

No. 8
STATE OF MICHIGAN
Journal of the Senate
92nd Legislature
REGULAR SESSION OF 2004

Senate Chamber, Lansing, Thursday, January 29, 2004.

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—excused
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

Pastor Rob Renberg of Parkside Bible Church of Holland offered the following invocation:

Almighty God, Creator of the heavens and earth, we thank You today for another day of Your grace and provision in our lives, for the safety in travel, and blessings of health and opportunity. This truly is a day that You have made, and in the midst of this winter season, we thank You for Your unchanging nature and mercy.

We praise You for the privilege of leadership in this great country that has enjoyed Your favor. We ask for wisdom in the discharge of our duties before You, as our Sovereign Lord. I pray that each person here in this Capitol room would allow You to provide for them the wisdom in the decisions that they consider and make today; that they would honor You, and allow Your people to live quiet and peaceful lives to enjoy life, liberty, and the pursuits of happiness.

We also pray today for President Bush and the other national branches of government, and we ask for Your continued blessing of our country and our commitment to freedom and opportunity for all citizens who call America home. May You be honored in all that is said and done here today, as nothing is hidden from You. We pray that our hearts would be tender toward the special needs of those who are hurting and helpless, to have compassion for the truly needy and disadvantaged, and courage to stand for our convictions, as they reflect Your character in Your holy Word.

We ask this in the precious name of the Lord Jesus Christ, the Son of God and Savior of the world, for His glory and praise. Amen.

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

Motions and Communications

Senators Thomas and Leland entered the Senate Chamber.

Senator Hammerstrom moved that Senator Gilbert be excused from today's session.
The motion prevailed.

Senator Hammerstrom moved that Senator Brown be temporarily excused from today's session.
The motion prevailed.

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

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

The Secretary announced that the following official bills were printed on Wednesday, January 28, and are available at the legislative Web site:

House Bill Nos. 5427 5428 5429 5430 5431 5432 5433 5434 5435 5436 5437 5438 5439 5440

By unanimous consent the Senate proceeded to the order of
Third Reading of Bills

The following bill was read a third time:

House Bill No. 4802, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 540c (MCL 750.540c), as amended by 2002 PA 672.

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. 18

Yeas—34

Allen
Barcia

Clark-Coleman
Clarke

Jelinek
Johnson

Sanborn
Schauer

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

Nays—0**Excused—4**

Brown	Emerson	Gilbert	Scott
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Not Voting—0

In The Chair: President

Senator Emerson entered the Senate Chamber.

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

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

“An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act.”.

The Senate agreed to the full title.

Senator Brown entered the Senate Chamber.

The following bill was read a third time:

House Bill No. 4916, entitled

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” by amending section 16z of chapter XVII (MCL 777.16z), as amended by 2002 PA 271.

The question being on the passage of the bill,

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

Roll Call No. 19**Yeas—36**

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

Nays—0

Excused—2

Gilbert

Scott

Not Voting—0

In The Chair: President

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

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

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

“An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act.”

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5120, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” by amending sections 1d, 65, 310d, 319b, 320a, 321a, 625, 625b, 627, 727, 732, 733, and 907 (MCL 257.1d, 257.65, 257.310d, 257.319b, 257.320a, 257.321a, 257.625, 257.625b, 257.627, 257.727, 257.732, 257.733, and 257.907), section 1d as added and sections 310d and 625 as amended by 2003 PA 61, section 65 as amended by 1994 PA 449, sections 319b and 732 as amended by 2002 PA 534, sections 320a and 627 as amended by 2003 PA 315, section 321a as amended by 2002 PA 741, section 625b as amended by 1998 PA 357, section 727 as amended by 1998 PA 348, section 733 as amended by 1994 PA 50, and section 907 as amended by 2003 PA 73, and by adding section 79e; and to repeal acts and parts of acts.

The question being on the passage of the bill,

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

Roll Call No. 20

Yeas—36

Allen
Barcia
Basham
Bernero
Birkholz

Cherry
Clark-Coleman
Clarke
Cropsey
Emerson

Hardiman
Jacobs
Jelinek
Johnson
Kuipers

Prusi
Sanborn
Schauer
Sikkema
Stamas

Bishop	Garcia	Leland	Switalski
Brater	George	McManus	Thomas
Brown	Goschka	Olshove	Toy
Cassis	Hammerstrom	Patterson	Van Woerkom

Nays—0**Excused—2**

Gilbert	Scott
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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:

House Bill No. 5129, entitled

A bill to amend 1961 PA 236, entitled “Revised judicature act of 1961,” by amending sections 1301a, 1303a, 1304, 1304a, 1305, 1307a, 1308, 1309, 1310, 1312, 1313, 1315, 1316, 1317, 1319, 1320, 1321, 1322, 1323, 1324, 1326, 1327, 1328, 1329, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1345, 1346, 1347, 1372, and 1375 (MCL 600.1301a, 600.1303a, 600.1304, 600.1304a, 600.1305, 600.1307a, 600.1308, 600.1309, 600.1310, 600.1312, 600.1313, 600.1315, 600.1316, 600.1317, 600.1319, 600.1320, 600.1321, 600.1322, 600.1323, 600.1324, 600.1326, 600.1327, 600.1328, 600.1329, 600.1331, 600.1332, 600.1333, 600.1334, 600.1335, 600.1336, 600.1337, 600.1338, 600.1339, 600.1340, 600.1341, 600.1342, 600.1343, 600.1345, 600.1346, 600.1347, 600.1372, and 600.1375), sections 1301a, 1304, 1310, 1312, and 1375 as amended by 1986 PA 104 and section 1307a as amended by 2002 PA 739; and to repeal acts and parts of acts.

The question being on the passage of the bill,

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

Roll Call No. 21**Yeas—36**

Allen	Cherry	Hardiman	Prusi
Barcia	Clark-Coleman	Jacobs	Sanborn
Basham	Clarke	Jelinek	Schauer
Bernero	Cropsey	Johnson	Sikkema

Birkholz	Emerson	Kuipers	Stamas
Bishop	Garcia	Leland	Switalski
Brater	George	McManus	Thomas
Brown	Goschka	Olshove	Toy
Cassis	Hammerstrom	Patterson	Van Woerkom

Nays—0**Excused—2**

Gilbert	Scott
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Not Voting—0

In The Chair: President

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

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

“An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,”.

The Senate agreed to the full title.

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senators Cherry, Olshove, Toy and Switalski introduced

Senate Bill No. 935, entitled

A bill to amend 1846 RS 83, entitled “Of marriage and the solemnization thereof,” by amending section 7 (MCL 551.7), as amended by 1983 PA 64.

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

Senator Switalski introduced

Senate Bill No. 936, entitled

A bill to amend 1999 PA 94, entitled “Michigan merit award scholarship act,” by amending section 7 (MCL 390.1457), as amended by 2002 PA 736.

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

Committee Reports

The Committee on Health Policy reported

House Bill No. 4659, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending section 20906 (MCL 333.20906), as amended by 2000 PA 375.

With the recommendation that the bill pass.

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

Beverly S. Hammerstrom
Chairperson

To Report Out:

Yeas: Senators Hammerstrom, Patterson, George, Bernero and Jacobs

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Health Policy reported

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.

With the recommendation that the bill pass.

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

Beverly S. Hammerstrom
Chairperson

To Report Out:

Yeas: Senators Hammerstrom, Patterson, George, Bernero and Jacobs

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Health Policy reported

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.

With the recommendation that the bill pass.

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

Beverly S. Hammerstrom
Chairperson

To Report Out:

Yeas: Senators Hammerstrom, Patterson, George, Bernero and Jacobs

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Health Policy submitted the following:

Meeting held on Wednesday, January 28, 2004, at 1:00 p.m., Rooms 402 and 403, Capitol Building

Present: Senators Hammerstrom (C), Patterson, George, Bernero and Jacobs

COMMITTEE ATTENDANCE REPORT

The Committee on Technology and Energy submitted the following:

Meeting held on Wednesday, January 28, 2004, at 3:00 p.m., Room 210, Farnum Building

Present: Senators Patterson (C), Toy, Birkholz, Brown, Cassis and Leland

Excused: Senators Olshove and Bernero

Scheduled Meetings

Administrative Rules - Wednesday, February 4, 12:00 noon, Room 426, Capitol Building (373-6476)

Appropriations - Thursday, February 5, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Subcommittees -

Judiciary and Corrections - Tuesdays, February 17, February 24, March 2, March 9 and March 16, 3:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-3760)

K-12, School Aid, Education - Wednesday, February 4, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

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)

Commerce and Labor - Tuesday, February 3, 3:00 p.m., Room 100, Farnum Building (373-2413)

Conference Committee -

NPDES Permit Fees (SB 252) - Tuesday, February 3, 12:00 noon, Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

Senior Citizens and Veterans Affairs - Wednesday, February 4, 1:00 p.m., Room 100, Farnum Building (373-1707)

Technology and Energy - Wednesday, February 4, 3:00 p.m., Room 210, Farnum Building (373-7350)

Transportation - Tuesday, February 3, 1:00 p.m., Room 110, Farnum Building (373-7708)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 10:18 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Tuesday, February 3, 2004, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate