and perseverance in truth. Renew their passion for this great calling. Give each today the strength to overcome unique temptations that accompany such a vocation. Protect and care for their marriages and their families.

As a result of their service, may Michigan become the salt of the earth, the light of the world. I pray, Lord, that You would grant us humility to turn to You; to turn from our agendas and seek Your kingdom, a kingdom of love, peace, justice, and compassion for all people.

I pray that You would stand between us and our neighbor and our adversary, that we might see in them the very image of God. May we find our strength and hope not in vast abilities and resources, but in Your presence. And may we seek with all our hearts, Your kingdom, until that day when the kingdoms of this world have become the kingdoms of our Lord and of Christ, and He shall reign forever and ever. Amen.

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

### Motions and Communications

Senators George, Leland and Olshove entered the Senate Chamber.

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

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

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

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

### Recess

Senator Hammerstrom moved that the Senate recess subject to the call of the Chair.  
The motion prevailed, the time being 10:06 a.m.

10:20 a.m.

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

During the recess, Senator Hardiman introduced Grand Rapids Public School Superintendent Bert Bleke and Ruth Jones, principal of Henry Paideia Academy, and presented her with a Special Tribute.  
Superintendent Bleke and Ms. Jones responded briefly.

During the recess, Senators Emerson, Brater and Barcia entered the Senate Chamber.

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

**Senate Bill No. 246**

**Senate Bill No. 318**

The motion prevailed.

Senator Hammerstrom moved that the Committee on Appropriations be discharged from further consideration of the following bill:

**House Bill No. 4307, entitled**

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2005; to provide for the expenditure of the appropriations; and to repeal acts and parts of acts.

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

Senator Hammerstrom moved that the rules be suspended and that the following bill, now on the order of General Orders, be placed on the General Orders calendar for consideration today:

**House Bill No. 4307**

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

Senator Hammerstrom moved that the Committee on Government Operations be discharged from further consideration of the following appointments:

**Michigan State Waterways Commission**

Mr. Bryan L. Amann of 1777 Stonebridge Way, Canton, Michigan 48188, county of Wayne, succeeding David Giffin, whose term has expired, representing the general public, for a term commencing October 4, 2005 and expiring September 18, 2008.

Mr. Robert B. Brown of 15 Prospect Street, St. Ignace, Michigan 49781, county of Mackinac, succeeding John Winn, whose term has expired, representing a person who represents the marine-trades industry, who does not own or operate a harbor or marina, for a term commencing October 4, 2005 and expiring September 18, 2008.

The motion prevailed, a majority of the members serving voting therefor, and the appointments were placed on the order of Messages from the Governor.

The following communication was received and read:  
Office of the Senate Majority Leader

November 7, 2005

Pursuant to Joint Rule 3(a), I have made the following conferee appointments to the Conference Committee on House Bill 4315:

Senator Jud Gilbert, Senator Wayne Kuipers and Senator Raymond Basham

Respectfully yours,  
Ken Sikkema  
Senate Majority Leader

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, November 8:

**House Bill Nos. 5204 5205 5206 5207 5209**

The Secretary announced the enrollment printing and presentation to the Governor on Tuesday, November 8, for her approval the following bill:

**Enrolled Senate Bill No. 193 at 12:33 p.m.**

### Messages from the Governor

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

**Senate Bill No. 272**

**Senate Bill No. 271**

**Senate Bill No. 264**

**Senate Bill No. 274**

**Senate Bill No. 281**

The motion prevailed.

**Michigan State Waterways Commission**

Mr. Bryan L. Amann of 1777 Stonebridge Way, Canton, Michigan 48188, county of Wayne, succeeding David Giffin, whose term has expired, representing the general public, for a term commencing October 4, 2005 and expiring September 18, 2008.

Senator Hammerstrom moved that the Senate advise and consent to the appointment.

The question being on advising and consenting to the said appointment to office,

The Senate advised and consented to the appointment to office, a majority of the members serving voting therefor, as follows:

**Roll Call No. 564****Yeas—38**

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

**Nays—0****Excused—0****Not Voting—0**

In The Chair: Birkholz

**Michigan State Waterways Commission**

Mr. Robert B. Brown of 15 Prospect Street, St. Ignace, Michigan 49781, county of Mackinac, succeeding John Winn, whose term has expired, representing a person who represents the marine-trades industry, who does not own or operate a harbor or marina, for a term commencing October 4, 2005 and expiring September 18, 2008.

Senator Hammerstrom moved that the Senate advise and consent to the appointment.

The question being on advising and consenting to the said appointment to office,

The Senate advised and consented to the appointment to office, a majority of the members serving voting therefor, as follows:

**Roll Call No. 565****Yeas—38**

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

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: Birkholz

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

Senator Hammerstrom 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 Birkholz, designated Senator Allen as Chairperson.

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

**House Bill No. 4307, entitled**

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2005; to provide for the expenditure of the appropriations; and to repeal acts and parts of acts.

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

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

Senator Hammerstrom moved that the rules be suspended and that the following bill, now on the order of Third Reading of Bills, be placed on its immediate passage:

**House Bill No. 4307**

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

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

**Senate Joint Resolution E**

**Senate Bill No. 693**

**Senate Bill No. 859**

**House Bill No. 4421**

**House Bill No. 4001**

**House Bill No. 4002**

**House Bill No. 5091**

**House Bill No. 4307**

The motion prevailed.

Senator Schauer moved that Senator Jacobs be temporarily excused from the balance of today's session.  
The motion prevailed.

The following joint resolution was read a third time:

**Senate Joint Resolution E, entitled**

A joint resolution proposing an amendment to the state constitution of 1963, by amending section 2 of article X, to restrict the power of state or local government to take private property by eminent domain for certain private purposes.

The question being on the adoption of the joint resolution,

Senator Thomas offered the following amendment:

1. Amend page 2, line 2, after "law." by inserting "**IF PRIVATE PROPERTY CONSISTING OF AN INDIVIDUAL'S PRINCIPAL RESIDENCE IS TAKEN FOR PUBLIC USE, THE AMOUNT OF COMPENSATION**

**MADE AND DETERMINED FOR THAT TAKING SHALL BE NOT LESS THAN 125% OF THAT PROPERTY'S FAIR MARKET VALUE, IN ADDITION TO ANY OTHER REIMBURSEMENT ALLOWED BY LAW."**

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

Senator Jacobs entered the Senate Chamber.

The question being on the adoption of the joint resolution,

The joint resolution was adopted, 2/3 of the members serving voting therefor, as follows:

**Roll Call No. 566**

**Yeas—35**

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

**Nays—3**

Bernero	Brater	Emerson
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**Excused—0**

**Not Voting—0**

In The Chair: Birkholz

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

The motion prevailed.

Senator Basham's statement is as follows:

What a great amendment to support. I certainly support this amendment. If this exercise is more than just mere politics, this amendment is the least we can do for the homeowners of this state. No one is going to get rich off this amendment, and no government is going to go broke off this amendment.

More often, the expensive part of eminent domain consists of paying off the commercial property owners for the loss of their businesses. The houses that are condemned, in contrast, are typically homes that are not high in value to anyone but the owners. In their rare cases where well-off people lose their homes, they are astute enough to hire lawyers and fight government in court for a higher payout. This amendment gives the higher payout to the person who can't afford a lawyer, to the person whose only asset is a modest income.

Let's do the right thing. If we really want to change the Constitution for this issue, let's do it the right way, and let's put in something for the little guy.

The following bill was read a third time:

**Senate Bill No. 693, entitled**

A bill to amend 1911 PA 149, entitled "An act to provide for the acquisition by purchase, condemnation and otherwise by state agencies and public corporations of private property for the use or benefit of the public, and to

define the terms “public corporations,” “state agencies” and “private property” as used herein,” by amending section 3 (MCL 213.23).

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. 567****Yeas—36**

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

**Nays—2**

Bernero	Brater
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**Excused—0****Not Voting—0**

In The Chair: Birkholz

The Senate agreed to the title of the bill.

The President, Lieutenant Governor Cherry, assumed the Chair.

The following bill was read a third time:

**Senate Bill No. 859, entitled**

A bill to amend 1893 PA 206, entitled “The general property tax act,” by amending section 7dd (MCL 211.7dd), as amended by 2003 PA 140.

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. 568****Yeas—38**

Allen	Clark-Coleman	Jacobs	Sanborn
Barcia	Clarke	Jelinek	Schauer
Basham	Cropsey	Johnson	Scott
Bernero	Emerson	Kuipers	Sikkema
Birkholz	Garcia	Leland	Stamas
Bishop	George	McManus	Switalski
Brater	Gilbert	Olshove	Thomas
Brown	Goschka	Patterson	Toy

Cassis  
CherryHammerstrom  
Hardiman

Prusi

Van Woerkom

**Nays—0****Excused—0****Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

**House Bill No. 4421, entitled**

A bill to amend 1956 PA 218, entitled “The insurance code of 1956,” by amending section 1204c (MCL 500.1204c), as amended by 2001 PA 228.

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. 569****Yeas—38**Allen  
Barcia  
Basham  
Bernero  
Birkholz  
Bishop  
Brater  
Brown  
Cassis  
CherryClark-Coleman  
Clarke  
Cropsey  
Emerson  
Garcia  
George  
Gilbert  
Goschka  
Hammerstrom  
HardimanJacobs  
Jelinek  
Johnson  
Kuipers  
Leland  
McManus  
Olshove  
Patterson  
PrusiSanborn  
Schauer  
Scott  
Sikkema  
Stamas  
Switalski  
Thomas  
Toy  
Van Woerkom**Nays—0****Excused—0****Not Voting—0**

In The Chair: President

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

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

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

“An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign



and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act.”.

The Senate agreed to the full title.

The following bill was read a third time:

**House Bill No. 4001, entitled**

A bill to establish an undergraduate tuition grant program for children of certain deceased or disabled members of the armed forces of the United States; to provide for the administration of the tuition grant program; to prescribe certain powers and duties of certain state officers, agencies, and departments; and to repeal acts and parts of acts.

The question being on the passage of the bill,

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

**Roll Call No. 570**

**Yeas—38**

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

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: President

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

The following bill was read a third time:

**House Bill No. 4002, entitled**

A bill to amend 1946 (1st Ex Sess) PA 9, entitled "An act to create the Michigan veterans' trust fund, and to define who shall be eligible to receive assistance therefrom; to provide for the disbursement of the income thereof and surplus therein; to create a board of trustees, and to prescribe its powers and duties; to provide for county and district committees, and their powers, duties, and expenses; to prescribe penalties; and to make appropriations to carry out the provisions of this act," by repealing sections 1a, 1b, 1c, 1e, and 1f (MCL 35.601a, 35.601b, 35.601c, 35.601e, and 35.601f).

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. 571****Yeas—38**

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

**Nays—0****Excused—0****Not Voting—0**

In The Chair: President

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

The following bill was read a third time:

**House Bill No. 5091, entitled**

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 437.

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. 572****Yeas—38**

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

**Nays—0****Excused—0****Not Voting—0**

In The Chair: President

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

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

“An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts,”.

The Senate agreed to the full title.

The following bill was read a third time:

**House Bill No. 4307, entitled**

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2005; to provide for the expenditure of the appropriations; and to repeal acts and parts of acts.

The question being on the passage of the bill,

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

**Roll Call No. 573****Yeas—38**

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

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: President

Senator Hammerstrom moved that the bill be given immediate effect. The motion prevailed, 2/3 of the members serving voting therefor. The Senate agreed to the title of the bill.

By unanimous consent the Senate returned to the order of  
**Conference Reports**

Senator Hammerstrom moved that joint rule 9 be suspended to permit immediate consideration of the conference report relative to the following bill:

**House Bill No. 4834**

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

**House Bill No. 4834, entitled**

A bill to regulate the business of providing deferred presentment service transactions; to require the licensing of providers of deferred presentment service transactions; to prescribe powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

The House of Representatives has adopted the report of the Committee of Conference.

The Conference Report was read as follows:

**FIRST CONFERENCE REPORT**

The Committee of Conference on the matters of difference between the two Houses concerning

**House Bill No. 4834, entitled**

A bill to regulate the business of providing deferred presentment service transactions; to require the licensing of providers of deferred presentment service transactions; to prescribe powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

Recommends:

First: That the House and Senate agree to the Substitute of the Senate as passed by the Senate, amended to read as follows:

A bill to regulate the business of providing deferred presentment service transactions; to require the licensing of providers of deferred presentment service transactions; to prescribe powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**ARTICLE 1**

Sec. 1. This act shall be known and may be cited as the “deferred presentment service transactions act”.

Sec. 2. (1) As used in this act:

(a) “Applicant” means a person seeking a license to engage in the business of providing deferred presentment service transactions under this act.

(b) “Check” means a draft payable on demand and drawn on a bank, savings bank, savings and loan association, or credit union. Check includes any negotiable instrument that represents evidence of an obligation to pay even if it is described on its face by another term.

(c) “Closed” in connection with a deferred presentment service transaction means that 1 of the following has occurred concerning each of the customer’s checks that is the basis of the deferred presentment service transaction:

(i) The check is redeemed by the customer by payment to the licensee of the face amount of the check in cash.

(ii) The check is exchanged by the licensee for a cashier’s check or cash from the customer’s financial institution.

(iii) The check is deposited by the licensee and the licensee has evidence that the person has satisfied the obligation.  
 (iv) The check is collected by the licensee or its agent through any civil remedy available under the laws of this state.  
 (v) The check is collected by means of a repayment plan agreed upon by the customer and the licensee or as the result of credit counseling where the licensee is paid the amount agreed upon by the licensee under that plan.

(d) "Commissioner" means the commissioner of the office of financial and insurance services or his or her authorized representative.

(e) "Customer" means an individual who inquires into the availability of or applies for a deferred presentment service transaction or a drawer who enters into a deferred presentment service transaction.

(f) "Database provider" means 1 of the following:

(i) A third party provider selected by the commissioner under section 22 to operate the statewide database described in that section.

(ii) If the commissioner has not selected a third party provider under section 22, the commissioner.

(g) Subject to subsection (2), "deferred presentment service transaction" means a transaction between a licensee and a customer under which the licensee agrees to do all of the following:

(i) Pay to the customer an agreed-upon amount in exchange for a fee.

(ii) Hold a customer's check for a period of time before negotiation, redemption, or presentment of the checks.

(h) "Drawee" means a bank, savings bank, savings and loan association, credit union, or other person upon which a check is drawn.

(i) "Drawer" means a customer who enters into a deferred presentment service transaction with a licensee.

(j) "Executive officer" means an officer or director of a licensee or any other individual who has the authority to participate in the direction, directly or indirectly, through 1 or more persons, or the management or policies of a licensee.

(k) "Financial licensing act" means this act, the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, or any of the acts listed in section 2(d) of the consumer financial services act, 1988 PA 161, MCL 487.2052.

(l) "Licensee" means a person licensed to engage in the business of providing deferred presentment service transactions under this act.

(m) "Maturity date" means the date on which a drawer's check is to be redeemed, presented for payment, or entered into the check-clearing process in a deferred presentment service transaction.

(n) "Office" means the office of financial and insurance services of the department of labor and economic growth.

(o) "Person" means an individual, partnership, association, corporation, limited liability company, or other legal entity except a governmental entity.

(2) Deferred presentment service transaction does not include a delay in presentment of a loan repayment check, at the request of the borrower, by a person licensed or registered under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24, the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141, 1984 PA 379, MCL 493.101 to 493.114, the sale of checks act, 1960 PA 136, MCL 487.901 to 487.916, or the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

#### ARTICLE 2

Sec. 11. (1) Subject to subsection (2), a person shall not engage in the business of providing deferred presentment service transactions after June 1, 2006 without a license under this act. A separate license is required for each location from which the business of providing deferred presentment service transactions is conducted.

(2) This act does not apply to a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits or member accounts are insured by an agency of the United States government.

(3) By January 1, 2006, the commissioner by administrative bulletin, order, or rule shall establish an application process and an application timeline for license applications under this act.

(4) A person may continue to engage in the business of providing deferred presentment service transactions in this state after June 1, 2006 and without a license until 1 of the following occurs:

(a) The person fails to meet its applications deadline.

(b) The commissioner acts on the person's complete application.

Sec. 12. To obtain a license, an applicant shall satisfy all of the following requirements:

(a) Have and maintain net worth of at least \$50,000.00 for each licensed location, subject to a maximum of \$250,000.00 in required net worth for any 1 licensee, determined in accordance with generally accepted accounting principles.

(b) Demonstrate to the commissioner that the applicant has the financial responsibility, financial condition, business experience, character, and general fitness to reasonably warrant a belief that the applicant will conduct its business lawfully and fairly. In determining whether this subdivision is satisfied, and for the purpose of investigating compliance with this act, the commissioner may review any of the following:

(i) The relevant business records and the capital adequacy of the applicant.

(ii) The competence, experience, integrity, and financial ability of any person who is a member, partner, executive officer, or a shareholder with 10% or more interest in the applicant.

(iii) Any record regarding the applicant, or any person referred to in subparagraph (ii), of any criminal activity, fraud, or other act of personal dishonesty, any act, omission, or practice that constitutes a breach of a fiduciary duty, or any suspension, removal, or administrative action by any agency or department of the United States or any state.

Sec. 13. (1) An applicant shall submit an application for a license to the commissioner. Each application for a license shall be in writing and under oath, in a form prescribed by the commissioner, and shall include all of the following information:

(a) The name, street address, and telephone number of the business location within this state from which the applicant will offer deferred presentment service transactions, if available.

(b) The legal name, residence, street address, and telephone number and business address of the applicant and, if the applicant is not an individual, of each executive officer and each person who directly or indirectly owns or controls 10% or more of the ownership interest in the applicant.

(c) If the applicant will not operate a physical business location in this state or if in addition to the location described in subdivision (a) the applicant will make deferred presentment service transactions by other means, a detailed description of the manner in which deferred presentment service transactions will be offered to customers in this state.

(d) Any other information the commissioner considers necessary under this act.

(2) An applicant shall include an application fee in an amount determined by the commissioner with the application described in subsection (1).

Sec. 14. (1) A licensee shall pay a license fee, in an amount determined by the commissioner under subsection (2), within 60 days of submitting its license application, and then annually.

(2) The commissioner shall annually establish a schedule of license fees based upon each licensee's business volume, number of locations, and any other business factors considered reasonable by the commissioner in order to generate funds sufficient to pay, but not to exceed, the office's reasonably anticipated costs of administering this act. A licensee shall pay the actual travel, lodging, and meal expenses incurred by office employees who travel out of state to examine the records of or investigate the licensee. An office employee who travels under this subsection shall comply with all travel regulations and rate schedules currently in effect for the reimbursement of expenses incurred by classified state employees in connection with official state business.

(3) Money received under this act shall be deposited in an interest bearing account in the state treasury and credited to the office to be used only for the operation of the office.

(4) In addition to the license fee required under subsection (1), except as provided in this subsection, a licensee shall furnish a \$50,000.00 surety bond to secure the performance of its obligations, issued by a bonding company or insurance company authorized to do business in this state and in a form satisfactory to the commissioner. However, if 1 person owns 20% or more of the ownership interest in 2 or more licensees, the group of licensees having that common ownership is only obligated to furnish one \$50,000.00 surety bond.

Sec. 15. (1) After the commissioner receives a completed license application, the commissioner shall investigate to determine whether the requirements of this act are satisfied. If the commissioner finds that the requirements of this act are satisfied, the commissioner shall issue to the applicant a license to engage in deferred presentment service transactions.

(2) A licensee shall post a copy of its license in a conspicuous location at the place of business of the licensee.

Sec. 16. (1) If the commissioner determines that an applicant is not qualified to receive a license, the commissioner shall notify the applicant in writing that the application has been denied, stating the basis for denial.

(2) If the commissioner denies an application, or if the commissioner fails to act on an application within 60 days after the filing of a properly completed application, or within a longer time period agreed to by the commissioner and the applicant, the applicant may submit a written demand to the commissioner for a hearing before the commissioner on the question of whether the commissioner should grant a license. If a hearing is held, the commissioner shall reconsider the application, and issue a written order granting or denying the application after the hearing.

Sec. 17. (1) A license issued under this article is not transferable or assignable.

(2) The prior written approval of the commissioner is required for the continued operation of a licensee if there is a change in control of that licensee. The commissioner may require information considered necessary to determine whether a new application is required. The person that requests the approval shall pay the cost incurred by the commissioner in investigating the change of control request.

(3) A licensee shall do all of the following:

(a) At least 15 days before providing deferred presentment service transactions at any new location or under section 13(1)(c), provide written notice to the commissioner on a form prescribed by the commissioner of the name, street address, and telephone number of the new location or the detailed description required in section 13(1)(c).

(b) At least 15 days before discontinuing deferred presentment service transactions at any existing location or under section 13(1)(c), provide written notice to the commissioner on a form prescribed by the commissioner of the name, street address, and telephone number of the discontinued location or the detailed description of the services required in section 13(1)(c).

(4) A licensee shall comply with any request for information or documentation made by the commissioner under this act and shall comply with any reasonable written time deadlines imposed by the commissioner on that request.

(5) As used in this section, "control" means 1 of the following:

(a) For a corporation, direct or indirect ownership of, or the right to control, 10% or more of the voting shares of the corporation, or the ability of a person to elect a majority of the directors or otherwise effect a change in policy.

(b) For any entity other than a corporation, the ability to change the principals of the organization, whether active or passive.

Sec. 18. The commissioner may determine and identify by order or rule events that may occur to a licensee that require the licensee to file a written report with the commissioner describing the event and its expected impact on the activities of the licensee, on a form prescribed by the commissioner for the event.

Sec. 19. (1) A license issued under this article shall expire on September 30 of each year unless earlier suspended, surrendered, or revoked under this act. A licensee may renew a license for a 12-month period by submitting a complete application that shows continued compliance with this act, in a form prescribed by the commissioner, and paying the license renewal fee to the commissioner. The licensee shall submit a renewal application under this subsection on or before August 1 and the commissioner shall proceed in the manner described in sections 15(1) and 16.

(2) Before October 1, 2006, the commissioner may issue a license to an applicant under this article that is for a period longer than 12 months and that expires on September 30, 2007.

Sec. 20. (1) The commissioner may issue orders and rules that he or she considers necessary to enforce and implement this act. The commissioner shall make a copy of any order or rule issued under this subsection available to each licensee within a reasonable time after issuance.

(2) If any information previously submitted to the commissioner by a licensee under this act is no longer accurate, the licensee shall promptly file in writing with the commissioner a correction of the information. If requested by the commissioner, the licensee shall provide a written report of its business operations, including information described in subsection (3), within a reasonable time after the commissioner's request.

(3) If the commissioner has not implemented a database under section 22 or the database described in that section is not fully operational, as determined by the commissioner, a licensee shall do all of the following:

(a) Provide an annual written report of its business operations, including business volume and other information on the business of providing deferred presentment service transactions.

(b) Every February 1, May 1, August 1, and November 1, report to the commissioner on a form prescribed by the commissioner all of the following:

(i) The number of customers who during the preceding calendar quarter notified the licensee of a violation of this act.

(ii) A breakdown of the number of times the licensee agreed that a violation of this act occurred and the number of times that the licensee did not agree that a violation occurred.

(iii) If the licensee agreed that the violation occurred, the amount of restitution that was paid to any customer under this act.

(iv) Any other information the commissioner considers necessary under this act.

(4) To assure compliance with this act, the commissioner may examine the relevant business, books, and records of any licensee.

Sec. 21. Each licensee shall keep and use in its business any books, accounts, and records the commissioner requires under this act. A licensee shall preserve the books, accounts, and records for at least 3 years, unless applicable state or federal law concerning record retention requires a longer retention period.

Sec. 22. (1) On or before December 31, 2006, the commissioner shall develop, implement, and maintain a statewide, common database that has real-time access through an internet connection, is accessible at all time to licensees, and to the commissioner for purposes of subsections (10) and (11), and meets the requirements of this section. Before the commissioner determines that the database is fully operational for the purposes of this act, for at least 30 days the database provider shall operate a pilot program of the database to test all of the processes of the database. The database provider shall make the pilot program available to all applicants and licensees. During the 30-day period that begins on the date the commissioner determines that the database is fully operational, the commissioner shall not approve the imposition of any database verification fees under section 34(5).

(2) The commissioner may operate the database described in subsection (1) or may select and contract with a single third party provider to operate the database. If the commissioner contracts with a third party provider for the operation of the database, all of the following apply:

(a) The commissioner shall ensure that the third party provider selected as the database provider operates the database pursuant to the provisions of this act.

(b) The commissioner shall consider cost of service and ability to meet all the requirements of this section in selecting a third party provider as the database provider.

(c) In selecting a third party provider to act as the database provider, the commissioner shall give strong consideration to the third party provider's ability to prevent fraud, abuse, and other unlawful activity associated with

deferred presentment service transactions and provide additional tools for the administration and enforcement of this act.

(d) The third party provider shall only use the data collected under this act as prescribed in this act and the contract with the office and for no other purpose.

(e) If the third party provider violates this section, the commissioner shall terminate the contract and the third party provider is barred from becoming a party to any other state contracts.

(f) A person injured by the third party provider's violation of this act may maintain a civil cause of action against the third party provider and may recover actual damages plus reasonable attorney fees.

(3) The database described in subsection (1) shall allow a licensee accessing the database to do all of the following:

(a) Verify whether a customer has any open deferred presentment service transactions with any licensee that have not been closed.

(b) Provide information necessary to ensure licensee compliance with any requirements imposed by the federal office of foreign asset control under federal law.

(c) Track and monitor the number of customers who notify a licensee of violations of this act, the number of times a licensee agreed that a violation occurred, the number of times that a licensee did not agree that a violation occurred, the amount of restitution paid, and any other information the commissioner requires by rule.

(d) Determine whether a customer is eligible for repayment of the deferred presentment service transaction in installments as provided in section 35(2) and notify the licensee of that eligibility.

(4) While operating the database, the database provider shall do all of the following:

(a) Establish and maintain a process for responding to transaction verification requests due to technical difficulties occurring with the database that prevent the licensee from accessing the database through the internet.

(b) Comply with any applicable provisions of the social security number privacy act, 2004 PA 454, MCL 445.81 to 445.87.

(c) Comply with any applicable provisions of the identity theft protection act, 2004 PA 452, MCL 445.61 to 445.77.

(d) Provide accurate and secure receipt, transmission, and storage of customer data.

(e) Meet the requirements of this act.

(5) When the database provider receives notification that a deferred presentment service transaction is closed under section 34, the database provider shall designate the transaction as closed in the database immediately, but in no event after 11:59 p.m. on the day the commissioner or database provider receives notification.

(6) The database provider shall automatically designate a deferred presentment service transaction as closed in the database 5 days after the transaction maturity date unless a licensee reports to the database provider before that time that the transaction remains open because of the customer's failure to make payment; that the transaction is open because the customer's check or an electronic redeposit is in the process of clearing the banking system; or that the transaction remains open because the customer's check is being returned to the licensee for insufficient funds, a closed account, or a stop payment order, or any other factors determined by the commissioner. If a licensee reports the status of a transaction as open in a timely manner, the transaction remains an open transaction until it is closed under section 34 and the database provider is notified that the transaction is closed under that section.

(7) If a licensee stops providing deferred presentment service transactions, the database provider shall designate all open transactions with that licensee as closed in the database 60 days after the date the licensee stops offering deferred presentment service transactions, unless the licensee reports to the database provider before the expiration of the 60-day period which of its transactions remain open and the specific reason each transaction remains open. The licensee shall also provide to the commissioner a reasonably acceptable plan that outlines how the licensee will continue to update the database after it stops offering deferred presentment service transactions. The commissioner shall promptly approve or disapprove the plan and immediately notify the licensee of his or her decision. If the plan is disapproved, the licensee may submit a new plan or may submit a modified plan for the licensee to follow. If at any time the commissioner reasonably determines that a licensee that has stopped offering deferred presentment service transactions is not updating the database in accordance with its approved plan, the commissioner shall immediately close or instruct the database provider to immediately close all remaining open transactions of that licensee.

(8) The response to an inquiry to the database provider by a licensee shall only state that a person is eligible or ineligible for a new deferred presentment service transaction and describe the reason for that determination. Only the person seeking the transaction may make a direct inquiry to the database provider to request a more detailed explanation of a particular transaction that was the basis for the ineligibility determination. Any information regarding any person's transactional history is confidential, is not subject to public inspection, is not a public record subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject to discovery, subpoena, or other compulsory process except in an action under section 53, and shall not be disclosed to any person other than the commissioner.

(9) The database provider may charge licensees a verification fee for access to the database, in amounts approved by the commissioner under section 34(5).

(10) The commissioner may access the database provided under subsection (1) only for purposes of an investigation of, examination of, or enforcement action concerning an individual database provider, licensee, customer, or other



person. The commissioner and any employees of the commissioner, the office, or this state shall not obtain or access a customer's social security number, driver license number, or other state-issued identification number in the database except as provided in this subsection. An individual who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both, and if convicted, an individual who violates this subsection shall be dismissed from office or discharged from employment.

(11) The commissioner shall investigate violations of and enforce this section. The commissioner shall not delegate its responsibilities under this subsection to any third party provider.

(12) The commissioner shall do all of the following:

(a) Require by rule that data are retained in the database only as required to ensure licensee compliance with this act.

(b) Require by rule that data in the database concerning a customer transaction are archived within 365 days after the customer transaction is closed unless needed for a pending enforcement action.

(c) Require by rule that any identifying customer information is deleted from the database when data are archived.

(d) Require by rule that data in the database concerning a customer transaction are deleted from the database 3 years after the customer transaction is closed or any enforcement action pending 3 years after the customer transaction is closed is completed, whichever is later.

(13) The commissioner may maintain access to data archived under subsection (12) for future legislative or policy review.

### ARTICLE 3

Sec. 31. (1) A licensee shall post prominently in an area designed to be seen by the customer before he or she enters into a deferred presentment service transaction the following notice in at least 36-point type:

"1. A deferred presentment service transaction is not intended to meet long-term financial needs. We can only defer cashing your check for up to 31 days.

2. You should use this service only to meet short-term cash needs.

3. State law prohibits us from entering into a transaction with you if you already have a deferred presentment service agreement in effect with us or have more than one deferred presentment service agreement in effect with any other person who provides this service.

4. If you enter into a transaction with us, we must immediately give you a copy of your signed agreement.

5. We will pay the proceeds of a transaction to you by check, by money order, or in cash, as you request.

6. State law entitles you to the right to cancel an agreement and receive a refund of the fee. To do this, if you enter into a transaction today, you must notify us and return the money you receive by the time this office closes tomorrow or on our next business day if we are not open tomorrow.

7. State law prohibits us from renewing an agreement for a fee. You have to pay any other agreement in full before obtaining additional money from us.

8. State law prohibits us from using any criminal process to collect on an agreement.

9. State law entitles you to information regarding filing a complaint against us if you believe that we have violated the law. If you feel we are acting unlawfully, you should call the Office of Financial and Insurance Services toll-free at 1-877-999-6442.

10. If you are unable to pay your deferred presentment service transaction and have entered into 8 deferred presentment service transactions with any licensee in any 12-month period, state law entitles you to request a repayment of that transaction in installments. We are required to advise you of this option at the time it is available. If you elect this option, you must notify us, either orally or in writing, within 30 days after the maturity date of the deferred presentment transaction. The notice must be provided to us at our place of business. You may be charged an additional fee when the transaction is rescheduled in installments. You will be ineligible to enter into a deferred presentment service transaction with any licensee during the term of the repayment plan. If we refuse to provide this option under the stipulations above, you should contact the Office of Financial and Insurance Services toll-free at 1-877-999-6442."

(2) A licensee shall post prominently in an area designed to be seen by the customer before he or she enters into a deferred presentment service transaction a schedule of all fees and charges imposed for deferred presentment service transactions in at least 36-point type.

Sec. 32. (1) A licensee shall document a deferred presentment service transaction by entering into a written deferred presentment service agreement signed by both the customer and the licensee.

(2) A licensee shall include all of the following in the written deferred presentment service agreement:

(a) The name of the customer.

(b) The name, street address, facsimile number, and telephone number of the licensee.

(c) The signature and printed or typed name of the individual who enters into the deferred presentment service agreement on behalf of the licensee.

(d) The date of the transaction.

(e) The transaction number assigned by the database provider, if any.

- (f) The amount of the check presented to the licensee by the customer.
  - (g) An itemization of the fees to be paid by the customer.
  - (h) A calculation of the cost of the fees and charges to the customer, expressed as a percentage rate per year.
  - (i) A clear description of the customer's payment obligation under the agreement.
  - (j) A schedule of all fees associated with the deferred presentment service transaction and an example of the amounts the customer would pay based on the amount of the deferred presentment service transaction.
  - (k) The maturity date.
  - (l) A provision that the licensee will defer presentment, defer negotiation, and defer entering a check into the check-clearing process until the maturity date.
  - (m) A description of the process a drawer may use to file a complaint against the licensee.
  - (n) The following notice in at least 12-point type:
    - “1. A deferred presentment service transaction is not intended to meet long-term financial needs. We can only defer cashing your check for up to 31 days.
    2. You should use this service only to meet short-term cash needs.
    3. State law prohibits us from entering into this transaction with you if you already have a deferred presentment service agreement in effect with us or have more than one deferred presentment service agreement in effect with any other person who provides this service.
    4. We must immediately give you a copy of your signed agreement.
    5. We will pay the proceeds of this transaction to you by check, by money order, or in cash, as you request.
    6. State law entitles you to the right to cancel this agreement and receive a refund of the fee. To do this, you must notify us and return the money you receive today by the time this office closes tomorrow or on our next business day if we are not open tomorrow.
    7. State law prohibits us from renewing this agreement for a fee. You have to pay an agreement in full before obtaining additional money from us.
    8. State law prohibits us from using any criminal process to collect on this agreement.
    9. State law entitles you to information regarding filing a complaint against us if you believe that we have violated the law. If you feel we are acting unlawfully, you should call the Office of Financial and Insurance Services toll-free at 1-877-999-6442.
    10. If you are unable to pay your deferred presentment service transaction and have entered into 8 deferred presentment service transactions with any licensee in any 12-month period, state law entitles you to request a repayment of that transaction in installments. We are required to advise you of this option at the time it is available. If you elect this option, you must notify us, either orally or in writing, within 30 days after the maturity date of the deferred presentment transaction. The notice must be provided to us at our place of business. You may be charged an additional fee when the transaction is rescheduled in installments. You will be ineligible to enter into a deferred presentment service transaction with any licensee during the term of the repayment plan. If we refuse to provide this option under the stipulations above, you should contact the Office of Financial and Insurance Services toll-free at 1-877-999-6442.”
  - (3) A licensee may include an arbitration provision in a deferred presentment service transaction agreement if the arbitration provision meets all of the following:
    - (a) Provides that the licensee agrees to pay any costs of the arbitration.
    - (b) Provides that an arbitration proceeding shall be held within 10 miles of the drawer's address contained in the deferred presentment service transaction agreement unless the drawer consents to another location after an arbitrable dispute occurs.
    - (c) Provides that an arbitration proceeding shall be conducted by a neutral arbitrator who was not and is not currently being paid by the licensee and who has no financial interest in a party to the arbitration.
    - (d) Requires that the arbitrator shall provide the drawer with all the substantive rights that the drawer would have if the drawer's claim were asserted in a court proceeding and shall not limit any other claim or defense the drawer has concerning the claim.
- Sec. 33. (1) A licensee may enter into 1 deferred presentment service transaction with a customer for any amount up to \$600.00. A licensee may charge the customer a service fee for each deferred presentment service transaction. A service fee is earned by the licensee on the date of the transaction and is not interest. A licensee may charge both of the following as part of the service fee, as applicable:
- (a) An amount that does not exceed the aggregate of the following, as applicable:
    - (i) Fifteen percent of the first \$100.00 of the deferred presentment service transaction.
    - (ii) Fourteen percent of the second \$100.00 of the deferred presentment service transaction.
    - (iii) Thirteen percent of the third \$100.00 of the deferred presentment service transaction.
    - (iv) Twelve percent of the fourth \$100.00 of the deferred presentment service transaction.
    - (v) Eleven percent of the fifth \$100.00 of the deferred presentment service transaction.
    - (vi) Eleven percent of the sixth \$100.00 of the deferred presentment service transaction.

(b) The amount of any database verification fee allowed under section 34(5).

(2) A licensee shall not enter into a deferred presentment service transaction with a customer if the customer has an open deferred presentment service transaction with the licensee or has more than 1 open deferred presentment service transaction with any other licensee, and shall verify whether the customer has an open deferred presentment service transaction with the licensee or has more than 1 open deferred presentment service transaction with any other licensee by complying with section 34.

(3) At the time of entering into a deferred presentment service transaction, a licensee shall do all of the following:

(a) Before the drawer signs the agreement, provide the following notice to the drawer, in a document separate from the agreement and in at least 12-point type:

“1. After signing this agreement, if you believe that we have violated the law, you may do 1 of the following:

a. Before the close of business on the day you sign the agreement, notify us in person of the violation. You must provide supporting documents or other evidence of the violation.

b. At any time before signing a new deferred presentment service agreement with us, notify us in writing of the violation. Your written notice must state the violation and provide supporting documents or other evidence of the violation.

2. We have 3 business days to determine if we agree that we have violated the law and let you know of that determination.

3. If we agree that we have violated the law, we must return your check and you must return the cash received under the agreement. Additionally, for each violation, we must pay you restitution equal to 5 times the amount of the fee we charged you under the agreement but not less than \$15.00 or more than the face amount of your check. You may also pursue an action for your actual damages against us.

4. If we do not agree that we have violated the law, we may present your check for payment or enter your check into the check-clearing process on or after the maturity date. If your check is returned to us unpaid, we may take other legal steps to collect our money.

5. If you still believe we violated the law, you may file a written complaint including supporting documents or other evidence with the Office of Financial and Insurance Services. The Office is required to investigate your complaint and has the authority to order us to pay you restitution if they agree that we violated the law. In addition, the Office can order us to pay civil fines or take away our right to do business. To do so, contact the Office of Financial and Insurance Services toll-free at 1-877-999-6442.”.

(b) Provide a copy of the signed agreement to the drawer.

(c) Pay the proceeds under the agreement to the drawer by delivering a business check of the licensee, a money order, or cash, as requested by the drawer.

(4) At the time of entering into a deferred presentment service transaction, a licensee shall not do any of the following:

(a) Charge interest under the agreement.

(b) Include a maturity date that is more than 31 days after the date of the transaction.

(c) Charge an additional fee for cashing the licensee’s business check or money order if the licensee pays the proceeds to the drawer by business check or money order.

(d) Include a confession of judgment in the agreement.

(e) Except as provided in this act, charge or collect any other fees for a deferred presentment service transaction.

(5) A licensee shall not refuse to provide a deferred presentment service transaction to a customer solely because the customer has exercised his or her rights under this act.

(6) Each licensee shall post a sign, printed in bold faced, 36-point type, in a conspicuous location at each customer service window, station, or desk at each place of business, that states the following:

“Under Michigan law, you are entitled to receive the proceeds of this transaction in cash. If you request the proceeds in a check or money order, you may be charged additional check cashing or other processing fees by others for cashing the check or money order.”.

Sec. 34. (1) A licensee shall verify a customer’s eligibility to enter into a deferred presentment service transaction by doing 1 of the following, as applicable:

(a) If the commissioner has not implemented a database under section 22 or the database described in section 22 is not fully operational, as determined by the commissioner, verifying that the customer does not have an open deferred presentment service transaction with the licensee. The licensee shall maintain a database of all of the licensee’s transactions at all of its locations and search that database to meet its obligation under this subdivision.

(b) If the commissioner has implemented a database under section 22 and the database described in that section is fully operational, as determined by the commissioner, accessing the database and verifying that the customer does not have an outstanding deferred presentment service transaction with the licensee and does not have more than 1 open deferred presentment service transaction that has not been fully repaid with any other licensee.

(2) If the commissioner has not implemented a database under section 22; the database described in that section is not fully operational, as determined by the commissioner; or the licensee is unable to access the database and the alternative mechanism for verification described in subsection (3) is also unavailable, as determined by the

commissioner, a licensee may rely upon the written verification of the borrower in a statement provided in substantially the following form in at least 12-point type:

“I DO NOT HAVE ANY OUTSTANDING DEFERRED PRESENTMENT SERVICE TRANSACTIONS WITH THIS LICENSEE AND I DO NOT HAVE MORE THAN ONE OUTSTANDING DEFERRED PRESENTMENT SERVICE TRANSACTION WITH ANY OTHER LICENSED DEFERRED PRESENTMENT SERVICE PROVIDER IN THIS STATE.”.

(3) If a licensee is unable to access the database described in section 22 due to technical difficulties occurring with the database, as determined by the commissioner, the licensee shall utilize the process established in section 22(4) to verify transactions.

(4) The commissioner may use the database to administer and enforce this act.

(5) If approved by the commissioner, the database provider may impose a database verification fee for the actual costs of entering, accessing, and verifying data in the database described in section 22 to verify that a customer does not have any other open deferred presentment service transactions with the licensee and does not have more than 1 open deferred presentment service transaction with any other licensees. A database verification fee is payable to the database provider in a manner prescribed by the commissioner. A licensee may charge a customer all or part of the database verification fee under section 33(1)(b) but may not charge a customer any other fee except as authorized in section 33(1) or 35(2).

(6) A licensee may rely on the information contained in the database described in section 22 as accurate and is not subject to any administrative penalty or civil liability as a result of relying on inaccurate information contained in the database.

(7) Before entering into a deferred presentment service transaction, a licensee shall submit to the database provider the customer's name and address, the customer's social security number, driver license number, or other state-issued identification number, the amount of the transaction, the customer's check number, the date of the transaction, the maturity date of the transaction, and any other information reasonably required by the commissioner or the database provider, in a format reasonably required by the commissioner.

(8) When a deferred presentment service transaction is closed, the licensee shall designate the transaction as closed and immediately notify the database provider, but in no event after 11:59 p.m. on the day the transaction is closed. The commissioner shall assess an administrative fine of \$100.00 for each day that the licensee fails to notify the database provider that the transaction has been closed. It is a defense to the assessment of an administrative fine that notifying the database provider was not possible due to temporary technical problems with the database or to circumstances beyond the licensee's control.

Sec. 35. (1) A licensee shall not renew a deferred presentment service agreement. A licensee may extend a deferred presentment service agreement only if the licensee does not charge a fee in connection with the extended transaction. A licensee who extends an agreement under this subsection shall not create a balance owed above the amount owed on the original agreement.

(2) If a drawer enters into 8 deferred presentment service transactions with any licensee in any 12-month period, the licensee shall provide the drawer an option to repay that eighth transaction and each additional transaction in that 12-month period pursuant to a written repayment plan subject to the following terms:

(a) The drawer shall request the repayment plan, either orally or in writing, within 30 days after the maturity date of the deferred presentment service transaction.

(b) The drawer shall repay the transaction in 3 equal installments with 1 installment due on each of the next 3 dates on which the drawer receives regular wages or compensation from an employer or other regular source of income, pursuant to a written repayment plan agreement.

(c) The drawer shall pay a fee to the licensee for administration of the repayment plan. The initial amount of the fee is \$15.00. Beginning March 1, 2011, and by March 1 of every fifth year after March 1, 2011, the licensee may adjust the fee by an amount determined by the commissioner to reflect the cumulative percentage change in the Detroit consumer price index over the preceding 5 calendar years. As used in this subsection, “Detroit consumer price index” means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor.

(d) The drawer shall agree not to enter into any additional deferred presentment transactions during the repayment plan term.

(3) A licensee shall advise a customer of the repayment option described in subsection (2) at the time he or she is eligible. If a customer believes he or she has been illegally denied the repayment option under this section, he or she is entitled to contact the office of financial and insurance services toll-free at 1-877-999-6442. If a customer has entered into 8 deferred presentment service transactions in any 12-month period, the database provider shall notify the licensee when the licensee submits the required customer information to the database for that customer that the customer is entitled to a repayment plan under this section. The database provider shall instruct the licensee to provide the customer with the following notice, in a document separate from the deferred presentment transaction agreement and in at least 12-point type: “If you are unable to pay your deferred presentment service transaction and have entered

into 8 deferred presentment transactions in any 12-month period, state law entitles you to request a repayment of that transaction in installments. We are required to advise you of this option at the time it is available. If you elect this option, you must notify us, either orally or in writing, within 30 days after the maturity date of the eighth deferred presentment transaction in the 12-month period. The notice must be provided to us at our place of business. You may be charged an additional fee when the transaction is rescheduled in installments. You will be ineligible to enter into a deferred presentment service transaction with any licensee during the term of the repayment plan. If we refuse to provide this option under the stipulations above, you should contact the Office of Financial and Insurance Services toll-free at 1-877-999-6442.”.

(4) During the term of a repayment plan by a drawer under this section, the database provider shall notify the licensee at the time the licensee submits the required customer information to the database for that customer that the customer is presently in a repayment plan under this section with 1 or more other licensees and the licensee shall not enter into a deferred presentment transaction with that individual.

(5) A licensee shall not present a check for payment before the maturity date or during the term of the repayment plan. In addition to the remedies and penalties under this act, a licensee that presents a check for payment before the maturity date or during the term of the repayment plan is liable for all expenses and damages caused to the drawer and the drawee as a result of the violation. If a drawer has not requested a repayment plan on or before the maturity date, the licensee may redeem, present for payment, or enter the check into the check-clearing process under the terms of the original deferred presentment service transaction agreement.

(6) A drawer satisfies his or her obligation under a deferred presentment service agreement when the check the licensee is holding is paid by the drawee or is redeemed by the drawer by paying to the licensee an amount equal to the full amount of the check.

Sec. 36. (1) No later than the close of business on the day he or she signed a deferred presentment service agreement, a drawer who believes that a licensee has violated this act may notify the licensee in person that the licensee has violated the act. The drawer shall identify the nature of the violation and provide documentary or other evidence of the violation at that time.

(2) At any time before signing a new deferred presentment service agreement with a licensee, a drawer who believes that the licensee has violated this act in connection with a deferred presentment service transaction may deliver to the licensee a notice in writing that the licensee has violated the act. The drawer shall identify the nature of the violation and include documentary or other evidence of the violation in the notice.

(3) No later than the close of the third business day after receipt of a notice under subsection (1) or (2), the licensee shall determine if it has violated the law as alleged in the notice.

(4) If the licensee determines that it has violated the law, it shall return to the drawer the check it received in the deferred presentment service transaction and any service fee paid by the drawer to the licensee. The drawer shall deliver to the licensee cash or a cash equivalent in an amount equal to the amount of cash the drawer received in the transaction. In addition, the licensee shall make restitution to the drawer for each violation in an amount equal to 5 times the amount of the fee charged in the deferred presentment service transaction, but not less than \$15.00 or more than the face amount of the drawer's check. A licensee that makes restitution for a violation under this subsection may be subject to a civil action under section 53 with respect to that violation. A licensee that makes restitution for a violation under this subsection shall immediately notify the commissioner of that action. The licensee shall give the commissioner detailed information about the terms of the deferred presentment service transaction and shall provide other information requested by the commissioner.

(5) If the licensee determines that it did not violate the law, the licensee shall immediately notify the commissioner and the drawer of that determination. The licensee shall give the commissioner detailed information about the terms of the deferred presentment service transaction and shall provide other information requested by the commissioner. The licensee shall include in the notification to the drawer that the drawer has the right to file a written complaint with the office if he or she does not agree with the determination that the licensee did not violate the law. The licensee shall include in the notice detailed information on how the drawer can contact the office to obtain a complaint form.

(6) A drawer who receives a notice of determination by the licensee that it did not violate the law may file a written complaint with the office on a form prescribed by the commissioner. The drawer shall include with the complaint documentary or other evidence of the violation.

(7) If the licensee has otherwise complied with this section and has determined that it did not violate the law, the licensee may present the drawer's check for payment on or after the maturity date. If a check presented for payment under this subsection is not honored, and the licensee is not in violation of this act in connection with the deferred presentment service transaction, the licensee may initiate any lawful collection effort.

(8) The commissioner shall promptly investigate a complaint filed by a drawer under this section. If after investigating the drawer's complaint, the commissioner concludes that the licensee violated this act, the commissioner may order the licensee to make restitution to the drawer in an amount equal to 3 times the amount provided for in subsection (4), but not less than \$45.00 or more than 3 times the face amount of the drawer's check. A licensee ordered to pay restitution under this subsection is also subject to any other applicable penalties and remedies available under this act for the violation.

(9) A licensee shall enter information regarding alleged violations and determinations under this section into the database as required by the commissioner.

Sec. 37. (1) A drawer may rescind a deferred presentment service agreement without cost to the drawer and for any reason if the drawer, not later than the close of business on the business day following the date of the deferred presentment service transaction, either delivers to the licensee cash in an amount equal to the amount the drawer received if the drawer received cash in the transaction or returns to the licensee the licensee's check the drawer received if the drawer received a check from the licensee in the transaction. The licensee shall return to the drawer the check received in the transaction and any service fee paid by the drawer to the licensee. A drawer who rescinds an agreement under this section is not eligible for restitution under section 36 with regard to the rescinded agreement.

(2) A drawer may redeem a check from the licensee holding the check in a deferred presentment service transaction at any time before the maturity date. A licensee shall return the check to the drawer upon receipt of cash or its equivalent in the full amount of the check. A licensee shall not contract for or collect a charge for accepting partial payments from the customer if the full amount is paid by the maturity date.

Sec. 38. (1) A licensee shall endorse a check given to it by a drawer with the actual name under which the licensee is doing business before the licensee negotiates or presents the check for payment.

(2) A licensee may contract for and collect a returned check charge that does not exceed the maximum returned check charge determined under subsection (3) if the drawer's check that the licensee is holding in a deferred presentment service transaction is returned by the drawee due to insufficient funds, a closed account, or a stop payment order. The licensee may only contract for and collect 1 returned check charge under this subsection in a transaction with a customer. In addition to the charge authorized by this section, a licensee may exercise any other remedy available under any law applicable to the return of a check because of a closed account or a stop payment order.

(3) The initial maximum amount of a returned check charge described in subsection (2) is \$25.00. Beginning March 1, 2011, and by March 1 of every fifth year after March 1, 2011, the licensee may adjust the maximum returned check charge by an amount determined by the commissioner to reflect the cumulative percentage change in the Detroit consumer price index over the preceding 5 calendar years. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor.

(4) A drawer is not subject to any criminal penalty for entering into a deferred presentment service transaction and is not subject to any criminal penalty in the event the drawer's check is dishonored.

Sec. 39. (1) A licensee shall maintain each deferred presentment service agreement until the expiration of 3 years after the date the deferred presentment service agreement is satisfied and make available for examination by the commissioner any deferred presentment service agreements and all related documents in its possession or control including, but not limited to, any applications, credit reports, employment verifications, or loan disclosure statements.

(2) A licensee shall preserve and keep available for examination by the commissioner all documents pertaining to a rejected application for a deferred presentment service transaction for any period of time required by law.

Sec. 40. A licensee shall not do any of the following:

(a) Enter into a tying arrangement through which the licensee conditions the sale of 1 financial service to a consumer on the agreement by the consumer to purchase 1 or more other financial services from the licensee or an affiliate or subsidiary of the licensee.

(b) Knowingly permit a person to violate an order that has been issued under this act or any other financial licensing act that prohibits that person from being employed by, an agent of, or a control person of the licensee.

#### ARTICLE 4

Sec. 45. (1) A customer may file a written complaint with the office on a form prescribed by the commissioner regarding a licensee. The customer shall include with the complaint documentary or other evidence of the violation or activities of the licensee. The commissioner shall investigate a complaint filed by a customer under this subsection.

(2) The commissioner may investigate or conduct examinations of a licensee and conduct hearings as the commissioner considers necessary to determine whether a licensee or any other person has violated this act, or whether a licensee has conducted business in a manner that justifies suspension or forfeiture of its authority to engage in the business of providing deferred presentment service transactions in this state.

(3) The commissioner may subpoena witnesses and documents, papers, books, records, and other evidence in any manner over which the commissioner has jurisdiction, control, or supervision. The commissioner may administer oaths to any person whose testimony is required. If a person fails to comply with a subpoena issued by the commissioner or to testify with respect to any matter concerning which the person may be lawfully questioned, the commissioner may petition the circuit court for Ingham county to issue an order requiring the person to attend, give testimony, or produce evidence.

Sec. 46. (1) If in the opinion of the commissioner a licensee is, has, or is about to engage in a practice that poses a threat of financial loss or threat to the public welfare, or is, has, or is about to violate this act, state or federal law, or an applicable rule or regulation, the commissioner may serve a notice of intention to issue a cease and desist order. A notice served under this section shall contain a statement of the facts constituting the alleged practice or violation and

shall fix a time and place for a hearing at which the commissioner will determine whether to issue an order to cease and desist against the licensee.

(2) A licensee that fails to appear at a hearing under subsection (1) consents to the issuance of a cease and desist order. If a licensee consents, or upon the record made at the hearing the commissioner finds that the practice or violation specified in the notice has been established, the commissioner may serve upon the licensee an order to cease and desist from the practice or violation. The order may require the licensee and its executive officers, employees, and agents to cease and desist from the practice or violation and to take affirmative action to correct the conditions resulting from the practice or violation.

(3) Except to the extent it is stayed, modified, terminated, or set aside by the commissioner or a court, a cease and desist order is effective on the date of service. A cease and desist order issued with the consent of the licensee is effective at the time specified in the order and remains effective and enforceable as provided in the order.

Sec. 47. (1) The commissioner may, after notice and hearing, suspend or revoke a license if the commissioner finds that the licensee has knowingly or through lack of due care done any of the following:

(a) Failed to pay the annual license fee, an examination fee, or any other fee imposed by the commissioner under this act.

(b) Committed any fraud, engaged in any dishonest activities, or made any misrepresentations.

(c) Violated this act or any rule or order issued under this act or violated any other law in the course of the licensee's dealings as a licensee.

(d) Made a false statement in the application for the license, failed to give a true reply to a question in the application, or failed to reply to a request of the commissioner authorized in this act.

(e) Demonstrated incompetency or untrustworthiness to act as a licensee.

(f) Engaged in a pattern or practice that poses a threat of financial loss or threat to the public welfare.

(2) If the reason for revocation or suspension of a licensee's license at any 1 location is of general application to all locations operated by a licensee, the commissioner may revoke or suspend all licenses issued to a licensee.

(3) A notice served under this section shall contain a statement of the facts constituting the violation or pattern of practice and shall fix a time and place at which the commissioner will hold a hearing to determine whether the commissioner should issue an order to suspend or terminate 1 or more licenses of the licensee.

(4) If a licensee fails to appear at a hearing under subsection (1), the licensee consents to the issuance of the order to suspend or terminate 1 or more licenses of the licensee. If a licensee consents, or upon the record made at the hearing the commissioner finds that the pattern of practice or violation specified in the notice has been established, the commissioner may serve upon the licensee an order suspending or terminating 1 or more licenses of the licensee.

(5) Except to the extent it is stayed, modified, terminated, or set aside by the commissioner or a court, an order suspending or terminating 1 or more licenses of the licensee is effective on the date of service. An order suspending or terminating 1 or more licenses of the licensee issued with the consent of the licensee is effective at the time specified in the order and remains effective and enforceable as provided in the order.

Sec. 48. (1) If the commissioner finds that a person has violated this act, state or federal law, or an applicable rule or regulation, the commissioner may order the person to pay a civil fine of not less than \$1,000.00 or more than \$10,000.00 for each violation. However, if the commissioner finds that a person has violated this act and that the person knew or reasonably should have known that he or she was in violation of this act, the commissioner may order the person to pay a civil fine of not less than \$5,000.00 or more than \$50,000.00 for each violation. The commissioner may also order the person to pay the costs of the investigation.

(2) A civil fine assessed under subsection (1) may be sued for and recovered by and in the name of the commissioner and may be collected and enforced by summary proceedings by the attorney general. In determining the amount of a fine, the commissioner shall consider the extent to which the violation was a knowing and willful violation, the extent of the injury suffered because of the violation, the corrective action taken by the licensee to ensure that the violation will not be repeated, and the record of the licensee in the complying with this act.

Sec. 49. (1) If in the opinion of the commissioner a person has engaged in fraud, the commissioner may serve upon that person a written notice of intention to prohibit that person from being employed by, an agent of, or an executive officer of a licensee under this act. As used in this subsection, "fraud" includes actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), set a hearing on a date within 60 days after the date of the notice. If the person does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.

(3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being a licensee or from being employed by, an agent of, or an executive officer of any licensee under this act.

(4) An order issued under subsection (2) or (3) is effective when served on a person. The commissioner shall also serve a copy of the order upon the licensee of which the person is an employee, agent, or executive officer. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the person subject to the order may apply to the commissioner to terminate the order.

(6) If the commissioner considers that a person served a notice under subsection (1) poses an imminent threat of financial loss to customers, the commissioner may serve upon the person an order of suspension from being employed by, an agent of, or an executive officer of any licensee. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect until the commissioner completes the review required under this section, and the commissioner has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the commissioner and the person served with an order issued under subsection (6), the commissioner shall hold the hearing required under subsection (2) to review the suspension not earlier than 5 days or later than 20 days after the date of the notice.

(8) If a person is convicted of a felony involving fraud, dishonesty, or breach of trust, the commissioner may issue an order suspending or prohibiting that person from being a licensee and from being employed by, an agent of, or an executive officer of any licensee under this act. After 5 years from the date of the order, the person subject to the order may apply to the commissioner to terminate the order.

(9) The commissioner shall mail a copy of any notice or order issued under this section to the licensee of which the person subject to the notice or order is an employee, agent, or executive officer.

(10) Within 30 days after the commissioner has notified the parties that the case has been submitted to him or her for final decision, the commissioner shall render a decision that includes findings of fact supporting the decision and serve upon each party to the proceeding a copy of the decision and an order consistent with the decision.

(11) Except for a consent order, a party to the proceeding or a person affected by an order issued under this section may obtain a judicial review of the order. A consent order may be reviewed as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Except for an order under judicial review, the commissioner may terminate or set aside any order. The commissioner may terminate or set aside an order under judicial review with the permission of the court.

(12) Unless ordered by the court, the commencement of proceedings for judicial review under subsection (11) does not stay the commissioner's order.

(13) The commissioner may apply to the circuit court of Ingham county for the enforcement of any outstanding order issued under this section.

(14) Any current or former executive officer or agent who violates a final order issued under this section is guilty of a misdemeanor punishable by a fine of not more than \$5,000.00 or imprisonment for not more than 1 year, or both.

(15) An executive officer who is subject to an order issued under this section and who meets all of the following requirements is not in violation of the order:

(a) He or she does not in any manner, directly or indirectly, participate in the control or management of a licensee after the date the order is issued.

(b) He or she transfers any interest he or she owns in the licensee to an unrelated third party within 6 months after the date the order is final.

Sec. 50. (1) A licensee who is ordered to cease and desist, whose license is suspended or terminated, or who is ordered to pay a fine under this act is entitled to a hearing before the commissioner if a written request for a hearing is filed with the commissioner not more than 30 days after the effective date of the order.

(2) Any administrative proceedings under this act are subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Sec. 51. (1) The commissioner may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to enforce and administer this act.

(2) By July 31, 2007, the commissioner shall submit a report to the standing committees of the senate and house of representatives concerned with regulatory reform issues that includes the following information:

(a) The number of persons engaged in the business of providing deferred presentment service transactions in this state on the effective date of this act and the number on June 30, 2007.

(b) A general report on the business of providing deferred presentment service transactions in this state as of June 30, 2007. The report shall include the number of licensees, the number of customers, the number and amount of transactions, and any other financial information about deferred presentment service transactions in this state requested by the legislature or considered relevant by the commissioner.

Sec. 52. A person who provided deferred presentment service transactions in this state before the effective date of this act is considered to have complied with applicable state law if the person provided those transactions in substantial conformity with the rulings and interpretive statements then in effect that were issued by the office or its predecessor agency.



Sec. 53. A person injured by a licensee’s violation of this act may maintain a civil cause of action against the licensee and may recover actual damages and an amount equal to the service fee paid in connection with each deferred presentment service transaction that is found to violate this act, plus reasonable attorney fees.

Second: That the House and Senate agree to the title of the bill to read as follows:

A bill to regulate the business of providing deferred presentment service transactions; to require the licensing of providers of deferred presentment service transactions; to prescribe powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

David Robertson  
David Palsrok  
Bill McConico  
Conferees for the House

Alan Sanborn  
Judson Gilbert II  
Gilda Z. Jacobs  
Conferees for the Senate

The question being on the adoption of the conference report,  
The first conference report was adopted, a majority of the members serving voting therefor, as follows:

**Roll Call No. 574**

**Yeas—34**

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

**Nays—4**

Brater	Clark-Coleman	Clarke	Scott
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**Excused—0**

**Not Voting—0**

In The Chair: President

By unanimous consent the Senate returned to the order of  
**General Orders**

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

The motion prevailed, and the President, Lieutenant Governor Cherry, designated Senator Allen as Chairperson.

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

**House Bill No. 5297, entitled**

A bill to amend 1985 PA 227, entitled “Shared credit rating act,” (MCL 141.1051 to 141.1076) by adding section 16d. The bill was placed on the order of Third Reading of Bills.

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

**Senate Bill No. 448, entitled**

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 226, 303d, 410, 810, 859, 871, 1105, 1701, 2102, 8322, 8344, 8507, and 8611 (MCL 600.226, 600.303d, 600.410, 600.810, 600.859, 600.871, 600.1105, 600.1701, 600.2102, 600.8322, 600.8344, 600.8507, and 600.8611), section 226 as amended by 1990 PA 185, section 303d as amended by 2004 PA 448, section 410 as added by 2002 PA 678, sections 859, 1105, and 8611 as amended by 1986 PA 308, section 1701 as amended by 1987 PA 99, section 8322 as amended by 1996 PA 388, section 8344 as amended by 1992 PA 192, and section 8507 as amended by 1994 PA 5, and by adding sections 411 and 8808; and to repeal acts and parts of acts.

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

1. Amend page 4, line 26, after "(1)" by striking out "The" and inserting "**EXCEPT AS OTHERWISE PROVIDED BY SUPREME COURT RULE OR ORDER, THE**".

2. Amend page 10, following line 6, by inserting:

"Sec. 8321. (1) Civil process in the district court shall be served by a sheriff, deputy sheriff, or a court officer appointed by the judges of the court for ~~such~~ **THAT** purpose, except that officers of the department of state police **OR CONSERVATION OFFICERS OF THE DEPARTMENT OF NATURAL RESOURCES** may serve civil process in any action to which the state is a party and police officers of an incorporated city or village may serve civil process in any action to which the incorporated city or village is a party.

(2) Under rules of the supreme court, any other person may serve any process or order of the district court ~~which~~ **THAT** does not require the seizure, attachment, or garnishment of property or the arrest of a person. This section ~~shall~~ **APPLIES** notwithstanding ~~the provisions of~~ section 1908."

3. Amend page 16, line 26, after "8611." by striking out "All" and inserting "**EXCEPT AS OTHERWISE PROVIDED BY SUPREME COURT RULE OR ORDER, ALL**".

4. Amend page 18, line 3, by striking out all of enacting section 2 and inserting:

"Enacting section 2. Sections 557, 557a, 557b, and 8555 of the revised judicature act of 1961, 1961 PA 236, MCL 600.557, 600.557a, 600.557b, and 600.8555, are repealed."

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. 4718, entitled**

A bill to amend 2001 PA 142, entitled "Michigan memorial highway act," (MCL 250.1001 to 250.2080) by adding section 78.

Substitute (S-2).

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

1. Amend page 1, line 3, after "**THE**" by striking out "**1937**" and inserting "**UAW**".

2. Amend page 1, following line 8, by inserting:

"Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 624 of the 93rd Legislature is enacted into law."

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:

**Senate Bill No. 624, entitled**

A bill to amend 2001 PA 142, entitled "Michigan memorial highway act," (MCL 250.1001 to 250.2080) by adding section 80.

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

1. Amend page 1, line 1, after "**80.**" by inserting "**(1)**".

2. Amend page 1, following line 2, by inserting:

"**(2) HIGHWAY M-3 IN MACOMB COUNTY SHALL BE KNOWN AS THE "RONALD W. REAGAN MEMORIAL HIGHWAY"**."

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4718 of the 93rd Legislature is enacted into law."

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:  
**Senate Bill No. 686, entitled**

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 552c. Substitute (S-2).

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:  
**Senate Bill No. 685, entitled**

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 16y of chapter XVII (MCL 777.16y), as amended by 2000 PA 279.

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:  
**House Bill No. 4325, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 17001 and 17501 (MCL 333.17001 and 333.17501), section 17001 as amended by 1990 PA 248 and section 17501 as amended by 1990 PA 247, and by adding sections 17018 and 17518.

Substitute (S-1).

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

1. Amend page 4, line 22, after "SECTION." by inserting "A PHYSICAL THERAPIST WHO IS LICENSED UNDER THIS ARTICLE BUT IS NOT CERTIFIED BY THE AMERICAN BOARD OF PHYSICAL THERAPY SPECIALTIES AS AN ELECTROPHYSIOLOGIC CLINICAL SPECIALIST ON THE EFFECTIVE DATE OF THIS SECTION AND WHO HAS BEEN PERFORMING ELECTRODIAGNOSTIC STUDIES IN THIS STATE ON A CONSISTENT BASIS SINCE BEFORE MAY 1, 2001 MAY CONTINUE TO PERFORM ELECTRODIAGNOSTIC STUDIES THAT ARE TO BE INTERPRETED BY A PHYSICIAN AS LONG AS HE OR SHE BECOMES CERTIFIED BY THE AMERICAN BOARD OF PHYSICAL THERAPY SPECIALTIES AS AN ELECTROPHYSIOLOGIC CLINICAL SPECIALIST BY DECEMBER 31, 2007. AS USED IN THIS SUBSECTION, "CONSISTENT BASIS" MEANS AT A MINIMUM AN ANNUAL AVERAGE OF 10 ELECTRODIAGNOSTIC STUDIES EACH MONTH."

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.

## Resolutions

Senators Kuipers, Bishop, Goschka, Garcia, Johnson, Stamas, Jelinek, McManus, Hardiman, Cassis, Gilbert, Van Woerkom, Toy, Allen, Sanborn, George, Cropsey, Hammerstrom and Sikkema offered the following concurrent resolution:

### **Senate Concurrent Resolution No. 35.**

A concurrent resolution to urge the Governor to put into effect emergency event simulations and formally report results to the Legislature subsequent to the results of each exercise.

Whereas, The September 11th terrorist attacks and the recent hurricanes in the Gulf of Mexico demonstrate the importance of local and state emergency management planning. Failure to respond effectively to a terrorist attack or a natural catastrophe can lead to discomfort, injury, and even death for those victims caught in such a local or state-wide catastrophe; and

Whereas, Michigan's leaders should promote public safety by using available resources to maximize the preparedness of professional response capabilities of state and local agencies. It is through training and improving the coordination between local and state emergency responders at all levels that Michigan can improve its effectiveness in responding to a crisis; and

Whereas, Simulation of the action plan on a periodic basis is the most effective way to test the response capabilities of state and local officials. Simulating emergency events gives responders the opportunity to discover what their strengths and weaknesses are and fix any problems before a real crisis occurs; now therefore, be it

Resolved by the Senate, (the House of Representatives concurring), That we urge the Governor to put into effect emergency event simulations and formally report results to the Legislature subsequent to the results of each exercise; and be it further

Resolved, That copies of this document be transmitted to the Office of the Governor.

Pursuant to rule 3.204, the concurrent resolution was referred to the Committee on Government Operations.

Senator Clark-Coleman was named co-sponsor of the concurrent resolution.

### **Introduction and Referral of Bills**

Senator Gilbert introduced

#### **Senate Bill No. 866, entitled**

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending section 51a (MCL 388.1651a), as amended by 2005 PA 155.

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

Senators Toy, Allen, Kuipers, Hardiman, Goschka and McManus introduced

#### **Senate Bill No. 867, entitled**

A bill to amend 2003 PA 258, entitled "Land bank fast track act," by amending section 7 (MCL 124.757).

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

Senators Toy, Kuipers, Hardiman, Goschka, Allen and McManus introduced

#### **Senate Bill No. 868, entitled**

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending sections 59, 78, 78m, 87b, 87c, and 87d (MCL 211.59, 211.78, 211.78m, 211.87b, 211.87c, and 211.87d), section 59 as amended by 2001 PA 97, section 78 as added by 1999 PA 123, section 78m as amended by 2003 PA 263, section 87b as amended by 2002 PA 198, section 87c as amended by 2002 PA 165, and section 87d as amended by 1982 PA 503.

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

Senators Van Woerkom, Kuipers, Hardiman, Goschka, Allen and McManus introduced

#### **Senate Bill No. 869, entitled**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 676a (MCL 257.676a), as amended by 2005 PA 1.

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

Senators George, Kuipers, Hardiman, Goschka, Allen and McManus introduced

#### **Senate Bill No. 870, entitled**

A bill to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, local bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for

Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; and to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending sections 14 and 15 (MCL 247.664 and 247.665), section 14 as amended by 1987 PA 234 and section 15 as amended by 1999 PA 50.

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

Senators Goschka, Toy, Kuipers, Hardiman, Allen and McManus introduced

**Senate Bill No. 871, entitled**

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 42a (MCL 211.42a), as amended by 2002 PA 505.

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

Senators Kuipers, Hardiman, Goschka, Allen and McManus introduced

**Senate Bill No. 872, entitled**

A bill to amend 1963 (2nd Ex Sess) PA 43, entitled "An act to provide for public hearings on budgets of local units of government," by amending section 3 (MCL 141.413).

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

Senators Patterson, Kuipers, Hardiman, Goschka, Allen and McManus introduced

**Senate Bill No. 873, entitled**

A bill to amend 1990 PA 345, entitled "State survey and remonumentation act," by amending section 8 (MCL 54.268), as amended by 2002 PA 489.

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

Senators Birkholz, Kuipers, Hardiman, Goschka, Allen and McManus introduced

**Senate Bill No. 874, entitled**

A bill to amend 1986 PA 268, entitled "Legislative council act," by amending the title and section 102 (MCL 4.1102), the title as amended by 1988 PA 100 and section 102 as amended by 1995 PA 189, by amending the heading to chapter 8, and by adding sections 801, 802, 803, 804, and 805; and to repeal acts and parts of acts.

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

Senators Hardiman, Kuipers, Sikkema, Goschka, Allen and McManus introduced

**Senate Bill No. 875, entitled**

A bill to amend 1943 PA 20, entitled "An act relative to the investment of funds of public corporations of the state; and to validate certain investments," by amending section 1 (MCL 129.91), as amended by 1997 PA 196.

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

Senator Birkholz introduced

**Senate Bill No. 876, entitled**

A bill to amend 1976 PA 399, entitled "Safe drinking water act," by amending section 4 (MCL 325.1004), as amended by 1998 PA 56.

The bill was read a first and second time by title and referred to the Committee on Natural Resources and Environmental Affairs.

Senators Garcia, George, Goschka, Cropsey, Van Woerkom and Brown introduced

**Senate Bill No. 877, entitled**

A bill to establish safety and security practices for certain persons involved in the retail or wholesale sale or use of certain fertilizers; to provide certain powers and duties for certain state agencies; and to provide for immunity from liability under certain circumstances.

The bill was read a first and second time by title and referred to the Committee on Agriculture, Forestry and Tourism.

Senators Garcia, George, Goschka, Cropsey, Van Woerkom and Brown introduced

**Senate Bill No. 878, entitled**

A bill to amend 1975 PA 228, entitled "Single business tax act," (MCL 208.1 to 208.145) by adding section 35d. The bill was read a first and second time by title and referred to the Committee on Agriculture, Forestry and Tourism.

Senators Van Woerkom, Garcia, Kuipers, Birkholz, Cropsey, Toy and Goschka introduced

**Senate Bill No. 879, entitled**

A bill to authorize a service bonus for certain veterans; and to make appropriations. The bill was read a first and second time by title and referred to the Committee on Appropriations.

Senators Van Woerkom, Bishop and Cropsey introduced

**Senate Bill No. 880, entitled**

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding chapter 41A. The bill was read a first and second time by title and referred to the Committee on Banking and Financial Institutions.

Senators Patterson, Jacobs, Garcia, Jelinek, Kuipers, Cropsey, Birkholz and Toy introduced

**Senate Bill No. 881, entitled**

A bill to create the veterans memorial property commission; to authorize the acquisition of certain property; and to provide for certain duties of certain state agencies.

The bill was read a first and second time by title and referred to the Committee on Senior Citizens and Veterans Affairs.

Senators Patterson, Jacobs, Garcia, Jelinek, Kuipers, Cropsey, Birkholz and Toy introduced

**Senate Bill No. 882, entitled**

A bill to designate the use of state land that is set aside to memorialize veterans; to prohibit certain acts; and to prescribe penalties.

The bill was read a first and second time by title and referred to the Committee on Senior Citizens and Veterans Affairs.

**House Bill No. 5204, entitled**

A bill to amend 1933 PA 167, entitled "General sales tax act," (MCL 205.51 to 205.78) by adding section 4cc.

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

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

**House Bill No. 5205, entitled**

A bill to amend 1937 PA 94, entitled "Use tax act," (MCL 205.91 to 205.111) by adding section 4z.

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

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

**House Bill No. 5206, entitled**

A bill to amend 1975 PA 228, entitled "Single business tax act," (MCL 208.1 to 208.145) by adding section 35e.

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

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

**House Bill No. 5207, entitled**

A bill to amend 1975 PA 228, entitled "Single business tax act," (MCL 208.1 to 208.145) by adding section 35f.

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

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

**House Bill No. 5209, entitled**

A bill to amend 2001 PA 63, entitled “History, arts, and libraries act,” by amending section 21 (MCL 399.721), as amended by 2002 PA 508.

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

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

**Statements**

Senators Garcia, Bishop, Toy, Scott and Cassis asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Garcia’s statement is as follows:

I rise for the purpose of a memorial tribute. It is my sad duty this morning to report to you that Michigan has lost another soldier. This one has come from Livingston County. He was a native of Fowlerville, Michigan, and his mom and his stepfather and his family and friends are in the east balcony. I’m going to read a tribute here about the soldier, and then I’m going to move to recognize the family and have a moment of silence.

This soldier, among the other medals that he won, received the Global War on Terror Medal and the National Defense Service Medal, among other decorations. He was killed on November 2, 2005, during the battle just west of Baghdad. This tribute is in memory of Major Gerald Bloomfield II. It reads as follows:

“Our great country could not long exist without the service and sacrifice of men like Major Gerald M. Bloomfield II. Born in Detroit, Jerry Bloomfield moved to Fowlerville, Michigan, as a young boy. While going to school there, he was known for never letting a dare pass him by. He graduated from high school in 1984 and then attended Eastern Michigan University (EMU) where he graduated in 1989. While attending EMU, he joined the Reserve Officers Training Corp (ROTC) and was commissioned as a second lieutenant in the United States Marine Corps.

The Marines have a well-deserved reputation for highly developed military skills, courage, and a devotion to duty. Their motto, ‘The Few, the Proud, The Marines,’ aptly characterizes their standing among the military elites around the world. As a Marine, Major Bloomfield epitomized these traits. He first volunteered to join the military while attending college. He then volunteered to undergo Marine officers’ training, some of the most demanding and rigorous training that the military provides. Finally, he volunteered to become a Marine pilot, eventually being selected to fly one of the most complex aircraft in the Marine Corps inventory. During his 15-year career with the Marines, Major Bloomfield traveled around the world and worked in a variety of positions serving the Corps and his country. Along the way, he earned his master’s degree from the Naval Postgraduate School in Monterey, California.

He told his family he believed in the mission and he loved being a Marine. He was quoted as saying the reason he was in Iraq was because ‘it was worth fighting for.’ Major Bloomfield had volunteered for his third tour in Iraq when his AH-1W Super Cobra—attack helicopter—went down near Ramadi, Iraq, approximately 70 miles west of Baghdad during intense fighting. He and his co-pilot were killed in the ensuing crash. They were members of the Marine Light-Attack Helicopter Squadron 369, Marine Aircraft Group 39, 3rd Marine Aircraft Wing, 1st Marine Expeditionary Force from Camp Pendelton, California.

He is survived by his wife, Julie, and his children, Ryan, Chelsea, and Tony, and other members of his family. We offer our condolences, our gratitude, and our respect for sharing their husband and father with us. The Marine Corps hymn says:

‘From the Halls of Montezuma,  
To the shores of Tripoli;  
We fight our country’s battles  
In the air, on land, and sea;  
First to fight for right and freedom  
And to keep our honor clean;  
We are proud to claim the title  
Of United States Marines.’

In special recognition of the life and service of Marine Corps Major Gerald M. Bloomfield II, this tribute is given to honor the sacrifice of a great American. We are proud to have had him as our fellow countryman. May his deeds in the defense of freedom and liberty never be forgotten.”

Signed Valde Garcia, State Senator, and Cameron Brown, State Senator. I would like to have this chamber recognize the family that is in the east Gallery and then rise for a moment of silence please.

A moment of silence was observed in memory of Marine Corps Major Gerald Bloomfield II.

Senator Bishop's statement is as follows:

Recognizing that life is made up of a series of milestones and stepping stones, I wanted to rise today to make mention of the fact that there is an employee in my office who just had the good news of finding out that he passed the Bar of the state of Michigan. I wanted to make mention of that. It's a huge milestone in his life. Every once in a while we need to stop and congratulate people for what they do, and so Matt Breslin, who works in my office, congratulations for a great accomplishment of passing the State Bar of Michigan and for passing it by way of the multistate, which is quite telling in and of itself. So congratulations to Matt Breslin and his entire family for the achievement.

Senator Toy's statement is as follows:

I rise today to remind members that since we won't be here next Tuesday, November 15 marks the ninth annual celebration of America Recycles Day, a nationwide awareness event that encourages people to recycle and buy recycled products. We are truly blessed to call this Great Lakes State of Michigan our home, and together we must work to protect the many natural resources it boasts. Recycling helps to protect our resources, our environment, and our quality of life.

Whether starting the first recycling center in Livonia, or helping to establish one of the first ecology commissions in our state back in the early '70s, the passion I developed for our environment as a young woman stays with me today. This November and throughout the year, I urge my fellow Michiganians to do their part to reduce, reuse, and recycle. While we in the Michigan Senate continue to address issues such as the importation of foreign and out-of-state trash and invasive species invading our Great Lakes, every single Michigan citizen must do his and her part to help protect our state's environment. Despite being the Great Lakes State, Michigan, unfortunately, has one of the worst recycling rates in the nation. This is our Earth, our country, and our Michigan. Let's do all we can to protect it for our generations to come.

Senator Scott's statement is as follows:

I'd like to congratulate all the winners in yesterday's election. However, I said that I had hoped that my person in Detroit would win, so I look forward to working with Mayor Kilpatrick for the next four years.

I have a couple of insurance hits from my website that I'd like to recite to you today. The first one is from Lansing: "For a Toyota, 2002 Corolla, I am paying \$2,060 for 12 months of coverage, due in part to my credit report. Even carrying a higher deductible doesn't help. I really would like to see true, meaningful insurance reform; otherwise, I'm going to have to make a car note on a car that sits in the garage because I can't afford to insure it."

The next one comes from Detroit: "The rising cost of insurance is forcing me to make decisions that may come back to haunt me. I need to pay my homeowner's insurance and car insurance, which are way beyond my budget. I find it difficult to believe that if I had a chance to move my house across Eight Mile Road that I could save a substantial amount of money since I have not filed any insurance claims in the past five years. I fail to understand why I'm paying for higher premiums that my counterparts across Eight Mile Road doesn't."

Thank you. Well, let me just say that I see that the insurance committee is taking up bills, but I would hope that they would take up these insurance bills to help people have a better quality of life. I have some of those insurance bills in committee and I'm asking again that they be taken up.

Senator Cassis' statement is as follows:

My speaking on behalf of that supplement deals with a number of factors that were contained in the supplemental. It was a long journey and I congratulate and applaud all those who were active and involved in coming to this point to pass this supplemental today.

Indeed, it reflects health, safety, and welfare and it, in particular, addresses the issue of fire inspection grants. It specifically deals with police, State Police posts in three areas; one in my district that I fought strenuously for, it's an area that has limited tax base, given the amount of state land, and these individuals, if they had to go to a supplemental police force in any respect, would see a tax increase. In these hard times, a tax increase on these citizens of Groveland and Rose Township would be an extreme hardship.

So, today, as we remember the most important function of government, and that is the health, safety, and general welfare of our citizens, I am very honored and pleased that this body passed this supplemental. This is putting people, citizens' needs and their welfare before other partisan politics.

### Committee Reports

The Committee on Transportation reported  
**Senate Bill No. 737, entitled**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 682c.  
With the recommendation that the bill be referred to the Committee on Technology and Energy.

Judson S. Gilbert II  
Chairperson



## To Report Out:

Yeas: Senators Gilbert, Kuipers, Goschka, Leland and Basham

Nays: None

The bill was referred to the Committee on Technology and Energy.

The Committee on Transportation reported

**Senate Bill No. 829, entitled**

A bill to amend 1966 PA 13, entitled "An act to implement the provisions of section 14 of the schedule and temporary provisions of the constitution of this state by providing for the issuance and sale of full faith and credit bonds of the state to refund the outstanding bonds heretofore issued by the Mackinac bridge authority and upon such refunding to abolish the Mackinac bridge authority and to transfer the operation, maintenance, repair and replacement of the Mackinac bridge to the state highway department with power to fix and collect tolls, fees and charges for the use of the bridge, its services and facilities," by repealing section 9 (MCL 254.369).

With the recommendation that the bill pass.

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

Judson S. Gilbert II  
Chairperson

## To Report Out:

Yeas: Senators Gilbert, Kuipers, Goschka, Leland and Basham

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Transportation reported

**Senate Bill No. 830, entitled**

A bill to amend 1965 PA 380, entitled "Executive organization act of 1965," (MCL 16.101 to 16.608) by adding section 359; and to repeal acts and parts of acts.

With the recommendation that the bill pass.

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

Judson S. Gilbert II  
Chairperson

## To Report Out:

Yeas: Senators Gilbert, Kuipers, Goschka, Leland and Basham

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Transportation reported

**Senate Bill No. 831, entitled**

A bill to amend 1950 PA 21, entitled "An act to create the Mackinac bridge authority, and to prescribe its powers and duties; to provide for the determination of the physical and financial feasibility of a bridge connecting the upper and lower peninsulas of Michigan; to provide for a board of consulting engineers, and to prescribe its powers and duties; and to make an appropriation to carry out the provisions of this act," by amending section 2 (MCL 254.302).

With the recommendation that the bill pass.

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

Judson S. Gilbert II  
Chairperson

## To Report Out:

Yeas: Senators Gilbert, Kuipers, Goschka, Leland and Basham

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Transportation reported

**Senate Bill No. 832, entitled**

A bill to amend 1952 PA 214, entitled "An act authorizing the Mackinac bridge authority to acquire a bridge connecting the upper and lower peninsulas of Michigan, including causeways, tunnels, roads and all useful related equipment and facilities, including park, parking, recreation, lighting and terminal facilities; extending the corporate

existence of the authority; authorizing such authority to enjoy and carry out all powers incident to its corporate objects; authorizing the appropriation and use of state funds for the preliminary purposes of the authority; providing for the payment of the cost of such bridge and in that connection authorizing the authority to issue revenue bonds payable solely from the revenues of the bridge; granting the right of condemnation to the authority; granting the use of state land and property to the authority; making provisions for the payment and security of such bonds and granting certain rights and remedies to the holders thereof; authorizing banks and trust companies to perform certain acts in connection therewith; authorizing the imposition of tolls and charges; authorizing the authority to secure the consent of the United States government to the construction of the bridge and to secure approval of plans, specifications and location of same; authorizing employment of engineers irrespective of whether such engineers have been previously employed to make preliminary inspections or reports with respect to the bridge; authorizing the state highway department to operate and maintain such bridge or to contribute thereto and enter into leases and agreements in connection therewith; exempting such bonds and the property of the authority from taxation; prohibiting competing traffic facilities; authorizing the operation of ferries by the authority; providing for the construction and use of certain buildings; and making an appropriation," by amending section 14 (MCL 254.324).

With the recommendation that the bill pass.

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

Judson S. Gilbert II  
Chairperson

To Report Out:

Yeas: Senators Gilbert, Kuipers, Goschka, Leland and Basham

Nays: None

The bill was referred to the Committee of the Whole.

#### COMMITTEE ATTENDANCE REPORT

The Committee on Transportation submitted the following:

Meeting held on Tuesday, November 8, 2005, at 1:04 p.m., Room 110, Farnum Building

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

#### COMMITTEE ATTENDANCE REPORT

The Subcommittee on Department of Natural Resources submitted the following:

Meeting held on Tuesday, November 8, 2005, at 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators McManus (C), Johnson, Jelinek, Barcia and Cherry

#### COMMITTEE ATTENDANCE REPORT

The Committee on Natural Resources and Environmental Affairs submitted the following:

Meeting held on Wednesday, November 9, 2005, at 8:00 a.m., Room 110, Farnum Building

Present: Senators Birkholz (C), Brater and Basham

Excused: Senators Patterson and Van Woerkom

#### Scheduled Meetings

**Agriculture, Forestry and Tourism** - Thursday, November 10, 8:30 a.m., Room 110, Farnum Building (373-1635)

**Appropriations** -

**Subcommittee** -

**Capital Outlay** - Thursday, November 10, 9:00 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

**Education** - Thursday, November 10, 2:00 p.m., Room 210, Farnum Building (373-6920)

**Local, Urban and State Affairs** - Thursday, November 10, 1:00 p.m. or later immediately following session, Room 110, Farnum Building (373-1707)

**Michigan Capitol Committee** - Tuesday, November 29, 3:00 p.m., Room 426, Capitol Building (373-0289)

**Natural Resources and Environmental Affairs** - Thursday, November 10, 11:00 a.m., Rooms 402 and 403, Capitol Building (373-3447)

Senator Hammerstrom moved that the Senate adjourn.  
The motion prevailed, the time being 12:16 p.m.

The Assistant President pro tempore, Senator Sanborn, declared the Senate adjourned until Thursday, November 10, 2005, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate

