

No. 17
STATE OF MICHIGAN
Journal of the Senate
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REGULAR SESSION OF 2005

Senate Chamber, Lansing, Tuesday, March 1, 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 not present.

Allen—present
Barcia—present
Basham—present
Bernero—present
Birkholz—present
Bishop—present
Brater—excused
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

Sister Rose Marie Kujawa, President of Madonna University of Livonia, offered the following invocation:

God, loving Father, today we gather as members of the Senate of the state of Michigan, meeting together to consider so many important issues. Be with us, O God, in this space and time as we shape and affirm the changes we are about to consider. We are here in trust; destroy all hopelessness. We are here in joy; dismiss all despair.

We bring years of experience and a depth of knowledge to the issues set before us. Help us to reassess the journey; to set firm a new pathway; to lay new foundations which will bring to fruition new opportunities, new visions and vistas.

Knowing You are here, God, we are freer in our interactions, gentle in our confrontations, respectfully silent in our deliberations, and accepting of the ideas placed before us.

In all of our thoughts, ideas, and imaginings, we ask for Your guidance and wisdom that our words and actions might contribute to Your further glory. We ask all in the name of the Lord. Amen.

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

Senator Leland entered the Senate Chamber.

Recess

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

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

10:41 a.m.

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

During the recess, Senators Thomas, Cassis, Sanborn, Garcia, Bishop, Bernero, Gilbert, Sikkema, McManus, Barcia, Jelinek, Van Woerkom, Kuipers, Stamas, George, Hardiman, Allen, Goschka and Cropsey entered the Senate Chamber.

A quorum of the Senate was present.

Motions and Communications

The following communication was received:

Family Independence Agency

February 16, 2005

Pursuant to Section 1002 of P.A. 344 of 2004, we are enclosing a copy of the following report:

<u>Type of Report</u>	<u>Facility</u>	<u>License #</u>
Renewal	Montmorency County FIA	CP600201311

This report was performed in compliance with the requirements of P.A. 116 of 1973 as amended, and the Administrative Rules for Child Caring Institutions. The report may also be viewed on our website, within 48 hours, under "News, Publications & Information" at the following address: <http://www.michigan.gov/fia/>.

If you have any questions regarding this information, please feel free to contact Miriam E.J. Bullock at 517-373-8383.

Sincerely,
Marianne Udow

The communication was referred to the Secretary for record.

The following communications were received:

Office of the Auditor General

February 25, 2005

Enclosed is a copy of the following audit report:

Performance audit of the Clean Michigan Initiative, Environmental and Health Protection Programs, administered by the Department of Environmental Quality and the Department of Community Health.

February 25, 2005

Enclosed is a copy of the following audit report:
Performance audit of the General Controls of the Medicaid Management Information System, Department of Information Technology and Department of Community Health.

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

The communications were referred to the Secretary for record.

The Secretary announced that the following House bills were received in the Senate and filed on Thursday, February 24:
House Bill Nos. 4012 4013 4227 4318

The Secretary announced that the following official bills and joint resolution were printed on Thursday, February 24, and are available at the legislative Web site:

Senate Bill Nos. 235 236 237 238 239 240 241 242 243 244 245 246 247
Senate Joint Resolution B
House Bill Nos. 4375 4376 4377 4378 4379 4380 4381 4382 4383 4384 4385 4386 4387 4388
4389 4390 4391 4392 4393 4394 4395 4396 4397 4398

The Secretary announced that the following official bills were printed on Friday, February 25, and are available at the legislative Web site:

Senate Bill Nos. 248 249 250 251 252 253 254 255 256
House Bill Nos. 4399 4400 4401 4402 4403 4404 4405 4406 4407 4408 4409 4410 4411 4412
4413 4414 4415

The following communications were received and read:
Office of the Senate Majority Leader

February 24, 2005

Pursuant to Senate Rule 2.104(c), I am requesting that the Senate Appropriations Committee hold a hearing on the following appointments and make a written recommendation to the Government Operations Committee on these appointments:

Marilyn Hubbard, Central Michigan University Board of Trustees
Sambasiva Kottamasu, Central Michigan University Board of Trustees
George Menoutes, Ferris State University Board of Trustees
Ronald Snead, Ferris State University Board of Trustees
Noreen Myers, Grand Valley State University Board of Trustees
Kate Wolters, Grand Valley State University Board of Trustees
Kathryn Clark, Michigan Technological University Board of Control
Martha Richardson, Michigan Technological University Board of Control
Brian Cloyd, Northern Michigan University Board of Control
Jon LaSalle, Northern Michigan University Board of Control
Dennis Archer, Western Michigan University Board of Trustees
Larry Tolbert, Western Michigan University Board of Trustees

February 28, 2005

Pursuant to Senate Rule 2.104(c), I am requesting that the Senate Technology and Energy Committee hold a hearing on the appointment of Larry Leatherwood and Cyntia Zerkowski to the Michigan Broadband Development Authority Board of Directors, and make a written recommendation to the Government Operations Committee on this appointment.

Sincerely,
Senator Ken Sikkema
Chairman, Senate Government Operations Committee

The communications were referred to the Secretary for record.

Senator Schauer moved that Senator Brater be excused from today's session.
The motion prevailed.

Third Reading of Bills

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

Senate Bill No. 234

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 234, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 676a and 907 (MCL 257.676a and 257.907), section 676a as amended by 1999 PA 46 and section 907 as amended by 2004 PA 493.

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. 19

Yeas—37

Allen	Clarke	Jacobs	Sanborn
Barcia	Cropsey	Jelinek	Schauer
Basham	Emerson	Johnson	Scott
Bernero	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			

Nays—0

Excused—1

Brater

Not Voting—0

In The Chair: Birkholz

The Senate agreed to the title of the bill.

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senator Hammerstrom introduced

Senate Bill No. 257, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 531 (MCL 436.1531), as amended by 2004 PA 191.

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

Senators Olshove, Cherry, Sanborn, Prusi, Bishop, Switalski, Schauer, Garcia, Goschka, Scott, Jacobs, Cropsey, Toy and Brater introduced

Senate Bill No. 258, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 272. The bill was read a first and second time by title and referred to the Committee on Finance.

Senator Brater introduced

Senate Bill No. 259, entitled

A bill to amend 1974 PA 258, entitled "Mental health code," by amending section 208 (MCL 330.1208), as amended by 1995 PA 290.

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

Senator Brater introduced

Senate Bill No. 260, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," (MCL 760.1 to 777.69) by adding section 85 to chapter VII.

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

Senators Goschka, Barcia, Patterson, Birkholz and Leland introduced

Senate Bill No. 261, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 40116b.

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

Senators George, Goschka, Basham, Leland, McManus, Barcia, Garcia and Birkholz introduced

Senate Bill No. 262, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 907 (MCL 257.907), as amended by 2004 PA 493.

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

House Bill No. 4012, entitled

A bill to amend 1986 PA 281, entitled "The local development financing act," by amending sections 4 and 16 (MCL 125.2154 and 125.2166), section 4 as amended by 2000 PA 248.

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 Economic Development, Small Business and Regulatory Reform.

House Bill No. 4013, entitled

A bill to amend 1980 PA 450, entitled "The tax increment finance authority act," by amending sections 3 and 17 (MCL 125.1803 and 125.1817), section 3 as amended by 1983 PA 148.

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 Economic Development, Small Business and Regulatory Reform.

House Bill No. 4227, entitled

A bill to amend 1966 PA 261, entitled "An act to provide for the apportionment of county boards of commissioners; to prescribe the size of the board; to provide for appeals; to prescribe the manner of election of the members of the county board of commissioners; to provide for compensation of members; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 15 (MCL 46.415), as amended by 1980 PA 187.

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 Local, Urban and State Affairs.

House Bill No. 4318, entitled

A bill to amend 1975 PA 197, entitled "An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials," by amending sections 3 and 18 (MCL 125.1653 and 125.1668), section 3 as amended by 2004 PA 521.

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 Economic Development, Small Business and Regulatory Reform.

Statements

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

The motion prevailed.

Senator Scott's statement is as follows:

Well, you know I've talked to my colleagues, and they don't hear me. So this morning I am going to talk to God, and I am going to ask Him to intervene because I have been standing here on this Senate floor, dear God, for about a year now, and I am speaking about some serious needs for some folks who can't help themselves.

God, just last week I talked to some doctors from around the suburban areas of Detroit. They could not believe that Detroiters, Highland Parkers, and Hamtramck and those of us in certain zip codes were paying these enormous rates. When they told me what they were paying, we are paying three and four times as much as they are paying. It was in disbelief. So, dear God, I can't do anything about it, but I know You can. I know You can touch the hearts of my colleagues here, on both sides of the aisles, and let them know we are all Your children, that You love us all the same.

So I would hope with this little workgroup that they have, that You will stand in the midst of them while they are making some decisions because I have the bills right now that would make the difference, but they won't take them up because they want those of us in the inner cities to continue paying their share while they pay very little. I even told them last week about a former staffer of mine who had to move out of the city that he loved and his beautiful home just so that he could get a relief from these high insurance rates.

So, dear God, I ask You to touch their hearts. You know we pray every day to You, but I want them to truly understand that we are all Your people. Those who live in urban cities and certain zip codes, and if that's where they chose to live, Lord, let them have the relief that is needed. So, hopefully, they will take up my bills. I guess some of us will see some relief.

The Governor and the Office of Financial and Insurance Services commissioner are working on one part of it, but not the total. The total is we have folks who are just paying ridiculous rates, and so many more are going to be laid off in Detroit, Lord. So many of them just don't know where to turn to, so I am asking You to intervene, touch the hearts of my colleagues, so that they will take up these bills and we can debate them like we do all others. Some we don't even debate, though. We just know that they are the right things to do for certain people, and we move them through quickly.

Lord, touch them, touch them this morning because I am tired of standing up here talking, but I am a woman of my word. I said I would stand until we get relief, and I will continue to stand, too, because I know that You will give me the strength to stand. So thank You, Father. I will be ever so grateful to give You the praise and the honor.

Senator Bishop's statement is as follows:

We started statements today talking to God, so I want to continue on with that theme. I want to begin by saying that I thank the good Lord that all of us are here safe and sound after one of the most treacherous, crazy trips I've ever had into Lansing. I know that many of you commute into work, so I'm glad to see you all here safe and sound.

Today, Madam President, I want to share with you a very troubling statistic. It is that identity theft is this nation's fastest-growing crime, and it claims a victim every three seconds. With that in mind, Madam President and colleagues, it is with great pleasure that I recognize an important event occurring today, on the heels of National Consumer Protection Week. From this day forward, Michigan citizens will be protected by a new, comprehensive set of laws protecting them from the crime of identity theft.

As you'll recall, last session this chamber crafted a package of bills addressing the crime of identity theft, described by many as groundbreaking, and it really distinguishes this state on the national stage in addressing one of the most prolific threats of our generation. By design, this legislation put Michigan's consumers first by giving them the necessary tools to fight back against predators. It also stops these predators who have continued, unabated, in their relentless efforts to steal what's most dear to all of us, which is our privacy and our very identity.

Up until now, law enforcement and prosecutors lacked the tools and resources and struggled to bring these criminals to justice. As a consequence, victims of identity theft had virtually no options or remedies to regain their identity or restore their good credit. My, how things have changed. Because of the leadership of those of you in the room, today, no longer will our citizens be trapped behind antiquated laws, leaving their good name and credit vulnerable to attack. No longer will private and personal information be freely passed around for criminals to snatch up and exploit, and no longer will criminals be able to run and hide from prosecution.

Starting today, if you visit the World Wide Web, www.annualcreditreport.com, Michigan consumers can receive a free copy of their credit report from all three major credit agencies—that's starting today.

It's true, we will probably never be able to completely stop the crime of identity theft, but I would argue that we have taken a dramatic step forward. We are sending a very clear message to every potential, would-be criminal that their actions will not be tolerated in the state of Michigan.

Every once in awhile as I sit in this chamber, I think about what we do on a daily basis. Once in awhile, we should be proud of certain things that we do. I think that the bottom line is that we stop talking and we start doing. So today, I rise to give all of you a collective pat on the back for a job well done. The citizens of this state are better off because of your commitment and leadership on this issue, and for that, you should be very proud.

Senator Cropsey's statement is as follows:

Today coming into the office—I believe it was late yesterday afternoon—I heard a report on the radio that the Office of Children's Ombudsman came out with a recommendation to amend the adoption code to permit adoption of a child by two adults who are not married if the court determines it is in the child's best interest.

I thought it was very interesting that this last election the people of the state of Michigan adopted a constitutional amendment that said this to secure and preserve the benefits of marriage for our society and for future generations of children: "The union of one man and one woman in marriage shall be the only agreement recognized as marriage or similar union for any purpose." We have what I would consider to be one of the most radical members who I served with in the House of Representatives, appointed to the Office of Children's Ombudsman. Now the Office of Children's Ombudsman in its recommendation says that marriage doesn't matter when it comes to having a child placed in a home. Folks, what they are saying is dad doesn't matter or mom doesn't matter; it's just that parental fitness. Somehow marriage doesn't enter into parental fitness, and if you think I am misstating this, take a look at this. The rationale that the Office of Children's Ombudsman used, that is supposed to be there to protect the children, says this, rationale: "All decisions regarding who should be given consent to legally adopt a child should be based on parental fitness, not on marital status." Did you catch that? Not on marital status? For a third time, did you catch that? Not on marital status? I find it very interesting they go down and say this would accomplish the following things and they have five bullet points.

It ensures the child's eligibility for health benefits from both parents. You know what? If the parents get married, the child gets the benefits. What they want to do is they want to give the benefits without marriage.

The second thing is they want to provide legal grounds for either parent to provide consent for medical care and to make education, health care, and other important decision on behalf of the child. Once again, if the parents get married, there is no problem. But they want to give this benefit and say the parents don't have to get married.

The third thing creates the basis for financial security for a child in the event of the death of either parent by ensuring eligibility for all appropriate entitlements, such as Social Security survivor's benefits. Once again, if the parents get married, there is no problem. But they want to give this benefit in spite of the fact that the parents are unwilling to get married.

Fourth thing, it guarantees the child's rights to legal relationships with both parents should the parents separate or should one parent die or become incapacitated. Folks, once again, if marriage was involved, there would not be any problem. It would be done automatically under our system. The Office of Children's Ombudsman is so radical that they want to say we want to have this done regardless of marital status.

Fifth thing, it establishes the requirements for child support from both parents in the event of the parents' separation. This is done currently, and if the parents get married, there would not be a problem.

What is the Office of Children's Ombudsman doing? Basically, they are saying, "We don't care what the Constitution of the state of Michigan says. We don't care that the people voted overwhelmingly in 81 of the 83 counties of this state to say that marriage is important for children." Once again, if you read the constitutional amendment, it says to secure and preserve the benefits of marriage for our society and for future generations of children, but yet the Office of Children's Ombudsman said marriage doesn't matter. They said so right here: "We don't think marriage ought to matter." The people of the state of Michigan spoke directly, and you ought to listen to what the people of the state of Michigan are saying, instead of grappling to your far left-wing constituency. I am a little bit sick and tired of tax dollars to put out this type of dribble.

Committee Reports

The Committee on Economic Development, Small Business and Regulatory Reform reported

Senate Bill No. 52, entitled

A bill to amend 2000 PA 146, entitled "Obsolete property rehabilitation act," by amending section 2 (MCL 125.2782).

With the recommendation that the bill pass.

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

Alan Sanborn
Chairperson

To Report Out:

Yeas: Senators Sanborn, Allen, Gilbert, Jacobs and Basham

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Economic Development, Small Business and Regulatory Reform submitted the following:

Meeting held on Wednesday, February 23, 2005, at 3:00 p.m., Rooms 402 and 403, Capitol Building

Present: Senators Sanborn (C), Allen, Gilbert, Jacobs and Basham

COMMITTEE ATTENDANCE REPORT

The Committee on Agriculture, Forestry and Tourism submitted the following:

Meeting held on Thursday, February 24, 2005, at 8:30 a.m., Room 110, Farnum Building

Present: Senators Van Woerkom (C), Gilbert, Jelinek, Brater and Thomas

COMMITTEE ATTENDANCE REPORT

The Joint Subcommittee on Capital Outlay submitted the following:

Meeting held on Thursday, February 24, 2005, at 9:00 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Johnson (C), George, Cropsey, Goschka, Hardiman, Prusi, Clarke and Cherry

COMMITTEE ATTENDANCE REPORT

The Committee on Local, Urban and State Affairs submitted the following:

Meeting held on Thursday February 24, 2005, at 1:00 p.m., Room 110, Farnum Building

Present: Senators Toy (C) and Birkholz

Excused: Senators Goschka, Basham and Bernero

Scheduled Meetings

Agriculture, Forestry and Tourism - Thursday, March 3, 8:30 a.m., Room 110, Farnum Building (373-1635)

Appropriations -

Subcommittees -

Capital Outlay - Thursday, March 3, 11:30 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Higher Education - Thursday, March 3, 8:30 a.m.; Wednesday, March 9, 3:30 p.m.; and Tuesday, March 15, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1760)

Education - Thursday, March 3, 2:00 p.m., Room 210, Farnum Building (373-6920)

Finance - Wednesday, March 2, 12:30 p.m., Room 110, Farnum Building (373-1758)

Local, Urban and State Affairs - Thursday, March 10, 1:00 p.m., Lecture Hall 1100, Center for Higher Education, Muskegon Community College, 221 S. Quarterline Road, Muskegon (373-1707)

Technology and Energy - Wednesday, March 2, 3:00 p.m., Room 210, Farnum Building (373-7350)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 11:08 a.m.

The President pro tempore, Senator Birkholz, declared the Senate adjourned until Wednesday, March 2, 2005, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

