

No. 46
STATE OF MICHIGAN
Journal of the Senate
93rd Legislature
REGULAR SESSION OF 2005

Senate Chamber, Lansing, Thursday, May 19, 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 Paul Owens of St. Paul’s Lutheran Church of Alpena offered the following invocation:

Martin Luther said, “Send your good men to be pastors. Send your best men to be legislators.” Of course, that applies to women too. He spoke 500 years ago. Luther also said that good government is one of the slices of daily bread, for which we pray.

Gracious and Almighty Father, thank You for the hardy essential slice of daily bread that is good government. Thank You for these men and women, who are curious and crazy enough to play their part in this slice. As they make decisions about our budget, our policies, and the direction of our state, grant them the same wisdom You granted to Solomon. Teach them to fear, love, and trust You above all else so that they may be freed from all other puny fears and petty anxieties.

Bless their households with patience and a sense of humor. Teach us as citizens and legislators that liberty is not a license to do whatever one wants. Guide each of us to use our freedom as an opportunity to do good.

I ask all this in Jesus’ name. Amen.

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

Motions and Communications

Senator Schauer moved that Senators Barcia and Bernero be temporarily excused from today’s session. The motion prevailed.

Senators Barcia and Allen entered the Senate Chamber.

Senator Hammerstrom moved that Senator Goschka be temporarily excused from today’s session. The motion prevailed.

The Secretary announced that the following House bill was received in the Senate and filed on Wednesday, May 18:
House Bill No. 4559

The Secretary announced that the following official bills were printed on Wednesday, May 18, and are available at the legislative website:

Senate Bill Nos.	500	501	502	503	504	505	506								
House Bill Nos.	4789	4790	4791	4792	4793	4794	4795	4796	4797	4798	4799	4800	4801	4802	
	4803	4804	4805												

Senators Goschka and Bernero entered the Senate Chamber.

By unanimous consent the Senate proceeded to the order of
Introduction and Referral of Bills

Senators Hammerstrom, George, Emerson and Sikkema introduced
Senate Bill No. 512, entitled

A bill to amend 1989 PA 24, entitled “The district library establishment act,” by amending sections 2, 3, 4, 11, 12, 15, 19, 20, 21, 23, and 24 (MCL 397.172, 397.173, 397.174, 397.181, 397.182, 397.185, 397.189, 397.190, 397.191, 397.193, and 397.194), sections 2 and 3 as amended by 2001 PA 64, section 11 as amended by 2002 PA 159, section 12 as amended by 2002 PA 540, and section 15 as amended by 1994 PA 114, and by adding section 3a.

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

Senators Hammerstrom and Sikkema introduced
Senate Bill No. 513, entitled

A bill to amend 1954 PA 116, entitled “Michigan election law,” by amending sections 301, 302, 312, 370, 381, 498, 641, 642a, 653a, 699, and 963 (MCL 168.301, 168.302, 168.312, 168.370, 168.381, 168.498, 168.641, 168.642a, 168.653a, 168.699, and 168.963), section 301 as amended by 2004 PA 286, sections 302 and 312 as added and sections 370 and 963 as amended by 2003 PA 302, section 381 as amended by 2004 PA 290, section 498 as amended by 1984 PA 89,

section 641 as amended by 2003 PA 298, section 642a as amended by 2004 PA 294, section 653a as added by 1982 PA 2, and section 699 as amended by 2004 PA 297.

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

Senators Cassis, Hammerstrom and Sikkema introduced

Senate Bill No. 514, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 4 and 5 (MCL 380.4 and 380.5), as amended by 2003 PA 299.

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

Senators Cassis, Hammerstrom and Sikkema introduced

Senate Bill No. 515, entitled

A bill to amend 1966 PA 331, entitled "Community college act of 1966," by amending sections 38, 58, and 152 (MCL 389.38, 389.58, and 389.152), as amended by 2003 PA 306.

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

Senators Allen, Hammerstrom and Sikkema introduced

Senate Bill No. 516, entitled

A bill to amend 1909 PA 278, entitled "The home rule village act," (MCL 78.1 to 78.28) by adding section 24d.

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

Senators Allen, Hammerstrom and Sikkema introduced

Senate Bill No. 517, entitled

A bill to amend 1909 PA 279, entitled "The home rule city act," (MCL 117.1 to 117.38) by adding section 3b.

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

Senators Allen, Hammerstrom and Sikkema introduced

Senate Bill No. 518, entitled

A bill to amend 1895 PA 3, entitled "The general law village act," (MCL 61.1 to 74.25) by adding section 5a to chapter II.

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

Senators Kuipers, Toy, Schauer, Cropsey, Gilbert and Hardiman introduced

Senate Bill No. 519, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 1313 and 1314 (MCL 600.1313 and 600.1314), section 1313 as amended by 2004 PA 12.

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

Senators Toy, Kuipers, Cherry, Gilbert and Cropsey introduced

Senate Bill No. 520, entitled

A bill to amend 1976 PA 453, entitled "Elliott-Larsen civil rights act," by amending section 201 (MCL 37.2201), as amended by 1980 PA 202.

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

Senators Bishop, Jelinek, Kuipers, George, Garcia, Gilbert, Toy, Stamas, McManus, Brater and Goschka introduced

Senate Bill No. 521, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 30 (MCL 206.30), as amended by 2004 PA 394.

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

Senators McManus, Prusi, Hammerstrom, Goschka, Allen, Kuipers, Johnson and Schauer introduced
Senate Bill No. 522, entitled

A bill to amend 1925 PA 368, entitled "An act to prohibit obstructions and encroachments on public highways, to provide for the removal thereof, to prescribe the conditions under which telegraph, telephone, power, and other public utility companies, cable television companies and municipalities may enter upon, construct and maintain telegraph, telephone, power or cable television lines, pipe lines, wires, cables, poles, conduits, sewers and like structures upon, over, across or under public roads, bridges, streets and waters and to provide penalties for the violation of this act," by amending section 13 (MCL 247.183), as amended by 2002 PA 151.

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

Senators Stamas, Prusi, Goschka, Allen and Kuipers introduced

Senate Bill No. 523, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 16i of chapter XVII (MCL 777.16i), as amended by 2003 PA 268.

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

Senators McManus, Prusi, Goschka, Allen and Kuipers introduced

Senate Bill No. 524, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 167d. The bill was read a first and second time by title and referred to the Committee on Judiciary.

Senator Bishop introduced

Senate Bill No. 525, entitled

A bill to amend 2003 PA 296, entitled "Michigan early stage venture investment act of 2003," by amending sections 5, 15, 17, and 23 (MCL 125.2235, 125.2245, 125.2247, and 125.2253).

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

House Bill No. 4559, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding section 9721. 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 Health Policy.

By unanimous consent the Senate returned to the order of

Messages from the Governor

The following message from the Governor was received and read:

May 17, 2005

Due to typographical errors on the May 17, 2005 letter filed with your office pursuant to Section 3 of The Mobile Home Commission Act, 1987 PA 96, MCL 125.2303 and Executive Order 1997-13, MCL 445.2002, please be advised of the following correction:

Manufactured Housing Commission

Mr. Brian W. Fannon of 21555 Chase Drive, Novi, Michigan 48375, county of Oakland, reappointed to represent operators of a licensed mobile home park having 100 or more sites, for a term expiring **May 9, 2007**.

Sincerely,
 Jennifer M. Granholm
 Governor

The message was referred to the Committee on Government Operations.

Third Reading of Bills

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

House Bill No. 4008

House Bill No. 4142

The motion prevailed.

The following bill was read a third time:

House Bill No. 4008, entitled

A bill to amend 1972 PA 251, entitled “An act to provide for the reciprocal exchange of educational services between this state and other states; to provide for reduced or waived tuition, and to designate the state agency for negotiating agreements,” by amending sections 1, 2, 3, 4, and 5 (MCL 390.501, 390.502, 390.503, 390.504, and 390.505).

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. 155

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

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. 4142, entitled

A bill to amend 1970 PA 38, entitled “An act to provide for assessment and remedial assistance programs of students in reading, mathematics and vocational education,” by amending section 2 (MCL 388.1082).

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. 156

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
Cassis
Cherry

Goschka
Hammerstrom
Hardiman

Patterson
Prusi

Toy
Van Woerkom

Nays—0

Excused—0

Not Voting—0

In The Chair: Birkholz

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

Senators Sikkema 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 Sikkema's statement is as follows:

The majority caucus wants to take a moment this morning to recognize one of our highly valued staff people, Chip Davis, who is standing with me, along with Senator Cropsey.

Chip has been the counsel to the Senate Judiciary Committee for a couple of years, and now is moving into what I can only think is more turbulent water, as he joins the Wayne County prosecutor's office. As I mentioned, Chip has been counsel to the Senate Judiciary Committee for two years. Prior to that, he worked as deputy counsel in the Michigan House of Representatives.

He started his career in Indiana, graduating from Wabash College. He received his law degree from the University of Indiana at Bloomington. He started his legal career with Marion County as the deputy prosecutor before coming here to Michigan and joining the House staff in 1999.

In the last two years, we have worked on a lot of issues dealing with the Judiciary Committee. Chip himself has worked on legislation dealing with identity theft, drug treatment, court legislation, the violent video legislation which we recently voted on, and numerous other packages.

I am sorry to see him go, as I am sure Senator Cropsey as chair of the committee is sorry to see him go. We wanted to take a few moments this morning to thank him for his service to the Senate; thank him for his service to the people in the Michigan. I guess there is some consolation that he is staying in Michigan. He's going to continue to serve the people in Michigan and the people in Wayne County at his new job.

Chip, thank you for the work you have done for us and Godspeed.

Senator Cropsey's statement is as follows:

I'd also like to make a few remarks concerning Mr. Davis. Chip has worked as legal counsel for the Senate Judiciary Committee for almost two years. When that job became open right at the start of our session two years ago, I got with our people. I said, "You know what, I would really like to have Chip Davis." They said that is the one we were looking to start with, so it worked out extremely well.

During his time of working with us on the Judiciary Committee, we reported over 200 bills, plus many resolutions. As has been mentioned by the Majority Leader, many of these bills were significant policy changes and involved a lot of work. I know that just the identity theft package alone consumed dozens and dozens and dozens of hours by our legal counsel.

Chip has handled some of the most controversial and difficult issues we've had to consider in this Legislature, and his legal work product has served us all very well. For instance, when he was in the House of Representatives, he worked on the original concealed carry legislation, and despite the difficulties that all the parties had with the legislation, he found a way to help work out a compromise and come up with the language to reflect that compromise.

I've really appreciated Chip's keen legal sense and instincts. I've appreciated his ability to read court decisions or briefs, which are not easy to do, and to quickly summarize the key findings, and find ways to write bills to fit or

sometimes to change those decisions. The recent bills on violent video games is just one example of going through oftentimes conflicting court decisions and making some sense out of that mess.

Chip has always had a quick smile and a ready laugh. He works hard. He gives outstanding legal advice. His screen savers on his laptop are very entertaining. Just so you know, just recently the last few months, they have been exclusively of Charles Davis V, who is his wonderful young son. I will miss Chip.

I know he's leaving because he's a new father and wants to spend more time with his family by eliminating his lengthy daily commute time every day. I support him in this decision to prioritize his family, but I will miss him.

Chip, best wishes in your new endeavors, and may God bless you and your family.

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 Brater 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. 4528, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 24 of chapter VII (MCL 767.24), as amended by 2004 PA 458.

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 a substitute therefor, the following bill:

Senate Bill No. 128, entitled

A bill to amend 1994 PA 295, entitled "Sex offenders registration act," by amending section 10 (MCL 28.730), as amended by 2004 PA 240.

Substitute (S-1).

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

1. Amend page 2, line 6, by striking out "**(3) THE DEPARTMENT MAY MAKE INFORMATION FROM THE COMPILATION DESCRIBED IN SECTION 8(2) AVAILABLE TO THE PUBLIC THROUGH ELECTRONIC, COMPUTERIZED, OR OTHER ACCESSIBLE MEANS.**" and inserting "(3) The department may make information from the compilation described in section 8(2) available to the public through electronic, computerized, or other accessible means."

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.

Statements

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

The motion prevailed.

Senator Scott's statement is as follows:

OFIS just released a statement with all the different rates from the different insurance companies. They were saying that people need to shop around. Well, that is what people have been doing. I think that is just part of the solution. So I am asking my colleagues again; it is time for us to take up the bills. We have enough bills in committee from a number of legislators that would help to rectify the high cost of insurance in some of the areas in Detroit, Highland Park, Hamtramck, and it's by zip codes.

If we could just take up some of these bills, we could work for the betterment of all the people in the state of Michigan.

Committee Reports

The Committee on Transportation reported

House Bill No. 4602, 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; 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 section 10c (MCL 247.660c), as amended by 2002 PA 498.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

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

Judson S. Gilbert II
Chairperson

To Report Out:

Yeas: Senators Gilbert, Leland and Basham

Nays: None

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

The Committee on Transportation reported

House Bill No. 4677, entitled

A bill to amend 2001 PA 142, entitled "Michigan memorial highway act," (MCL 250.1001 to 250.2080) by adding section 87.

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, 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, May 17, 2005, at 1:00 p.m., Room 110, Farnum Building

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

Excused: Senator Goschka

The Committee on Finance reported

Senate Bill No. 168, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 1 (MCL 205.51), as amended by 2004 PA 173.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

Nancy Cassis
Chairperson

To Report Out:

Yeas: Senators Cassis, Garcia, McManus, Thomas and Brater

Nays: None

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

COMMITTEE ATTENDANCE REPORT

The Committee on Finance submitted the following:

Meeting held on Wednesday, May 18, 2005, at 1:00 p.m., Room 110, Farnum Building

Present: Senators Cassis (C), Garcia, McManus, Thomas and Brater

The Committee on Commerce and Labor reported

Senate Bill No. 337, entitled

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

With the recommendation that the substitute (S-2) be adopted and that the bill then pass.

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

Jason E. Allen

Chairperson

To Report Out:

Yeas: Senators Allen, McManus and Olshove

Nays: None

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

COMMITTEE ATTENDANCE REPORT

The Committee on Commerce and Labor submitted the following:

Meeting held on Tuesday, May 17, 2005, at 3:00 p.m., Room 100, Farnum Building

Present: Senators Allen (C), McManus, Schauer and Olshove

Excused: Senator Toy

COMMITTEE ATTENDANCE REPORT

The Committee on Senior Citizens and Veterans Affairs submitted the following:

Meeting held on Wednesday, May 18, 2005, at 1:00 p.m., Room 100, Farnum Building

Present: Senators Toy (C), Gilbert, Clark-Coleman and Olshove

Excused: Senator Stamas

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Commerce, Labor and Economic Development submitted the following:

Meeting held on Wednesday, May 18, 2005, at 3:00 p.m., Room 100, Farnum Building

Present: Senators Garcia (C), George, Hardiman, Prusi and Scott

Scheduled Meetings**Appropriations** - Wednesday, May 25, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)**Subcommittees -****Commerce, Labor and Economic Development** - Tuesday, May 24, 1:00 p.m., and Wednesday, May 25, 3:00 p.m., Room 100, Farnum Building (373-2420)

Community Health Department - Thursday, June 2, 2:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-7946)

Environmental Quality Department - Tuesdays, May 24 and May 31, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

Higher Education - Friday, May 20, 10:00 a.m., Eastern Michigan University, Welch Hall, Room 201, 900 W. Cross Street at Summit Street, Ypsilanti (373-1760)

Judiciary and Corrections - Tuesdays, May 24 and May 31, 3:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-3760)

Natural Resources Department - Wednesdays, May 25 and June 1, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

Finance and House Tax Policy - Monday, May 23, 1:00 p.m., Automation Alley, Technology Atrium Room, 2675 Bellingham, Troy (373-1758)

Judiciary - Tuesday, May 24, 1:00 p.m., Room 210, Farnum Building (373-3760)

Legislative Retirement Board of Trustees - Wednesday, May 25, 3:00 p.m., Room H-252, Capitol Building (373-0575)

Natural Resources and Environmental Affairs - Tuesday, May 24, 3:00 p.m., Room 110, Farnum Building (373-3447)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 10:39 a.m.

The President pro tempore, Senator Birkholz, declared the Senate adjourned until Tuesday, May 24, 2005, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate