

No. 102
STATE OF MICHIGAN
Journal of the Senate
92nd Legislature
REGULAR SESSION OF 2003

Senate Chamber, Lansing, Wednesday, December 10, 2003.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor John D. Cherry, Jr.

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

Pastor Karl Galik of St. John Lutheran Church of Rochester offered the following invocation:

Heavenly Father, we thank You for the intensity and the passion that You have granted to us in our respective opportunities. We thank You for that passion proclaimed in the scripture; we thank You for that scripture proclaimed in these halls; and we pray to You that Your Spirit would guide us, that our passion and intensity might be focused and might be of good will, especially during this season.

We anticipate that we might work together as those united in one cause—speaking passionately, working together in the same intensity.

It is in our Lord's name that we pray. Amen.

The President, Lieutenant Governor Cherry, led the members of the Senate in recital of the *Pledge of Allegiance*.

Motions and Communications

Senators Emerson and Johnson entered the Senate Chamber.

Senator Hammerstrom moved that Senators Brown, Garcia and Birkholz be temporarily excused from today's session. The motion prevailed.

Senators Brown, Garcia and Birkholz entered the Senate Chamber.

The following communication was received:
Department of State

Administrative Rules Notice of Filing

November 25, 2003

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 1:50 p.m. this date, administrative rule (03-11-04) for the Department of Consumer and Industry Services, Director's Office, entitled "*Elevators*," effective December 31, 2003.

Sincerely,
Terri Lynn Land
Secretary of State
Elena L. Beasley, Manager
Office of the Great Seal

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, December 9:
House Bill Nos. 4179 4965 4966 5179 5329

The Secretary announced that the following House bills were received in the Senate and filed on Wednesday, December 10:

House Bill Nos. 4670 5247 5306

Recess

Senator Hammerstrom moved that the Senate recess subject to the call of the Chair. The motion prevailed, the time being 10:09 a.m.

10:52 a.m.

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

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

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

- Senate Bill No. 474**
- Senate Bill No. 506**
- Senate Bill No. 557**
- Senate Bill No. 806**
- Senate Bill No. 485**

The motion prevailed.

Senate Bill No. 805, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending section 19608 (MCL 324.19608), as added by 1998 PA 288.

(For text of amendments, see Senate Journal No. 101, p. 2144.)

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

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

Roll Call No. 585

Yeas—37

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

Nays—0

Excused—0

Not Voting—1

Thomas

In The Chair: President

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

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

The Senate agreed to the full title.

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

Senate Bill No. 482, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1274a (MCL 380.1274a), as amended by 1990 PA 227.

The House of Representatives has substituted (H-1) the bill.

The House of Representatives has passed the bill as substituted (H-1), ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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

Senator Schauer moved that Senator Emerson be temporarily excused from the balance of today's session.

The motion prevailed.

Senate Bill No. 710, entitled

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 20 of chapter XII (MCL 712.20), as added by 2000 PA 235.

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

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

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

Senate agreed to the full title.

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

Senate Bill No. 761, entitled

A bill to amend 1937 PA 306, entitled "An act to promote the safety, welfare, and educational interests of the people of the state of Michigan by regulating the construction, reconstruction, and remodeling of certain public or private school buildings or additions to such buildings, by regulating the construction, reconstruction, and remodeling of buildings leased or acquired for school purposes, and to define the class of buildings affected by this act; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 1 (MCL 388.851), as amended by 2002 PA 628.

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

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

Senator Thomas entered the Senate Chamber.

Third Reading of Bills

The following bill was read a third time:

Senate Bill No. 792, entitled

A bill to prohibit certain acts and practices concerning identity theft; to provide for the powers and duties of certain state and local governmental officers and entities; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

The question being on the passage of the bill,

Senator Bishop offered the following amendments:

1. Amend page 3, following line 23, by inserting:

"(I) "Unauthorized" means without the consent of the person whose personal identifying information is being used, except if the consent is knowingly given to commit an unlawful act." and relettering the remaining subdivision.

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

"(a) An act that is a bona fide gift for or for the primary benefit of and use, consumption, or control by the person whose personal identifying information was used, except if the act is committed with the intent to defraud or commit another unlawful act." and relettering the remaining subdivisions.

3. Amend page 4, line 4, after "claim," by inserting "crime,".

4. Amend page 4, line 6, after "provider" by inserting "or employer".

5. Amend page 4, line 22, after "subdivision" by striking out "(a), (b), or (d)" and inserting "(b), (c), (d), or (e)".

6. Amend page 6, line 4, after "financial" by inserting "or other".

The amendments were adopted, a majority of the members serving voting therefor.

The question being on the passage of the bill,

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

Roll Call No. 586**Yeas—37**

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

Nays—0**Excused—1**

Emerson

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 797, entitled

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” by amending sections 14h and 16o of chapter XVII (MCL 777.14h and 777.16o), section 14h as amended by 2003 PA 134 and section 16o as amended by 2000 PA 389.

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. 587**Yeas—37**

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

Nays—0

Excused—1

Emerson

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Senator Emerson entered the Senate Chamber.

The following bill was read a third time:

Senate Bill No. 793, entitled

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” (MCL 760.1 to 777.69) by adding section 10c to chapter II.

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. 588**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 Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 794, entitled

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” (MCL 760.1 to 777.69) by adding section 23 to chapter XVI.

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. 589**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 Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 795, entitled

A bill to establish the social security number privacy act in the state of Michigan; to prescribe penalties and civil sanctions; and to provide remedies.

The question being on the passage of the bill,

Senator Cassis offered the following amendments:

1. Amend page 3, line 4, after “agent” by inserting “and uses the information in accordance with that authorization”.
2. Amend page 3, line 5, after “a” by inserting “written”.
3. Amend page 3, line 8, after “has” by striking out “disclosed” and inserting “provided”.
4. Amend page 3, line 12, after “the” by striking out “individual” and inserting “person”.
5. Amend page 4, line 21, after “number” by inserting “of an individual with an account, contract, or policy”.
6. Amend page 5, line 11, after “number” by inserting “to a person entitled to that documentation”.
7. Amend page 6, line 11, after “credit” by striking out “or claim” and inserting a comma and “claim, or driving”.

The amendments were adopted, a majority of the members serving voting therefor.

The question being on the passage of the bill,

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

Roll Call No. 590**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 Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 798, entitled

A bill to amend 1976 PA 331, entitled “Michigan consumer protection act,” by amending section 3 (MCL 445.903), as amended by 2002 PA 613.

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. 591

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 Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 657, entitled

A bill to amend 1976 PA 331, entitled “Michigan consumer protection act,” by amending section 3 (MCL 445.903), as amended by 2002 PA 613.

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. 592**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 Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 803, 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 2002 PA 119.

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. 593**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 Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 220, entitled

A bill to amend 1976 PA 331, entitled “Michigan consumer protection act,” by amending section 3 (MCL 445.903), as amended by 2002 PA 613.

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. 594**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 Senate agreed to the title of the bill.

The following bill was read a third time:

House Bill No. 5173, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” by amending section 601b (MCL 257.601b), as amended by 2001 PA 103.

The question being on the passage of the bill,

Senator Leland offered the following amendments:

1. Amend page 1, line 9, after “**than**” by striking out “**3**” and inserting “**4**”.
2. Amend page 1, line 10, after “**320a**” by inserting “**or careless driving**”.
3. Amend page 2, line 5, after “**than**” by striking out “**3**” and inserting “**4**”.
4. Amend page 2, line 6, after “**320a**” by inserting “**or careless driving**”.

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

The question being on the passage of the bill,

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

Roll Call No. 595**Yeas—31**

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

Nays—7

Basham	Clark-Coleman	Emerson	Scott
Bishop	Clarke	Leland	

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 provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date.”

The Senate agreed to the full title.

Protests

Senators Leland and Basham, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of House Bill No. 5173.

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

The motion prevailed.

Senator Leland’s statement, in which Senator Basham concurred, is as follows:

I rise to oppose House Bill No. 5173, which would significantly lower the threshold for which a person can be convicted under Andy’s Law. Current law states that a person must commit a moving violation with criminal penalties in order to be convicted under Andy’s Law. This proposal would change that standard and any moving violation in a

construction zone would apply. While it is important to revise the threshold to a more reasonable standard, this proposal is so broad that it would make speeding just one mile an hour over the speed limit subject to 15 years in prison if, in the event of an accident, a road construction worker were to be killed. A person could be tuning their radio, hydroplaning on wet pavement, or maybe they had the audacity to sneeze. A terrible accident occurs, and the next thing you know the person is facing a very long prison sentence.

While no one here supports recklessness and endangerment of highway construction workers, I urge that my Senate colleagues take a serious look at the expansive nature of this language before you vote on House Bill No. 5173.

The following bill was read a third time:

House Bill No. 5089, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 320a and 627 (MCL 257.320a and 257.627), section 320a as amended by 2003 PA 61 and section 627 as amended by 1990 PA 165, and by adding section 79d.

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. 596

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 provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date."

The Senate agreed to the full title.

The following bill was read a third time:

Senate Bill No. 843, entitled

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” by amending section 12e of chapter XVII (MCL 777.12e), as added by 2002 PA 34.

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. 597

Yeas—33

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

Nays—4

Basham	Clark-Coleman	Leland	Scott
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Excused—0

Not Voting—1

Clarke

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 842, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” (MCL 257.1 to 257.923) by adding section 616a.

The question being on the passage of the bill,

Senator Brater offered the following amendments:

1. Amend page 2, line 6, after “**than**” by striking out “**\$10,000.00**” and inserting “**\$2,500.00**”.
2. Amend page 2, line 10, after “**than**” by striking out “**\$15,000.00**” and inserting “**\$2,500.00**”.
3. Amend page 2, line 14, after “**than**” by striking out “**\$20,000.00**” and inserting “**\$5,000.00**”.
4. Amend page 2, line 18, after “**than**” by striking out “**\$25,000.00**” and inserting “**\$5,000.00**”.
5. Amend page 2, line 21, after “**than**” by striking out “**\$10,000.00**” and inserting “**\$2,500.00**”.

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

The question being on the passage of the bill,

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

Roll Call No. 598

Yeas—34

Allen	Cherry	Jacobs	Sanborn
Barcia	Clarke	Jelinek	Schauer

Basham	Cropsey	Johnson	Sikkema
Bernero	Garcia	Kuipers	Stamas
Birkholz	George	McManus	Switalski
Bishop	Gilbert	Olshove	Thomas
Brater	Goschka	Patterson	Toy
Brown	Hammerstrom	Prusi	Van Woerkom
Cassis	Hardiman		

Nays—2

Leland	Scott
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Excused—0

Not Voting—2

Clark-Coleman	Emerson
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In The Chair: President

The Senate agreed to the title of the bill.

Protest

Senator Leland, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill Nos. 842 and 843 and moved that the statements he made during the discussion of Senate Bill No. 843 be printed as his reasons for voting “no.”

The motion prevailed.

Senator Leland’s first statement is as follows:

Mr. President, Senate Bill Nos. 842 and 843 are tie-barred, and I would like to just briefly speak on both of them.

I rise in opposition to Senate Bill Nos. 842 and 843. This package of bills seeks to assign excessive criminal penalties to any person who purchases, sells, or uses a signal pre-emption device.

Currently, it is against the law to interfere with traffic control devices in the Michigan Vehicle Code, and this includes using a signal pre-emption device. This bill would make such use of a device a felony subject to 2-15 years in prison with fines ranging from \$10,000-\$25,000. These fines are so egregious that they are far greater than those associated with a felonious violation of gun control laws. In fact, a person would be better off committing a felony with a firearm than to try to buy a light changing device. We should have strict penalties that support public safety. However, we should not be filling our courtrooms and jail cells with petty crimes. The punishment does not fit the crime. I urge my colleagues to vote these bills down.

Senator Leland’s second statement is as follows:

I agree with the previous speaker, the chairperson of the Transportation Committee. We ought not to have these devices. But the argument that I was trying to make is that the punishment is too severe. These devices should be outlawed, perhaps a misdemeanor. To put someone in jail for possibly up to 15 years, that’s a severe criminal sanction. That’s the argument that I am making, and that’s why we should vote these bills down.

By unanimous consent the Senate returned to the order of

Motions and Communications

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

Senate Bill No. 852

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

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, Lieutenant Governor Cherry, designated Senator Kuipers as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Cherry, having resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 852, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 51e (MCL 206.51e), as added by 1999 PA 5.

Substitute (S-3).

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

By unanimous consent the Senate returned to the order of
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 at the head of the Third Reading of Bills calendar:

Senate Bill No. 852

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

The following bill was read a third time:

Senate Bill No. 852, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 51e (MCL 206.51e), as added by 1999 PA 5.

The question being on the passage of the bill,

Senator Sikkema moved that the previous question be ordered.

The motion prevailed.

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. 599

Yeas—24

Barcia	Clarke	Jacobs	Prusi
Basham	Emerson	Jelinek	Schauer
Bernero	Garcia	Johnson	Scott
Brater	George	Kuipers	Sikkema
Cherry	Goschka	Leland	Switalski
Clark-Coleman	Hammerstrom	Olshove	Thomas

Nays—14

Allen	Cassis	McManus	Stamas
Birkholz	Cropsey	Patterson	Toy
Bishop	Gilbert	Sanborn	Van Woerkom
Brown	Hardiman		

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.

Protests

Senators Cropsey, Sanborn and Cassis, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 852.

Senator Cropsey's statement, in which Senator Sanborn concurred, is as follows:

I voted against Senate Bill No. 852. This would have delayed the income tax rollback by six months, therefore, costing the citizens of the state of Michigan \$77 million. I think it is important to note that a lot of work has gone on in the House and in the Senate on balancing this budget. I would like to compliment the Majority Leader, the Minority Leader, and all parties for coming up with a balanced budget.

However, it should also be noted that the first negotiations that were going on did not have any pause in the rollback; that there was proposed to us a balanced budget that we could have adopted. There were certain parts that were unacceptable. I think the money could have been arranged so that there would not have been a pause needed in the income tax rollback. As it is, there are significant rainy day funds that are at the local level at local units of government, in K-12 schools, and in higher education.

This is a tax that the people have been promised would be rolled back and is not going to be rolled back. It is now going to be delayed for another six months, and I think that the several members in the House have come up with about \$260 million in additional savings, whereby we would not have needed to have this \$77 million coming in that we were not planning on for this fiscal year. We should be getting in there squeezing the budget tighter, making it so that we can balance our budget without having this extra revenue.

Senator Cassis' statement is as follows:

Indeed we all know that negotiations around a budget are anything but simple, and I do have the greatest respect, as we all do, for those who are involved in those negotiations. However, I perceive this budget as a shuffle and a shift, a Band-Aid and not a cure. We see our families and our Michigan businesses when they have less income coming in. They have to deal with that, and they have to cut spending and sometimes fairly deeply. It is with that in mind I ask a question, why should not government be held to the same standard?

The income tax rate reductions certainly was a promise made, a promise to be kept, and for these reasons, I have voted against the pause in the state income tax reduction.

By unanimous consent the Senate proceeded to the order of

Statements

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

The motion prevailed.

Senator Stamas' statement is as follows:

I rise today in sadness. Army Private First Class Jason G. Wright, 19, of Luzerne, Michigan, was killed on Monday. Wright was one of the two members of the Kentucky-based 101st Airborne Division soldiers killed in recent days in northern Iraq in separate incidents.

He was a mortarman assigned to Headquarters and Headquarters Company, 1st Battalion, 502nd Infantry Regiment. He entered the Army in June 2002 and arrived at Fort Campbell, Kentucky, the following December. He is survived by his parents.

He was a graduate of Mio-Au Sable schools, and his principal described him as a good student. He played on the baseball team, basketball team, and football team. His principal said he was a quality person, a relatively quiet kid, and he was one among several of his classmates who joined the military after graduating.

Again, his principal commented, “We saw him a year ago before he shipped out to Iraq. It was remarkable—the stature, the maturity, and the confidence he had gained since enlisting. This was the direction he chose to go, and he was proud of what he was doing.”

His father works for the machining company and coaches the seventh-grade boys’ basketball team at the school, and his mother is a cook at the school. They have three other sons who are students in the school.

It’s a very sad day for his family and for all of us, and I would just ask that you join me in memory of Army Private First Class Jason G. Wright.

By unanimous consent the Senate returned to the order of

Introduction and Referral of Bills

Senators Brown, Gilbert and Prusi introduced

Senate Bill No. 885, entitled

A bill to amend 1979 PA 94, entitled “The state school aid act of 1979,” by amending section 32j (MCL 388.1632j), as added by 2003 PA 158.

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

Senator Thomas introduced

Senate Bill No. 886, entitled

A bill to amend 1974 PA 369, entitled “An act to regulate the business of conducting a driver training school; to require licenses in relation thereto; to prescribe certain fees; to prescribe the powers and duties of certain persons and state departments; and to prescribe remedies and penalties,” by amending section 5 (MCL 256.605), as amended by 2000 PA 285.

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

Senator Hammerstrom introduced

Senate Bill No. 887, entitled

A bill to amend 1982 PA 295, entitled “Support and parenting time enforcement act,” (MCL 552.601 to 552.650) by adding section 25j.

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

Senator Van Woerkom introduced

Senate Bill No. 888, entitled

A bill to amend 1982 PA 295, entitled “Support and parenting time enforcement act,” (MCL 552.601 to 552.650) by adding section 25j.

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

Senator Stamas introduced

Senate Bill No. 889, entitled

A bill to amend 1982 PA 295, entitled “Support and parenting time enforcement act,” (MCL 552.601 to 552.650) by adding section 25j.

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

Senator Patterson introduced

Senate Bill No. 890, entitled

A bill to amend 1982 PA 295, entitled “Support and parenting time enforcement act,” (MCL 552.601 to 552.650) by adding section 25j.

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

Senators McManus, Kuipers, Jelinek, Toy, Barcia, Birkholz, Goschka and Allen introduced

Senate Bill No. 891, entitled

A bill to amend 1927 PA 372, entitled “An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances;

to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act," by amending sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5h, 5j, 5k, 5m, 5o, 5w, 6a, and 8 (MCL 28.424, 28.425, 28.425a, 28.425b, 28.425c, 28.425d, 28.425e, 28.425f, 28.425h, 28.425j, 28.425k, 28.425m, 28.425o, 28.425w, 28.426a, and 28.428), section 4 as added by 1992 PA 219, sections 5, 5a, 5e, 5h, 5k, 5m, and 5w as added and section 8 as amended by 2000 PA 381, section 5b as amended by 2003 PA 31, sections 5c, 5d, 5f, 5j, and 5o as amended by 2002 PA 719, and section 6a as amended by 1991 PA 34.

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

Senators Patterson, McManus, Kuipers, Jelinek, Toy, Barcia, Birkholz, Goschka and Allen introduced

Senate Bill No. 892, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 2950 and 2950a (MCL 600.2950 and 600.2950a), section 2950 as amended by 2001 PA 200 and section 2950a as amended by 2001 PA 201.

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

Senators Brown, Allen and Goschka introduced

Senate Bill No. 893, entitled

A bill to amend 1996 PA 376, entitled "Michigan renaissance zone act," (MCL 125.2681 to 125.2696) by adding section 8d.

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. 4179, entitled

A bill to amend 2000 PA 499, entitled "Elder prescription insurance coverage act," by amending section 3 (MCL 550.2003).

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.

House Bill No. 4670, entitled

A bill to amend 2000 PA 499, entitled "Elder prescription insurance coverage act," by amending section 3 (MCL 550.2003).

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.

House Bill No. 4965, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 3406k (MCL 500.3406k), as added by 1998 PA 125.

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.

House Bill No. 4966, entitled

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," by amending section 418 (MCL 550.1418), as added by 1998 PA 124.

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.

House Bill No. 5179, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 662 (MCL 168.662), as amended by 1999 PA 216.

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 Government Operations.

House Bill No. 5247, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding section 1140. 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 Commerce and Labor.

House Bill No. 5306, entitled

A bill to create certain offices in the Michigan economic development corporation; to provide for the appointment of certain officers with the advice and consent of the senate; and to impose certain duties and responsibilities on those officers and on certain state employees and public employees.

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. 5329, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 16186 (MCL 333.16186), as amended by 2002 PA 643.

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

Motions and Communications

Senator Hammerstrom moved that the Committee on Finance be discharged from further consideration of the following bills:

Senate Bill No. 862, entitled

A bill to amend 1975 PA 228, entitled "Single business tax act," (MCL 208.1 to 208.145) by adding section 31a.

Senate Bill No. 863, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 51f.

Senate Bill No. 864, entitled

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

Senate Bill No. 865, entitled

A bill to amend 1953 PA 189, entitled "An act to provide for the taxation of lessees and users of tax-exempt property," (MCL 211.181 to 211.182) by adding section 1a.

Senate Bill No. 866, entitled

A bill to amend 1964 PA 284, entitled "City income tax act," (MCL 141.501 to 141.787) by adding section 635a.

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

Senator Hammerstrom moved that the bills be referred to the Committee on Economic Development, Small Business and Regulatory Reform.

The motion prevailed.

By unanimous consent the Senate returned to the order of

Messages from the House**Recess**

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

The motion prevailed, the time being 12:03 p.m.

1:35 p.m.

Pursuant to rule 1.101, in the absence of the Presiding Officers, the Senate was called to order by the Secretary of the Senate.

Senator Cropsey moved that rule 2.106 be suspended to allow committees to meet during Senate session. The motion prevailed, a majority of the members serving voting therefor.

The House of Representatives requested the return of

Senate Bill No. 474, 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.

Senator Cropsey moved that the request of the House be granted.

The motion prevailed.

The House of Representatives requested the return of

Senate Bill No. 482, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1274a (MCL 380.1274a), as amended by 1990 PA 227.

Senator Cropsey moved that the request of the House be granted.

The motion prevailed.

Committee Reports

The Committee on Government Operations reported

House Bill No. 5221, entitled

A bill to amend 1993 PA 327, entitled "Tobacco products tax act," (MCL 205.421 to 205.436) by amending the title, as amended by 1997 PA 187, and by adding section 6d.

With the recommendation that the bill pass.

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

Kenneth R. Sikkema
Chairperson

To Report Out:

Yeas: Senators Sikkema, Hammerstrom, Allen, Emerson, Jacobs and Thomas

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Government Operations reported

Senate Bill No. 852, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 51e (MCL 206.51e), as added by 1999 PA 5.

With the recommendation that the substitute (S-3) be adopted and that the bill then pass.

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

Kenneth R. Sikkema
Chairperson

To Report Out:

Yeas: Senators Sikkema, Hammerstrom, Emerson and Thomas

Nays: Senators Allen and Cassis

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

COMMITTEE ATTENDANCE REPORT

The Committee on Government Operations submitted the following:

Meeting held on Tuesday, December 9, 2003, at 1:35 p.m., Rooms 402 and 403, Capitol Building

Present: Senators Sikkema (C), Hammerstrom, Allen, Cassis, Emerson, Jacobs and Thomas

COMMITTEE ATTENDANCE REPORT

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

Meeting held on Thursday, December 4, 2003, at 8:30 a.m., Room 110, Farnum Building

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

Excused: Senator Thomas

Scheduled Meetings

Agriculture, Forestry and Tourism - Thursday, December 11, 8:30 a.m., Room 110, Farnum Building (373-1635)

Appropriations - Thursday, December 11, 9:00 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Commerce and Labor - Thursday, December 11, 9:00 a.m., Room 810, Farnum Building (373-2413)

Education - Thursday, December 11, 2:00 p.m., Room 210, Farnum Building (373-6920)

Family Resource Center Curriculum Joint Study Committee (SCR 36) - Wednesday, December 17, 4:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

Government Operations - Thursday, December 11, 8:00 a.m., Rooms 402 and 403, Capitol Building (373-0797)
(CANCELED)

Local, Urban and State Affairs - Thursday, December 11, 1:00 p.m., Room 110, Farnum Building (373-1707)

Senator Cropsey moved that the Senate adjourn.

The motion prevailed, the time being 1:37 p.m.

The Secretary of the Senate declared the Senate adjourned until Thursday, December 11, 2003, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

