

No. 36
STATE OF MICHIGAN
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REGULAR SESSION OF 2003

Senate Chamber, Lansing, Wednesday, April 23, 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—excused
George—present
Gilbert—present
Goschka—excused
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 Leslie Tyvela of Immanuel Lutheran Church of Bay City offered the following invocation:

There are words, Lord, words that a little baby speaks and sees a family's care and love. That little baby knows very clearly what that little baby is saying; words that an older member of a family in some nursing home or assisted living center speaks in some sort of words that no one else can understand except a grandbaby, a grandchild who's there, 13 years of age, watching grandma slip away and knows exactly what grandma is saying.

There are words that we use that a lot of people understand; words that are spoken to us that ennoble us, that enrich us, that enliven us. There are words that also hurt. Thank You, Lord, for creating in us the ability to be able to speak words that are to be helpful, to be able to say that I am sorry for words that are hurtful. Thank You for words spoken on behalf of all citizens of the state of Michigan of this august body—words that continue to enrich our lives and take us forward long into the 21st century.

Bless each and every one of the members of this body, that the words they use may be words that will be good for all. In Your name we pray. Amen.

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

Motions and Communications

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

The following communication was received:
Office of the Auditor General

April 21, 2003

Enclosed is a copy of the following audit report and/or report summary:
Financial Related Audit of the Use of Transportation-Related Funding, October 1, 2000 through September 30, 2001.

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

The communication was referred to the Secretary for record.

By unanimous consent the Senate proceeded to the order of

Resolutions

The question was placed on the adoption of the following resolution consent calendar:

Senate Resolution No. 63

Senate Resolution No. 64

The resolution consent calendar was adopted.

Senators Switalski, Sanborn and Olshove offered the following resolution:

Senate Resolution No. 63.

A resolution honoring Darlene and Joseph Steenland as they celebrate their 50th Wedding Anniversary.

Whereas, It is a distinct honor to join with the family and friends of Darlene and Joseph Steenland of Roseville as they celebrate their 50th Wedding Anniversary on May 8, 2003. It was love at first sight when Joseph and Darlene met at the Detroit Riviera Theater. After only a matter of months, they wed at the Detroit justice of the peace. Soon after, their family blossomed into a family of seven—Debbie, Joe, Mark, Jon, Rich, Mike, and Jenny; and

Whereas, Since they pledged their trust, respect, and affection in marriage, Darlene and Joseph Steenland have also witnessed changes in their own lives. Certainly, the central point of their attention is their family to whom they have given countless gifts. Among the most precious of these gifts given to friends, their seven children, fifteen grandchildren, one great-grandchild, and their entire family is the example of the rewards of a wonderful marriage. As they mark this day, may they also know that this example has enriched our entire state; now, therefore, be it

Resolved by the Senate, That we offer our congratulations to Darlene and Joseph Steenland as they mark their 50th Wedding Anniversary. May they continue to grow closer to one another with each passing day; and be it further

Resolved, That a copy of this resolution be transmitted to Darlene and Joseph Steenland as evidence of our great respect for their 50 years of marriage.

Senators Bernero, Thomas, Birkholz, Cherry, Basham, Kuipers, Cropsey, Clark-Coleman, Hardiman, Jacobs, Schauer and Clarke were named co-sponsors of the resolution.

Senators Olshove, Hammerstrom, Allen, Brater, Switalski, Cherry and Scott offered the following resolution:

Senate Resolution No. 64.

A resolution commemorating September 2003 as Children's Internet Safety Month.

Whereas, The Internet is one of the most effective tools available for purposes of education and research and gives children the means to make friends and freely communicate with peers and family anywhere in the world; and

Whereas, It is vital to the well-being of children that the Internet offer them a wholesome environment to explore and that its capacity to deliver pornographic material to the innocent be responsibly monitored and effectively screened; and

Whereas, Children are ill-equipped to cope with lurid Internet content and cyberpredators and are at risk in their own homes, schools, and libraries; and

Whereas, Parents, religious and government leaders, educators, and rational-thinking people everywhere are concerned about children's Internet safety, Web manipulation by the unscrupulous, and the rising tide of pornographic Web sites; and

Whereas, Objectionable material, such as violent, obscene, or sexually-explicit adult material may be received by a minor in an unsolicited form; and

Whereas, It is imperative that Michigan parents, guardians, grandparents, teachers, and family members, along with churches, business and community leaders, and organizations, be alerted to the pervasiveness and danger of pornography on the Internet. Support of this public service initiative will improve the Internet culture within their own spheres of influence; and

Whereas, The century of instant global communication holds great promise for achieving better understanding among people of the world. A broader resolve is heralded to protect the safety of children in order that the Internet not be perceived as an instrument of cunning, pornographic invitation to the young, but as evidence of profound respect for human dignity, creative inquiry, and commitment to excellence; now, therefore, be it

Resolved by the Senate, That we hereby commemorate September 2003 as Children's Internet Safety Month and express our support for efforts to protect our children against harmful Internet materials; and be it further

Resolved, That a copy of this resolution be transmitted to Governor Jennifer Granholm and Lieutenant Governor John Cherry.

Senators Bernero, Thomas, Birkholz, Brown, Basham, Kuipers, Toy, Cropsey, Clark-Coleman, Hardiman, Jacobs, Van Woerkom, Schauer and Clarke were named co-sponsors of the resolution.

Senate Resolution No. 49.

A resolution to memorialize the Congress of the United States and the United States Department of Agriculture to provide assistance in the effort to deal with the infestation of the emerald ash borer.

The question being on the adoption of the following committee substitute:

Substitute (S-1).

The substitute was adopted.

The resolution, as substituted, was adopted.

Senate Concurrent Resolution No. 16.

A concurrent resolution to memorialize the Congress of the United States and the United States Department of Agriculture to provide assistance in the effort to deal with the infestation of the emerald ash borer.

The question being on the adoption of the following committee substitute:

Substitute (S-1).

The substitute was adopted.

The concurrent resolution, as substituted, was adopted.

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.

The question being on the adoption of the resolution,

The resolution was adopted.

Senate Concurrent Resolution No. 14.

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

The question being on the adoption of the concurrent resolution,

The concurrent resolution was adopted.

Senators Hardiman, Patterson, Olshove and Garcia offered the following resolution:

Senate Resolution No. 65.

A resolution to memorialize the Congress of the United States to enact the Armed Forces Tax Fairness Act of 2003.

Whereas, Under the provisions of the Taxpayer Relief Act of 1997, home sellers are relieved of the obligation to pay taxes on capital gains of up to \$250,000 (\$500,000 per couple), if they have owned and occupied their home for at least two of the five years before the sale. This historic legislation made the federal tax code fairer and more equitable for millions of American taxpayers; and

Whereas, A glaring inequity in the tax code, however, affects a number of those who serve our nation as military personnel and who leave their homes on extended assignment. These brave men and women may be penalized for their selfless service on behalf of the American people and our allies. Many are unable to take advantage of the capital gains tax relief afforded ordinary citizens because their call to overseas duty may prevent them from physically occupying their homes for the required period of time; and

Whereas, Two measures currently before the 108th Congress (H.R. 1307 and S. 351) propose ending the injustice of the Taxpayer Relief Act's limitation regarding extended overseas military service. The Armed Forces Tax Fairness Act of 2003 would, in part, extend the five-year period used in calculating the full exemption for capital gain to ten years for persons engaged in qualified official extended duty in military or foreign service. This legislation will help assure that those who so proudly serve our nation will not be disserved by its tax code; now, therefore, be it

Resolved by the Senate, That the United States Congress be memorialized to enact the Armed Forces Tax Relief Act of 2003; and be it further

Resolved, That copies of this resolution be presented to the Speaker of the United States House of Representatives, the President of the United States Senate, 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 Finance.

The motion prevailed.

Senators Bernero, Birkholz, Basham, Switalski, Kuipers, Toy, Cropsey, Clark-Coleman, Van Woerkom and Clarke were named co-sponsors of the resolution.

Senators Sanborn, Toy, Patterson, Kuipers, Olshove, Allen, Garcia and Birkholz offered the following resolution:

Senate Resolution No. 66.

A resolution to urge the United States Department of Homeland Security to locate its Midwestern headquarters at the Selfridge Air National Guard Base in Macomb County.

Whereas, As our country continues to put in place stronger defenses against terrorism through homeland security measures, a key component will be the establishment of regional headquarters for the United States Department of Homeland Security. The President has called for regional centers in his 2004 budget proposal; and

Whereas, In the Midwest, an excellent site for a regional headquarters is the Selfridge Air National Guard Base in Macomb County. The advantages this location offers range from low costs, unsurpassed strategic significance, and facilities that can provide for a swift and smooth transition to the responsibilities of homeland security work; and

Whereas, Located at the heart of the nation's freshwater network and near several of the busiest international points of entry along our northern border, Selfridge is well positioned to handle quickly any type of task to protect America's people, resources, and infrastructure. Clearly, this location offers opportunities for enhanced responsiveness to the challenges before us in safeguarding our nation in the years ahead; now, therefore, be it

Resolved by the Senate, That we urge the United States Department of Homeland Security to locate its Midwestern headquarters at the Selfridge Air National Guard Base in Macomb County; and be it further

Resolved, That copies of this resolution be transmitted to the Secretary of the United States Department of Homeland Security, 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 Senior Citizens and Veterans Affairs. The motion prevailed.

Senators Cherry, Basham, Switalski, Cropsey and Clarke were named co-sponsors of the resolution.

Senators Toy, Sanborn, Kuipers, Garcia and Birkholz offered the following concurrent resolution:

Senate Concurrent Resolution No. 20.

A concurrent resolution to urge the United States Department of Homeland Security to locate its Midwestern headquarters at the Selfridge Air National Guard Base in Macomb County.

Whereas, As our country continues to put in place stronger defenses against terrorism through homeland security measures, a key component will be the establishment of regional headquarters for the United States Department of Homeland Security. The President has called for regional centers in his 2004 budget proposal; and

Whereas, In the Midwest, an excellent site for a regional headquarters is the Selfridge Air National Guard Base in Macomb County. The advantages this location offers range from low costs, unsurpassed strategic significance, and facilities that can provide for a swift and smooth transition to the responsibilities of homeland security work; and

Whereas, Located at the heart of the nation's freshwater network and near several of the busiest international points of entry along our northern border, Selfridge is well positioned to handle quickly any type of task to protect America's people, resources, and infrastructure. Clearly, this location offers opportunities for enhanced responsiveness to the challenges before us in safeguarding our nation in the years ahead; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we urge the United States Department of Homeland Security to locate its Midwestern headquarters at the Selfridge Air National Guard Base in Macomb County; and be it further

Resolved, That copies of this resolution be transmitted to the Secretary of the United States Department of Homeland Security, 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 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 question being on the adoption of the concurrent resolution,

Senator Hammerstrom moved that the concurrent resolution be referred to the Committee on Senior Citizens and Veterans Affairs.

The motion prevailed.

Senators Cherry, Basham, Switalski, Cropsey, Olshove and Clarke were named co-sponsors of the concurrent resolution.

By unanimous consent the Senate proceeded to the order of

Statements

Senators Hammerstrom and Bernero asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Hammerstrom's statement is as follows:

I rise today to remember a young Marine from my district who lost his life April 8, 2003, Juan Guadalupe Garza, Jr. His life ended tragically in Baghdad, killed by a sniper's bullet to the chest while he was on patrol. He died instantly. And so with one bullet, the life of a young man with great promise was ended, and a community and school mourned for the loss of a friend they called Guido or John.

Garza was from Texas but moved to this area a few years ago to live with an aunt, Jodi Bucher, to get away from bad influences at home where gangs were a problem. Upon hearing of his death, Juan's friends spoke of how easily and quickly he fit into his new high school. "He lived life to the fullest," his football coach said, and he was the kind of player whose reckless style on the field coaches and teammates love.

Casey Garza, Juan's wife who he married the day after Christmas, one day before he returned to base, called her husband "the epitome of excellence as a Marine." A soldier was what he always wanted to be, even as a young boy who loved watching war movies. In fact, the last time he and his high school buddies got together, they watched the war movie, "Black Hawk Down." So it was no surprise when following graduation from Summerfield High School last year, Juan enlisted in the Marine Corps.

Pfc. Garza was based at Camp Pendleton, California, before he shipped out, where he was an expert marksman and broke shooting range records. He was assigned to Bravo Company and served with the 1st Battalion, 4th Marines, 1st Marines Division. His wife was based at Walter Reed Army Hospital near Washington, D.C., when word arrived in February that he would be shipping out. They kept in touch by telephone and via e-mail while he was en route to the Middle East. She last talked to him when he landed in Kuwait in late February.

Besides his wife, the former Casey Cole, and an aunt and uncle with whom he resided with here in Michigan, Pfc. Garza leaves behind family members still in Texas, six grandparents, father, mother, stepfather, a brother, and three sisters, including a half sister whom he never had the opportunity to meet. Our hearts and prayers go out to all of them. May they find solace in knowing that Juan believed in our country and that he believed in what he was fighting for.

Senator Bernero's statement is as follows:

Today, I have distributed under my seal an article which should be on your desk. It is an article from *The Detroit News* headlined, "Michigan Fails in Care of Mentally Ill."

You remember a few weeks ago, Senator George and I got up to talk about the mental health a little bit and the state of services for people with mental illness and the need for us to make improvement. Today, the National Mental Health Association issued a report headlined, "Can't Make the Grade," and it highlights mental health services in all the states. Michigan is ranked at the bottom in terms of mental health services—services to people with mental illness. This is not a shock to us. It shouldn't be a shock, but it should be a call to action. We really have problems in Michigan's mental health system. I want to thank the Mental Health Association. We have an active association in Michigan, and they do an outstanding job in Michigan. I want to thank them for giving us this call to action, this report. We have not just looming crises, but a current crisis in mental health services, and it is demonstrated throughout our communities, in our jails, and in our prison systems. You can talk to any of our sheriffs and ask them what the state of mental health is. Our police officers in this day and age have a good idea because they are involved on the front lines, and they end up really treating and trying to be social workers out there in the community. We have not kept mental health services apace with the deinstitutionalization. We have downsized, we have closed hospitals, and we have put people in the community, but we have put them too often on the streets and allowed them to be victims of crime or to be picked up for petty crimes.

Too often, our people with mental illness are criminalized. People with mental illness and their families and the communities they live in pay the price for our failure to adequately fund and manage mental health care in Michigan. We need to rebuild community capacity, and we need to rebuild a continuum of care—not one size fits all. We need to have services appropriate to the level of illness. I hope and pray, Mr. President, that we will continue to work together, Republicans and Democrats, to repair and rejuvenate our mental health system.

I am excited about Senator Hammerstrom's parity bill, which is also supported by the Governor. I am hopeful that we will make progress in parity and equity in health services which includes mental health because, after all, the brain is a human component, a component of the human body, and we shouldn't discriminate against people with brain disorders. I am delighted to be working with Senator George on Kevin's Law to approve services for those most in need. I am pleased to have bipartisan support for a bill that I introduced to create the Department of Mental Health ombudsman to help clients and their families navigate through the mental health system. I am encouraged by Governor Granholm's budget for mental health, which provided a slight increase rather than a decrease, and also to have the new Department of Community Health under new management looking for ways to expand access to some of the wonder drugs, some of the modern medications that can provide people the opportunity to be productive in the community.

So we have some encouraging signs in Michigan. We are since at a crossroad, and we have an opportunity to turn things around. I just thought it was important, Mr. President, to take a moment and ask my colleagues to consider this work that the Mental Health Association has done. We are since at a crossroad for all of our clients. Some of us have family members and friends with mental illness. We have an opportunity to make historic change, to make a departure with the past, and to improve upon things. Let us not give up until we have made real progress because we have heavy lifting ahead.

By unanimous consent the Senate returned to the order of

Introduction and Referral of Bills

Senators Kuipers, Johnson, Cropsey, Stamas, McManus, Bishop, Allen, Sikkema, Hammerstrom, Garcia, Cassis and Birkholz introduced

Senate Bill No. 393, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 501, 502, 503, 504, 504a, and 507 (MCL 380.501, 380.502, 380.503, 380.504, 380.504a, and 380.507), sections 501, 502, 503, 504a, and 507 as amended by 1995 PA 289 and section 504 as amended by 1994 PA 416, and by adding sections 503b and 1320.

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

Senators Sanborn, Cropsey, Patterson, Kuipers, Bishop, Garcia, Birkholz and Cassis introduced

Senate Bill No. 394, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 319 (MCL 257.319), as amended by 2002 PA 534.

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

Senators McManus, Cropsey, Garcia, George, Cassis, Patterson, Sanborn, Brown, Hardiman, Olshove, Jelinek, Basham, Bishop, Barcia, Van Woerkom, Stamas, Hammerstrom, Sikkema, Kuipers and Allen introduced

Senate Bill No. 395, entitled

A bill to define legal birth and the commencing of legal personhood and rights; and to provide immunity for certain acts.

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

Senator Switalski introduced

Senate Bill No. 396, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 613a (MCL 168.613a), as amended by 1999 PA 72.

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

Committee Reports

COMMITTEE ATTENDANCE REPORT

The Subcommittee on General Government submitted the following:

Meeting held on Tuesday, April 22, 2003, at 1:00 p.m., Rooms 402 and 403, Capitol Building

Present: Senator Garcia (C), McManus and Switalski

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Department of Transportation submitted the following:

Meeting held on Tuesday, April 22, 2003, at 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Johnson (C), Stamas and Barcia

COMMITTEE ATTENDANCE REPORT

The Committee on Commerce and Labor submitted the following:

Meeting held on Tuesday, April 22, 2003, at 3:00 p.m., Room 100, Farnum Building

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

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Judiciary and Corrections submitted the following:

Meeting held on Tuesday, April 22, 2003, at 3:00 p.m., Room 210, Farnum Building

Present: Senators Cropsey (C), Brown, Garcia, Switalski and Prusi

COMMITTEE ATTENDANCE REPORT

The Committee on Natural Resources and Environmental Affairs submitted the following:

Meeting held on Tuesday, April 22, 2003, at 3:00 p.m., Room 110, Farnum Building

Present: Senators Birkholz (C), Patterson, Van Woerkom and Brater

Excused: Senator Basham

Scheduled Meetings

Agriculture, Forestry and Tourism - Thursday, April 24, 8:30 a.m., Room 110, Farnum Building (373-1635)

Appropriations - Tuesday, April 29, Wednesday, April 30, and Thursday, May 1, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Subcommittees -

Agriculture - Thursday, April 24, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-5932)

Commerce, Labor and Economic Development - Thursday, April 24, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-2420)

Community Health Department - Thursday, April 24, 2:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower); and Tuesdays, May 6 and May 13, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-7946)

K-12, School Aid, Education - Thursday, May 1, 8:30 a.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower) (373-6960)

Business Competitiveness Joint Select Committee (SCR 3) - Monday, April 28, 2:00 p.m., Macomb Community College, John R. Dimitry Student Community Center, Room 137, 44575 Garfield Road, Clinton Township (373-7670)

Education - Thursday, April 24, 1:00 p.m., Room 210, Farnum Building (373-6920)

Families and Human Services - Thursday, April 24, 8:30 a.m., Room 210, Farnum Building (373-1801)

Finance - Wednesday, April 30, 12:00 noon, Room 110, Farnum Building (373-1758)

Judiciary - Tuesday, April 29, 11:00 a.m. or later immediately following session, Room 210, Farnum Building (373-3760)

Natural Resources and Environmental Affairs and Natural Resources Department Appropriations Subcommittee - Thursday, April 24, 11:30 a.m. or later immediately following session, Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower) (373-3447)

Natural Resources and Environmental Affairs, Natural Resources Department Appropriations Subcommittee, and Environmental Quality Department Appropriations Subcommittee - Thursday, May 8, 11:30 a.m. or later immediately following session, Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower) (373-3447)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 10:32 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Thursday, April 24, 2003, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate