

No. 75
STATE OF MICHIGAN
Journal of the Senate
92nd Legislature
REGULAR SESSION OF 2003

Senate Chamber, Lansing, Tuesday, September 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—present
George—present
Gilbert—present
Goschka—present
Hammerstrom—present
Hardiman—present
Jacobs—present
Jelinek—present
Johnson—present
Kuipers—present
Leland—present
McManus—present

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

Pastor Michael Cunningham of East Lake Baptist Church of Detroit offered the following invocation:

O God, our Father, we thank You for this day that brings us together in this place that has been set apart for the government of this great state. Bless the men and women who make up this august body as they deliberate the deep issues of our time, looking for positive resolutions that will produce positive outcomes.

We have been told in Your Word that You have called upon us to rule over others with justice and fairness in the fear and the light of God's will. Bless us this day in this place with the necessary discipline of intellectual creativity and spiritual sensitivity that will cause these Senators to produce legislation that will transform communities across the length and breadth of this great peninsula state, and thereby transform lives.

We pray that You would increase our coast, that You will cause our people to prosper and to be blessed. We entrust the outcome of this session to You, for we know that You are a God who doeth all things well.

We ask these things in Your mighty name and to Your glory. Amen.

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

Motions and Communications

Senator George entered the Senate Chamber.

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

Senator Schauer moved that Senators Bernero and Barcia be temporarily excused from today's session.
The motion prevailed.

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

Senators Gilbert, Sikkema, Bernero and Goschka entered the Senate Chamber.

The following communications were received:
Department of State

Administrative Rules Notices of Filing

September 3, 2003

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6 this is to advise you that the Office of Regulatory Reform, Legal Division filed at 2:13 p.m. this date, administrative rule (03-09-01) for the Department of Agriculture, Racing Commissioner, entitled "*Simulcast Purse Pool Distribution (General Rules)*," effective 7 days hereafter.

September 11, 2003

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6 this is to advise you that the Office of Regulatory Reform, Legal Division filed at 1:25 p.m. this date, administrative rule (03-09-02) for the Department of Consumer and Industry Services, Director's Office, entitled "*Barbers*," effective 7 days hereafter.

September 15, 2003

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6 this is to advise you that the Office of Regulatory Reform, Legal Division filed at 2:04 p.m. this date, administrative rule (03-09-03) for the Department of Consumer and Industry Services, Public Service Commission, entitled "*Electric Interconnection Standards*," effective 7 days hereafter.

September 16, 2003

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6 this is to advise you that the Office of Regulatory Reform, Legal Division filed at 10:20 a.m. this date, administrative rule (03-09-04) for the Department of State Police, Special Operations Division, entitled "*Tests for Breath Alcohol*," effective September 30, 2003.

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

The communications were referred to the Secretary for record.

The following communication was received:
Department of Consumer and Industry Services

September 16, 2003

Pursuant to Section 314 of P.A. 527 of 2002, we are enclosing a copy of the following report:

<u>Type of Report</u>	<u>Facility</u>	<u>License #</u>
Approval Study Report	Sequoyah Center	CS470201401

This report was performed in compliance with the requirements of P.A. 116 of 1973 as amended, and the Administrative Rules for Child Caring Institutions. The report may also be viewed on our website under "Inside CIS" at the following address: <http://www.michigan.gov/cis/>. If you have any questions regarding this information, please feel free to contact me at 373-3892.

Sincerely,
Allan R. Pohl
Acting Director
Finance and Administrative Services

The communication was referred to the Secretary for record.

The following communication was received:
Office of the Auditor General

September 17, 2003

Enclosed is a copy of the following audit report and/or report summary:
Financial Audit of the Michigan State Fair and Exposition Center, Department of Agriculture, October 1, 2001 through September 30, 2002.

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

The communication was referred to the Secretary for record.

The Secretary announced the enrollment printing and presentation to the Governor on Friday, September 19, for her approval the following bill:

Enrolled Senate Bill No. 365 at 2:07 p.m.

The Secretary announced that the following bills were available at the legislative Web site on Thursday, September 18:
Senate Bill Nos. 702 703 704 705

The Secretary announced that the following bills were available at the legislative Web site on Friday, September 19:
Senate Bill Nos. 706 707 708 709 710 711 712

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 Brown 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:

House Bill No. 4737, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 2529, 5756, 8371, and 8731 (MCL 600.2529, 600.5756, 600.8371, and 600.8731), sections 2529, 5756, and 8371 as amended by 2003 PA 138 and section 8731 as amended by 2003 PA 95.

Substitute (S-1).

The following are the amendments to the substitute recommended by the Committee of the Whole:

1. Amend page 1, line 4, by striking out "**writ**,".
2. Amend page 1, following line 5, by inserting:

"(2) **The probate register shall charge and collect a \$15.00 service fee for each writ of garnishment, attachment, or execution or for each judgment debtor discovery subpoena issued.**" and renumbering the remaining subsections.

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

By unanimous consent the Senate returned to the order of

Third Reading of Bills

Senator Hammerstrom moved that the rules be suspended and that the following bill, now on the order of Third Reading of Bills, be placed on its immediate passage:

House Bill No. 4737

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

The following bill was read a third time:

Senate Bill No. 701, entitled

A bill to amend 1999 PA 94, entitled "Michigan merit award scholarship act," by amending section 8 (MCL 390.1458), as amended by 2002 PA 736.

The question being on the passage of the bill,

Senator Van Woerkom offered the following amendment:

1. Amend page 4, line 1, after "before" by striking out the balance of the subsection and inserting "1 of the following dates, for disbursement in that academic year:

- (a) In the 2002-2003 academic year, January 15.
- (b) In the 2003-2004 academic year, September 15 if the student received notification of eligibility prior to August 1.
- (c) In the 2003-2004 academic year, November 15 if the student received notification of eligibility on or after August 1.
- (d) In any other academic year, September 15."

The amendment was adopted, a majority of the members serving voting therefor.

The question being on the passage of the bill,

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

Roll Call No. 427

Yeas—36

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

Nays—0

Excused—2

Barcia

Thomas

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Senator Barcia entered the Senate Chamber.

The following bill was read a third time:

House Bill No. 4737, entitled

A bill to amend 1961 PA 236, entitled “Revised judicature act of 1961,” by amending sections 880b, 2529, 2538, 4805, 5756, 8371, and 8731 (MCL 600.880b, 600.2529, 600.2538, 600.4805, 600.5756, 600.8371, and 600.8731), sections 880b, 2529, 2538, 5756, and 8371 as amended by 2003 PA 138 and section 8731 as amended by 2003 PA 95.

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. 428**Yeas—37**

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

Nays—0**Excused—1**

Thomas

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.

Resolutions

Senators Sikkema, Johnson, Garcia, Kuipers, Hammerstrom, Brown, Gilbert, Bishop, Van Woerkom, Toy, Cassis, Hardiman, Birkholz, Jelinek, Stamas, Cropsey, Allen, George, Sanborn, Goschka, McManus and Patterson offered the following concurrent resolution:

Senate Concurrent Resolution No. 33.

A concurrent resolution to disapprove Executive Reorganization Order 2003-14 pertaining to the creation of the Department of Labor and Economic Growth, the renaming of the Department of Consumer and Industry Services, the abolishment of the Department of Career Development, and the transfer of various powers, duties, functions, and responsibilities between the Department of Consumer and Industry Services and the Department of Community Health, the Department of Environmental Quality, the Department of Management and Budget, the Department of State Police, the Department of Transportation, the Department of Treasury, and the Family Independence Agency.

Whereas, On September 17, 2003, the Governor issued Executive Order 2003-14, which creates of the Department of Labor and Economic Growth, renames the Department of Consumer and Industry Services, abolishes the Department of Career Development, and transfers various powers, duties, functions, and responsibilities between the Department of Consumer and Industry Services and the Department of Community Health, the Department of Environmental Quality, the Department of Management and Budget, the Department of State Police, the Department of Transportation, the Department of Treasury, and the Family Independence Agency.

Whereas, Pursuant to Article V, Section 2 of the Constitution of the State of Michigan of 1963, the Legislature has 60 days to disapprove executive orders by a resolution concurred in by a majority of the members elected to and serving in each house; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That, pursuant to Article V, Section 2 of the Constitution of the State of Michigan of 1963, we hereby disapprove the Governor's Executive Reorganization Order 2003-14, pertaining to the creation of the Department of Labor and Economic Growth, the renaming of the Department of Consumer and Industry Services, the abolishment of the Department of Career Development, and the transfer of various powers, duties, functions, and responsibilities between the Department of Consumer and Industry Services and the Department of Community Health, the Department of Environmental Quality, the Department of Management and Budget, the Department of State Police, the Department of Transportation, the Department of Treasury, and the Family Independence Agency; and be it further

Resolved, That a copy of this resolution be transmitted to the Office of the Governor of the state of Michigan.

Pursuant to rule 3.204, the concurrent resolution was referred to the Committee on Government Operations.

Introduction and Referral of Bills

Senator Jacobs introduced

Senate Bill No. 713, entitled

A bill to amend 1979 PA 94, entitled “The state school aid act of 1979,” by amending section 20 (MCL 388.1620), as amended by 2003 PA 158.

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

Senator Barcia introduced

Senate Bill No. 714, entitled

A bill to amend 1956 PA 218, entitled “The insurance code of 1956,” (MCL 500.100 to 500.8302) by adding section 3136.

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

Senators Gilbert, Patterson and Birkholz introduced

Senate Bill No. 715, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11533 and 11538 (MCL 324.11533 and 324.11538).

The bill was read a first and second time by title and referred to the Committee on Natural Resources and Environmental Affairs.

Senator Switalski introduced

Senate Bill No. 716, entitled

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending section 61 (MCL 169.261), as amended by 1993 PA 262; and to repeal acts and parts of acts.

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

Senators Switalski, Jacobs and Sanborn introduced

Senate Bill No. 717, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 4g (MCL 205.54g), as amended by 2000 PA 417.

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

Senators Cassis, Switalski, Kuipers, Cropsey, Toy, Allen, Garcia, Birkholz, Bishop and Barcia introduced

Senate Bill No. 718, entitled

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending section 15 (MCL 125.2665), as amended by 2002 PA 727.

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

Senators Jelinek, Kuipers, Birkholz, Switalski, Jacobs, Garcia, Patterson and Johnson introduced

Senate Bill No. 719, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 963 (MCL 168.963), as amended by 1999 PA 220.

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

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

Senate Bill No. 720, entitled

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

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

Senators Brater, Patterson, Basham, Schauer, Scott and Emerson introduced

Senate Bill No. 721, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 11532a, 11532b, and 11532c.

The bill was read a first and second time by title and referred to the Committee on Natural Resources and Environmental Affairs.

Senators Brater, Thomas, Birkholz, Basham, Scott, Olshove, Switalski, Cherry, Prusi and Schauer introduced

Senate Bill No. 722, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 14501 (MCL 324.14501), as amended by 1998 PA 289, and by adding section 14514.

The bill was read a first and second time by title and referred to the Committee on Natural Resources and Environmental Affairs.

Senators Basham, Thomas, Birkholz, Brater, Scott, Olshove, Switalski, Cherry, Prusi and Schauer introduced
Senate Bill No. 723, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 14513 (MCL 324.14513), as added by 1998 PA 289.

The bill was read a first and second time by title and referred to the Committee on Natural Resources and Environmental Affairs.

Senators George, Gilbert, Toy, Birkholz, Allen, Garcia, Cropsey, McManus, Van Woerkom, Jelinek, Johnson, Kuipers, Sikkema, Hammerstrom, Jacobs, Schauer and Cherry introduced

Senate Bill No. 724, entitled

A bill to amend 1953 PA 181, entitled "An act relative to investigations in certain instances of the causes of death within this state due to violence, negligence or other act or omission of a criminal nature or to protect public health; to provide for the taking of statements from injured persons under certain circumstances; to abolish the office of coroner and to create the office of county medical examiner in certain counties; to prescribe the powers and duties of county medical examiners; to prescribe penalties for violations of the provisions of this act; and to prescribe a referendum thereon," by amending section 2 (MCL 52.202), as amended by 2001 PA 26.

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

Committee Reports

COMMITTEE ATTENDANCE REPORT

The Committee on Education submitted the following:

Meeting held on Wednesday, September 17, 2003, at 3:00 p.m., Room 100, Farnum Building

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

Excused: Senator Leland

COMMITTEE ATTENDANCE REPORT

The Committee on Technology and Energy submitted the following:

Meeting held on Wednesday, September 17, 2003, at 3:00 p.m., Room 210, Farnum Building

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

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Department of Natural Resources submitted the following:

Meeting held on Thursday, September 18, 2003, at 8:32 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators McManus (C) and Jelinek

Excused: Senators Johnson, Barcia and Cherry

Scheduled Meetings

Administrative Rules - Thursday, September 25, 1:00 p.m., Room 424, Capitol Building (373-2417) (CANCELED)

Agriculture, Forestry and Tourism and House Agriculture and Resource Management Subcommittee on Forestry and Mineral Rights - Thursday, September 25, 6:00 p.m., Grayling City Hall, 1020 City Boulevard, Grayling (373-1635)

Appropriations -

Subcommittees -

Community Health Department and Health Policy - Wednesday, September 24, 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower) (373-3543)

Natural Resources Department - Thursday, September 25, 8:30 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

Conference Committee -

Public School Academies (SB 393) - Wednesday, September 24, 9:00 a.m., Room 210, Farnum Building (373-6920)

Education - Thursday, September 25, 2:00 p.m., Room 210, Farnum Building (373-6920)

Families and Human Services - Thursday, October 2, 8:30 a.m., Room 210, Farnum Building (373-1801)

Finance - Wednesday, September 24, 1:00 p.m., Room 110, Farnum Building (373-1758)

Gaming and Casino Oversight - Wednesday, September 24, 1:00 p.m., Room 210, Farnum Building (373-2413)

Health Policy and Department of Community Health Appropriations Subcommittee - Wednesday, September 24, 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower) (373-3543)

Legislative Retirement Board of Trustees - Wednesday, September 24, 3:00 p.m., Room H-252, 2nd Floor, Capitol Building (373-0575)

Local, Urban and State Affairs - Thursday, September 25, 1:00 p.m., Room 110, Farnum Building (373-1707)

Senior Citizens and Veterans Affairs - Wednesday, September 24, 1:00 p.m., Room 100, Farnum Building (373-1707)

Technology and Energy - Wednesday, September 24, 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, September 24, 2003, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

