

**No. 17**  
**STATE OF MICHIGAN**  
**Journal of the Senate**  
**92nd Legislature**  
**REGULAR SESSION OF 2003**

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Senate Chamber, Lansing, Tuesday, February 25, 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—excused  
McManus—present

Olshove—present  
Patterson—present  
Prusi—present  
Sanborn—excused  
Schauer—present  
Scott—present  
Sikkema—present  
Stamas—present  
Switalski—present  
Thomas—excused  
Toy—present  
Van Woerkom—present

Senator Mike Goschka of the 32nd District offered the following invocation:

Our Father, we come here this morning with a sense of awe recognizing Your presence in our midst. We pray that today You would bless each member of this body and each staff member. Help us to go about our business day in and day out with a sense of service and servanthood. Lord, we pray for humility with those with whom we serve as well as for those whom we serve. We are nothing without You and without Your presence and without Your grace. We would pray that today You would particularly touch us with the fact that You are always there, and You are not silent. We pray for the people of our state that You would use us to bless them; that, Lord God, in Your grace, You would pull us all together as one voice to do those things that are right in Your sight.

We pray this all in the name of Jesus Christ, our Lord and Savior. Amen.

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

### Motions and Communications

Senator Schauer moved that Senator Leland be excused from this week's sessions.  
The motion prevailed.

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

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

The following communication was received:  
Office of the Auditor General

February 21, 2003

Enclosed is a copy of the following audit report and/or report summary:  
Performance Audit of the Food Assistance Program, Family Independence Agency, February 2003.

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

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 Thursday, February 20:  
**House Bill Nos. 4010 4072 4073 4074**

The Secretary announced the printing and placement in the members' files on Thursday, February 20, of:  
**Senate Bill Nos. 196 197 198 199**  
**House Bill Nos. 4250 4251 4252 4253 4254 4255 4256 4257**

The Secretary announced the printing and placement in the members' files on Friday, February 21, of:  
**Senate Bill Nos. 201 202 203 204**  
**House Bill Nos. 4259 4260 4261 4262**

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 Basham 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. 117, entitled**

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 161 of chapter XVII (MCL 777.161), as amended by 2001 PA 19.

Substitute (S-2).

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.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

**Senate Bill No. 118, entitled**

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 215 (MCL 750.215), as amended by 2002 PA 672.

Substitute (S-1).

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.

### Resolutions

**Senate Resolution No. 9.**

A resolution calling for the creation of a Great Lakes Legislative Caucus.

The question being on the adoption of the resolution,

The resolution was adopted.

**Senate Concurrent Resolution No. 5.**

A concurrent resolution calling for the creation of a Great Lakes Legislative Caucus.

The question being on the adoption of the concurrent resolution,

The concurrent resolution was adopted.

Senators Van Woerkom, Patterson, Toy, Garcia, Brown, Sanborn, Kuipers, Birkholz, Goschka and Jelinek offered the following resolution:

**Senate Resolution No. 17.**

A resolution to memorialize the President and Congress of the United States to pursue and support fuel cell research projects in Michigan.

Whereas, In his State of the Union address, President Bush identified fuel cell research as a national priority. While this move holds great significance for our entire country, the urgency for developing a new energy source is most acutely understood in Michigan; and

Whereas, Through the resources of the automotive industry, smaller companies across our state, and university research being conducted at numerous locales, the drive to develop the fuel cell as the next generation energy source has been in high gear in Michigan for many years. The human and technological resources Michigan has as the home of the auto industry indicates both our state's capacity for fuel cell research and its stake in advancing the next generation of energy. Michigan's efforts include innovative approaches to virtually all aspects of the infrastructure necessary to develop fuel cells, including work on the storage and transportation of hydrogen; and

Whereas, In addition to well-known efforts within the auto industry, Michigan is also the site of research seeking to develop fuel cell applications for homes and businesses. Michigan businesses are working closely with university researchers on these projects; and

Whereas, Michigan has made a significant commitment to encouraging enterprise in the field of emerging energy development. The Ninety-first Legislature enacted the "Next Energy" package of legislation to promote energy research, especially fuel cell technology. These acts created a series of tax credits, exemptions, and deductions for businesses working on alternative energy technologies, in addition to providing for alternative energy zones to spur investment. The Next Energy Authority created in the Department of Management and Budget reflects the depth of the state's commitment. Clearly, Michigan is uniquely suited for research devoted to establishing a hydrogen-based means of generating energy for our cars, homes, and businesses; now, therefore, be it

Resolved by the Senate, That we memorialize the President and Congress of the United States to pursue and support fuel cell research projects in Michigan; and be it further

Resolved, That copies of this resolution be transmitted to the Office of the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

Pending the order that, under rule 3.204, the 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 question being on the adoption of the resolution,

Senator Hammerstrom moved that the resolution be referred to the Committee on Technology and Energy.

The motion prevailed.

Senators Cherry, Hardiman, Clarke, Olshove, Cassis, Jacobs and Prusi were named co-sponsors of the resolution.

By unanimous consent the Senate proceeded to the order of

### **Statements**

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

The motion prevailed.

Senator George's statement is as follows:

I rise to respond to a letter that was carried in *The Detroit News* last week. It's a letter written by an executive of Blue Cross Blue Shield of Michigan, a vice president there, Mr. Steven Hess. And in his letter, he discusses Blue Cross' problems in the small group market and their loss of \$500 million. In his letter, Mr. Hess states that a recent state audit confirmed that those losses were due to a serious defect in state law. I'd like to repeat that. In his letter, he said that a state audit confirmed that Blue Cross' financial losses were due to a defect in state law. Mr. President, I rise to refute that statement.

I have reviewed the audit of Blue Cross Blue Shield. It was conducted in the summer of 2001, it is available online, and I suggest that my colleagues might want to review it some time. It's accompanied by a cover sheet, and the audit concludes by saying that Blue Cross' problems result from losses on their investments, a cash strain resulting from acquisition of affiliated companies, a low return from administrative service contract business, and a cumbersome management in board structure. There is no statement in the audit that their losses are due to any defect in state law. In fact, the audit found that all of these items are business decisions or management decisions made by the company itself. Invoking state law is some type of scapegoat for the company's problems and is really a convenient way for Blue Cross and Blue Shield to divert the citizens of this state from the real issue at hand, and that is their drift from their mission as the insurer of last resort.

Mr. President, I know where that \$500 million is. They spent \$240 million acquiring the Accident Fund, then \$220 million acquiring PPOM of Michigan, and then \$30 million acquiring Select Care. They've spent the resources they have accumulated, by virtue of being tax free, acquiring for-profit companies, drifting from their mission as the insurer of last resort. And the result is what we have today—a bloated company that commands 70 percent of the market, provides poor services, pays no taxes, is raising premiums 40 percent, and still can't make a profit.

The only law that needs adjusting, Mr. President, is the one that regulates this company's ability to make acquisitions. Any other insurance carrier would be subject to anti-trust oversight. And if another insurance company, for example, had desired to acquire Select Care, they would have had to show that there would be no harm to the citizens of this state or to the provisions of their health insurance, and that was not required of the Blues because they are separately regulated. The only defect in state law is the lack of anti-trust oversight that exists in P.A. 350.

I rise, Mr. President, to point this out to the members here so that they may not be duped by the propaganda from this company as it attempts to blur the facts over its recent history and its recent financial losses. And I would hope that the citizens of this state and that this body would see through this company's allegations that, in fact, their problems are self-inflicted and not due to a defect in state law.

By unanimous consent the Senate returned to the order of

### **Introduction and Referral of Bills**

Senators Cherry, Toy, Olshove, Jacobs and Clark-Coleman introduced

#### **Senate Bill No. 205, entitled**

A bill to amend 1941 PA 207, entitled "Fire prevention code," by amending section 3c (MCL 29.3c), as amended by 1996 PA 152.

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

Senators Johnson, Hammerstrom, Emerson, Jacobs, Toy, Patterson and Garcia introduced

**Senate Bill No. 206, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16131 and 16263 (MCL 333.16131 and 333.16263), as amended by 2001 PA 139, and by adding section 16323a and part 168.

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

Senators Johnson, Hammerstrom, Emerson, Jacobs, Toy, Patterson and Garcia introduced

**Senate Bill No. 207, entitled**

A bill to amend 1980 PA 299, entitled "Occupational code," by amending section 1302 (MCL 339.1302).

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

Senators Van Woerkom, Patterson, Toy, Garcia, Brown, Kuipers, Birkholz, Goschka and Jelinek introduced

**Senate Bill No. 208, entitled**

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 30 (MCL 206.30), as amended by 2002 PA 615.

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

Senators Schauer, Basham, Emerson and Cherry introduced

**Senate Bill No. 209, entitled**

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 134 and 3104 (MCL 500.134 and 500.3104), section 134 as amended by 1990 PA 256 and section 3104 as amended by 2002 PA 662.

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

Senators Schauer, Basham, Emerson and Cherry introduced

**Senate Bill No. 210, entitled**

A bill to amend 1976 PA 267, entitled "Open meetings act," by amending sections 2 and 3 (MCL 15.262 and 15.263), section 2 as amended by 2001 PA 38 and section 3 as amended by 1988 PA 278.

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

Senators George, Garcia, Birkholz, Goschka, Cropsey, Allen and Sanborn introduced

**Senate Bill No. 211, entitled**

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 260 (MCL 206.260), as amended by 1996 PA 484.

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

Senator Allen introduced

**Senate Bill No. 212, entitled**

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 8155 (MCL 600.8155).

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

Senators Allen and Gilbert introduced

**Senate Bill No. 213, entitled**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 719 and 720 (MCL 257.719 and 257.720), section 719 as amended by 2002 PA 453 and section 720 as amended by 2002 PA 535.

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

**House Bill No. 4010, entitled**

A bill to amend 1974 PA 198, entitled "An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to impose and provide for the disposition of an

administrative fee; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties," by amending section 2 (MCL 207.552), as amended by 2002 PA 280.

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 Agriculture, Forestry and Tourism.

**House Bill No. 4072, entitled**

A bill to create the Detroit area regional transportation authority; to transfer certain powers of authorities to the Detroit area regional transportation authority; to provide regional transportation for senior citizens, citizens with disabilities, citizens without the economic means to provide their own personal transportation, and all other citizens; to continue the suburban mobility authority for regional transportation; to prescribe certain powers and duties of the authorities; to provide for the addition and withdrawal of certain local entities from the authority; to provide for the powers and duties of certain state agencies with respect to the authority; to provide for the issuance of bonds and notes; to provide for the state to guarantee payment of certain claims against the authority and give the state a lien in satisfaction of payment; to protect the rights of employees of existing public transportation systems; to provide for the pledge of taxes, revenues, assessments, tax levies, and other funds for bond and note payments; to authorize certain local entities to levy property taxes and make special assessments to fulfill their obligations under certain contracts with the authority; and to repeal acts and parts of acts.

The House of Representatives has passed the bill.

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

**House Bill No. 4073, entitled**

A bill to amend 1982 PA 432, entitled "Motor bus transportation act," by amending section 4 (MCL 474.104), as amended by 1989 PA 233.

The House of Representatives has passed the bill.

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

**House Bill No. 4074, 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, critical 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 sections 10c, 10h, 10l, and 10n (MCL 247.660c, 247.660h, 247.660l, and 247.660n), sections 10c and 10h as amended by 2002 PA 498, section 10l as amended by 1987 PA 234, and section 10n as amended by 2002 PA 329.

The House of Representatives has passed the bill.

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

**Committee Reports****COMMITTEE ATTENDANCE REPORT**

The Committee on Agriculture, Forestry and Tourism submitted the following:  
Meeting held on Thursday, February 20, 2003, at 9:00 a.m., Room 110, Farnum Building  
Present: Senators Van Woerkom (C), Gilbert, Jelinek, Brater and Thomas

**COMMITTEE ATTENDANCE REPORT**

The Subcommittee on Agriculture submitted the following:  
Meeting held on Thursday, February 20, 2003, at 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building  
Present: Senators Brown (C), Jelinek and Barcia

**Scheduled Meetings**

**Appropriations** - Wednesday, February 26, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)  
(CANCELED)

**Subcommittees -**

**Agriculture** - Thursday, February 27, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-5932)

**Commerce, Labor and Economic Development** - Wednesdays, February 26 and March 5, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2420)

**Family Independence Agency, Joint Senate/House** - Thursday, February 27, 2:30 p.m., Wedgwood Christian Youth and Family Services, Nagel Chapel and Training Center, 3300 36th Street, Grand Rapids (373-1801)

**Appropriations, Joint Senate/House** - Thursday, March 6, 12:00 noon, House Appropriations Room, 3rd Floor, Capitol Building (373-2523)

**Economic Development, Small Business and Regulatory Reform** - Wednesday, February 26, 3:00 p.m., Rooms 402 and 403, Capitol Building (373-7670)

**Education** - Thursday, February 27, 2:00 p.m., Room 210, Farnum Building (373-6920)

**Families and Human Services, House Family and Children Services and House Appropriations Family Independence Agency Subcommittee** - Wednesday, February 26, 2:00 p.m. or later after committees are given leave by the House to meet, Room 519, South Tower, House Office Building (373-8080)

**Finance** - Wednesday, February 26, 1:00 p.m., Room 110, Farnum Building (373-1758)

**Health Policy** - Wednesday, February 26, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-3543)

**Local, Urban and State Affairs** - Thursday, February 27, 1:00 p.m., Room 110, Farnum Building (373-1707)

**Michigan Capitol Committee** - Thursday, February 27, 11:00 a.m., Room 405, Capitol Building (373-0793)

**Technology and Energy** - Wednesday, February 26, 3:00 p.m., Room 210, Farnum Building (373-7350)

Senator Hammerstrom moved that the Senate adjourn.  
The motion prevailed, the time being 10:27 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Wednesday, February 26, 2003, at 10:00 a.m.

