

No. 6
STATE OF MICHIGAN
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REGULAR SESSION OF 2004

Senate Chamber, Lansing, Tuesday, January 27, 2004.

10:00 a.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.

The roll was called by the Assistant Secretary of the Senate, who announced that a quorum was not present.

Allen—present
Barcia—excused
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—excused
Sikkema—present
Stamas—present
Switalski—present
Thomas—present
Toy—present
Van Woerkom—present

Senator Beverly S. Hammerstrom of the 17th District offered the following invocation:

“Our Father, Who art in Heaven, hallowed be Thy name. Thy kingdom come; Thy will be done on earth as it is in Heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us. Lead us not into temptation, but deliver us from evil. For Thine is the kingdom, and the power, and the glory forever and ever.” Amen.

The Secretary of the Senate, Carol Viventi, led the members of the Senate in recital of the *Pledge of Allegiance*.

Recess

Senator Hammerstrom moved that the Senate recess until 6:00 p.m.

The motion prevailed, the time being 10:03 a.m.

The Senate reconvened at the expiration of the recess and was called to order by the President, Lieutenant Governor Cherry.

During the recess, Senators Birkholz, Olshove, McManus, Hardiman, Brown, Van Woerkom, Patterson, Gilbert, Stamas, Cassis, Cropsey, George, Jelinek, Jacobs, Clark-Coleman, Switalski, Prusi, Goschka, Kuipers, Thomas, Toy, Allen, Johnson, Basham, Sanborn, Garcia and Brater entered the Senate Chamber.

A quorum of the Senate was present.

Motions and Communications

The following communications were received:

Office of the Senate Majority Leader

January 26, 2004

Pursuant to Senate Rule 2.104(c), I am requesting that the Senate Families and Human Services Committee hold a hearing on the appointment of Marianne Udow as Director of the Family Independence Agency, and make a written recommendation to the Government Operations Committee on this appointment.

January 26, 2004

Pursuant to Senate Rule 2.104(c), I am requesting that the Senate Appropriations Committee hold a hearing on the appointments of Gerald Hall and Mary Brown to the Natural Resources Commission, and make a written recommendation to the Government Operations Committee on these appointments.

Sincerely,

Ken Sikkema

Chairman, Senate Government Operations
Committee

The communications were referred to the Secretary for record.

The Secretary announced that the following official bills were printed on Thursday, January 22, and are available at the legislative Web site:

Senate Bill Nos. 922 923 924

House Bill Nos. 5411 5412 5413 5414 5415 5416

The Secretary announced that the following official bills and joint resolution were printed on Friday, January 23, and are available at the legislative Web site:

Senate Bill Nos. 925 926 927 928

House Bill Nos. 5417 5418 5419 5420 5421 5422 5423 5424 5425 5426

House Joint Resolution U

Senator Hammerstrom moved that rule 3.902 be suspended to allow guests admittance to the Senate floor.

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

Messages from the Governor

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

Senate Bill No. 195

Senate Bill No. 364

Senate Bill No. 293

Senate Bill No. 265

Senate Bill No. 288

Senate Bill No. 540

Senate Bill No. 283

Senate Bill No. 464

Senate Bill No. 466

Senate Bill No. 395

Senate Bill No. 687

Senate Bill No. 474

The motion prevailed.

Senator Bishop entered the Senate Chamber.

The following messages from the Governor were received and read:

January 22, 2004

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointment to state office under Section 22211 of the Public Health Code, 1978 PA 368, MCL 333.22211:

Certificate of Need Commission

Ms. Dorothy E. Deremo of 37844 Meadowhill Drive, Northville, Michigan 48167, county of Oakland, appointed to represent nurses, for a term commencing January 22, 2004 and expiring December 31, 2006.

January 22, 2004

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following reappointments to state office under Section 10(1) of the Michigan Education Trust Act, 1986 PA 316, MCL 390.1430:

Michigan Education Trust Board of Directors

Mrs. Paula D. Cunningham of 1625 Sagebrush, Lansing, Michigan 48917, county of Eaton, reappointed to represent presidents of community or junior colleges, for a term expiring December 31, 2006.

Mr. Michael Rao, Ph.D., of 1214 Forest Lane, Mount Pleasant, Michigan 48858, county of Isabella, reappointed to represent presidents of state institutions of higher learning, for a term expiring December 31, 2006.

January 22, 2004

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointments to state office under Section 2 of the Michigan Tourism Policy Act, 1945 PA 106, MCL 2.102:

Michigan Travel Commission

Ms. Tanya M. Heidelberg-Yopp of 19595 Stratford Road, Detroit, Michigan 48221, county of Wayne, succeeding Andy McLemore, Jr., whose term has expired, representing the private sector, for a term commencing January 22, 2004 and expiring August 20, 2007.

Mr. W. Brett Shelton of 7942 St. Andrews Drive, Tecumseh, Michigan 49286, county of Lenawee, succeeding Todd V. Callewaert, whose term has expired, representing the private sector, for a term commencing January 22, 2004 and expiring August 20, 2007.

Mr. Frank A. Taylor of 20862 Halstead Road, Northville Township, Michigan 48167, county of Oakland, succeeding Daniel J. Trotochaud, whose term has expired, representing small businesses in the private sector, for a term commencing January 22, 2004 and expiring August 20, 2007.

January 26, 2004

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointment and reappointment to state office under Section 29 of Article 5 of the Michigan Constitution of 1963:

Civil Rights Commission

Mr. Mark J. Bernstein, a Democrat, of 2002 Scottwood Avenue, Ann Arbor, Michigan 48104, county of Washtenaw, succeeding Francisco J. Villarruel, who has resigned, appointed for a term effective January 26, 2004 and expiring December 31, 2006.

Mr. Mohammed Abdrabboh, a Democrat, of 22640 Law, Dearborn, Michigan 48124, county of Wayne, reappointed to a term expiring December 31, 2007.

Sincerely,
Jennifer M. Granholm
Governor

The appointments were referred to the Committee on Government Operations.

Messages from the House

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

Senate Bill No. 506

Senate Bill No. 557

Senate Bill No. 806

Senate Bill No. 502

Senate Bill No. 334

The motion prevailed.

House Bill No. 4236, entitled

A bill to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 16131, 16186, and 16263 (MCL 333.16131, 333.16186, and 333.16263), sections 16131 and 16263 as amended by 2001 PA 139 and section 16186 as amended by 2002 PA 643, and by adding section 16344 and part 187.

The House of Representatives has amended the Senate substitute (S-1) as follows:

1. Amend page 2, line 14, by striking out all of section 16186 and inserting:

"Sec. 16186. (1) An individual who is licensed to practice a health profession in another state or, until January 1, 2007, is licensed to practice a health profession in a province of Canada, who is registered in another state, or who holds a health profession specialty field license or specialty certification from another state and who applies for licensure, registration, specialty certification, or a health profession specialty field license in this state may be granted an appropriate license or registration or specialty certification or health profession specialty field license upon satisfying the board or task force to which the applicant applies as to all of the following:

(a) The applicant substantially meets the requirements of this article and rules promulgated under this article for licensure, registration, specialty certification, or a health profession specialty field license.

(b) Subject to subsection (3), the applicant is licensed, registered, specialty certified, or specialty licensed in another state or, until January 1, 2007, is licensed in a province in Canada that maintains standards substantially equivalent to those of this state.

(c) Subject to subsection (3), until January 1, 2007, if the applicant is licensed to practice a health profession in a province in Canada, the applicant completed the educational requirements in Canada or in the United States for licensure in Canada or in the United States.

(d) Until January 1, 2007, if the applicant is licensed to practice a health profession in a province in Canada, that the applicant will perform the professional services for which he or she bills in this state, and that any resulting request for third party reimbursement will originate from the applicant's place of employment in this state.

(2) Before granting a license, registration, specialty certification, or a health profession specialty field license to the applicant, the board or task force to which the applicant applies may require the applicant to appear personally before it for an interview to evaluate the applicant's relevant qualifications.

(3) For purposes of the 2002 amendatory act that added this subsection, an applicant who is licensed in a province in Canada who meets the requirements of subsection (1)(c) and takes and passes a national examination in this country that is approved by the appropriate Michigan licensing board, or who takes and passes a Canadian national examination approved by the appropriate Michigan licensing board, is considered to have met the requirements of subsection (1)(b). This subsection does not apply if the department, in consultation with the appropriate licensing board, promulgates a rule disallowing the use of this subsection for an applicant licensed in a province in Canada.

(4) If the department receives an application for licensure under part 187 from an individual who is licensed as a respiratory therapist in the country of Canada, the department shall consult the international reciprocity agreement executed by the national board for respiratory care and the Canadian society of respiratory therapists in effect on the effective date of the amendatory act that added this subsection.”.

2. Amend page 11, line 26, by striking out all of subsection (3) and inserting:

“(3) The department shall issue a license as a respiratory therapist to an individual who is a holder of a temporary license as a respiratory therapist if a holder of a temporary license meets all of the following requirements:

(a) Applies for licensure as a respiratory therapist prior to the expiration of his or her temporary license as prescribed in section 18711(2).

(b) Provides proof to the Department that he or she has successfully completed the national credentialing exam by the national board for respiratory care or its successor organization, as approved by the department.” and renumbering the remaining subsections.

3. Amend page 13, following line 14, by striking out all of enacting section 1 and inserting:

“Enacting section 1. This amendatory act takes effect July 1, 2004.”.

The House of Representatives has concurred in the Senate substitute (S-1) as amended.

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

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

Recess

Senator Hammerstrom moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 6:06 p.m.

6:18 p.m.

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

During the recess, Senators Leland, Bernero, Emerson and Clarke entered the Senate Chamber.

By unanimous consent the Senate proceeded to the order of

Resolutions

House Concurrent Resolution No. 46.

A concurrent resolution providing for a joint convention of the House of Representatives and the Senate.

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives and Senate meet in joint convention in the Hall of the House of Representatives, Tuesday, January 27, 2004, at 6:30 p.m., to receive the message of Governor Jennifer M. Granholm.

The House of Representatives has adopted the concurrent resolution.

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

Senator Hammerstrom moved that the rule be suspended.

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

The concurrent resolution was adopted.

Senator Hammerstrom moved that rule 3.902 be suspended to allow the House escort committee to use the center aisle.

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

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

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

Senator Hammerstrom moved that the statements of Representatives Smith, Sak, Julian and Rocca be printed in the Journal.

The motion prevailed.

Representative Smith's statement is as follows:

On behalf of the House of Representatives, I'm issuing this invitation to please join us in the House Chamber.

Representative Sak's statement is as follows:

If you want to call me Senator, I appreciate that, Mr. President. It is a distinct honor, privilege, and pleasure to be here this evening to welcome my good friends, my colleagues from the Michigan Senate, to join with us this evening in the House Chamber for the Governor's State of the State address in a Joint Convention of the Legislature. As a freshman legislator, I truly understand the upper chamber in comparison to the Michigan House of Representatives. So, witamy.

Representative Julian's statement is as follows:

When the Speaker's office came to me and asked if I would like to come to the Senate and invite you, I said, absolutely, because it's the only chance I'll ever get to speak in this chamber. So I'm delighted to be here. I also would say to you that as you traverse, following our invitations, over to the House Chamber, be careful as you step up the stairs to that chamber so that you don't trip. We welcome you.

Representative Rocca's statement is as follows:

Actually, before I invite you to share the House with us, I have some bills over here that I'd like to talk about: House Bill No. 4009, House Bill No. 44__. Thank you, Lieutenant Governor Cherry. I saw Senator Sikkema nod in approval, which means that the bills will be taken up, I'm presuming.

I just want to say that I really do want to invite you over to the House, but one thing though, you are coming to our House. Be good, keep your hands to yourselves, and just like when you visit anyone's house, don't stay too long. I was actually hoping—the Speaker said I couldn't do this—that we could actually choose who we invite to the House. But I guess since the Speaker gave me my marching orders, respectfully, I do want to invite everyone, all the Senators, to the House for the Joint Convention and for the State of the State address.

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

The motion prevailed.

Senator Switalski's statement is as follows:

That was the most gracious invitation I've ever heard. For all the times that Representative Julian gaveled me down when I was over in the House, please, next time he's here, give him some of the same business.

Joint Convention

The Sergeant at Arms announced that a committee from the House of Representatives who, through Representatives Smith, Sak, Julian, and Rocca, reported that the House was ready to meet with the Senate in Joint Convention.

The President, Lieutenant Governor Cherry, announced that the hour had arrived for the meeting of the two Houses in Joint Convention.

Senator Hammerstrom moved that the Senate recess for the purpose of proceeding to the Hall of the House of Representatives for Joint Convention.

The motion prevailed, the time being 6:24 p.m.

(For proceedings in Joint Convention, see House Journal No. 5, p. 47.)

The Senate reconvened at the expiration of the recess at 8:11 p.m. and pursuant to rule 1.101, in the absence of the Presiding Officers, was called to order by the Secretary of the Senate.

The Secretary of the Senate announced that the Senate had attended the Joint Convention in the Hall of the House of Representatives and had received the State of the State message by Governor Granholm.

Committee Reports

The Committee on Education reported

House Bill No. 4693, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding section 1294.

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.

Wayne Kuipers

Chairperson

To Report Out:

Yeas: Senators Kuipers, Cassis and Van Woerkom

Nays: Senators Clark-Coleman and Leland

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

The Committee on Education reported

House Bill No. 4724, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," (MCL 388.1601 to 388.1772) by adding section 9.

With the recommendation that the bill pass.

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

Wayne Kuipers

Chairperson

To Report Out:

Yeas: Senators Kuipers, Cassis and Van Woerkom

Nays: Senators Clark-Coleman and Leland

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Education submitted the following:

Meeting held on Thursday, January 22, 2004, at 2:00 p.m., Room 210, Farnum Building

Present: Senators Kuipers (C), Cassis, Van Woerkom, Clark-Coleman and Leland

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Agriculture submitted the following:

Joint meeting held on Thursday, January 22, 2004, at 9:00 a.m., Room 110, Farnum Building

Present: Senators Brown (C), Jelinek and Barcia

COMMITTEE ATTENDANCE REPORT

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

Joint meeting held on Thursday, January 22, 2004, at 9:00 a.m., Room 110, Farnum Building

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

Excused: Senator Thomas

Scheduled Meetings

Appropriations -

Subcommittees -

Higher Education, Joint Senate/House - Wednesday, January 28, 8:30 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1760) (CANCELED)

K-12, School Aid, Education and House School Aid and Department of Education - Tuesday, February 10, 4:00 p.m., State Board of Education Room, 4th Floor, Hannah Building (373-6960)

Natural Resources Department - Tuesday, February 10, 12:00 noon, Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

State Police and Military Affairs - Tuesday, February 3, 2:00 p.m., Room 405, Capitol Building (373-5932)

Education - Thursday, January 29, 2:00 p.m., Room 210, Farnum Building (373-6920) (CANCELED)

Health Policy - Wednesday, January 28, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-3543)

Local, Urban and State Affairs - Thursday, January 29, 1:00 p.m., Room 110, Farnum Building (373-1707)

Technology and Energy - Wednesday, January 28, 3:00 p.m., Room 210, Farnum Building (373-7350)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 8:12 p.m.

The Secretary of the Senate declared the Senate adjourned until Wednesday, January 28, 2004, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate