

No. 94
STATE OF MICHIGAN
Journal of the Senate
92nd Legislature
REGULAR SESSION OF 2003

Senate Chamber, Lansing, Wednesday, November 5, 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

Senator Irma Clark-Coleman of the 3rd District offered the following invocation:

“Lord, make me an instrument of thy peace.
 Where there is hatred, let me sow love.
 Where there is resentment, let me bring forgiveness.
 Where there is discord, let me bring harmony.
 Where there is error, let me bring truth.
 Where there is doubt, let me bring faith.
 Where there is despair, let me bring hope.
 Where there is darkness, let me bring joy.
 Guide me that I may not so much seek to be consoled as to console,
 To be understood as to understand, to be loved as to love.
 For it is in giving that we receive, in forgetting ourselves that we find ourselves,
 In forgiving that we are forgiven.
 And it is in dying that we are born to eternal life.”

—St. Francis of Assisi

And I pray and I thank God that You will let us make the right decisions for the right purposes. I thank You, God. Amen.

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

Motions and Communications

Senators Johnson and Goschka entered the Senate Chamber.

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

Senator Schauer moved that Senator Leland 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.

The following communication was received:
 Department of State

Administrative Rules Notice of Filing

October 27, 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 11:00 a.m. this date, administrative rule (03-10-05) for the Department of Corrections, entitled “*Community Status; Eligibility Criteria*,” effective 7 days after filing with the Secretary of State.

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

The communication was referred to the Secretary for record.

The Secretary announced that the following House bill was received in the Senate and filed on Tuesday, November 4:
House Bill No. 5029

The Secretary announced that the following bills were available at the legislative Web site on Tuesday, November 4:
Senate Bill Nos. 820 821 822 823 824

Messages from the Governor

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

Senate Bill No. 195
Senate Bill No. 364
Senate Bill No. 293
Senate Bill No. 265
Senate Bill No. 288
Senate Bill No. 540
Senate Bill No. 283
Senate Bill No. 464
Senate Bill No. 466
Senate Bill No. 395

The motion prevailed.

The following message from the Governor was received and read:

October 30, 2003

Pursuant to Article IV of the Interstate Compact for Adult Offender Supervision, MCL 3.1012, and Executive Order 2002-16, it is my responsibility to appoint a State Compact Administrator in consultation with the legislature and the judiciary.

Accordingly, please be advised that I will be appointing Mr. Dennis S. Schrantz as a member of the State Council for Interstate Adult Offender Supervision and to serve as the State Compact Administrator. Mr. Schrantz will be replacing Mr. Robert C. Steinman, who has retired. Mr. Schrantz's term will expire on October 17, 2006.

Sincerely,
Jennifer M. Granholm
Governor

The message was referred to the Secretary for record.

Senator Leland entered the Senate Chamber.

Messages from the House

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

Senate Bill No. 493
Senate Bill No. 494
Senate Bill No. 495
Senate Bill No. 496
Senate Bill No. 352

The motion prevailed.

Third Reading of Bills

Senator Hammerstrom moved that the following bills be placed at the head of the Third Reading of Bills calendar:

House Bill No. 4753
Senate Bill No. 744

The motion prevailed.

The following bill was read a third time:

House Bill No. 4753, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 57b (MCL 257.57b).

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. 524**Yeas—36**

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

Nays—0**Excused—2**

Garcia 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 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.

Senator Garcia entered the Senate Chamber.

The following bill was read a third time:

Senate Bill No. 744, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending section 2505 (MCL 324.2505), as added by 1995 PA 60, and by adding section 2505a.

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. 525**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
Cassis	Hammerstrom	Patterson	Van Woerkom
Cherry			

Nays—0

Excused—1

Thomas

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

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 Hardiman 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 without amendment, the following bills:

House Bill No. 4660, entitled

A bill to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," (MCL 460.1 to 460.10cc) by adding section 9c.

House Bill No. 4283, entitled

A bill to amend 1991 PA 179, entitled "Michigan telecommunications act," (MCL 484.2101 to 484.2701) by adding section 314a.

House Bill No. 5054, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," by amending section 1117 (MCL 339.1117), as amended by 1984 PA 25.

House Bill No. 4950, entitled

A bill to amend 1947 PA 359, entitled "The charter township act," (MCL 42.1 to 42.34) by adding section 10a.

House Bill No. 4695, entitled

A bill to amend 1851 PA 156, entitled "An act to define the powers and duties of the county boards of commissioners of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the violation of the provisions of this act," by amending section 12a (MCL 46.12a), as amended by 2002 PA 730.

House Bill No. 4698, entitled

A bill to amend 1978 PA 322, entitled "An act to authorize financial institutions to make electronic funds transfer terminals available to their customers; to protect the privacy and security of customers; to prohibit unfair discrimination among financial institutions and monopolistic practices in the use and availability of electronic funds transfer terminals; to prescribe remedies; and to prescribe penalties," by amending sections 2 and 3 (MCL 488.2 and 488.3).

House Bill No. 4699, entitled

A bill to amend 1950 (Ex Sess) PA 27, entitled "Motor vehicle sales finance act," by amending section 36 (MCL 492.136).

House Bill No. 4613, entitled

A bill to amend 2001 PA 181, entitled "An act to authorize the board of a school district to award high school diplomas to World War II veterans under certain circumstances; and to prescribe duties and responsibilities of certain state officers and officials," by amending the title and section 1 (MCL 35.341).

The bills were 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:

House Bill No. 4263, entitled

A bill to amend 1961 PA 120, entitled "An act to authorize the development or redevelopment of principal shopping districts and business improvement districts; to permit the creation of certain boards; to provide for the operation of principal shopping districts and business improvement districts; to provide for the creation, operation, and dissolution of business improvement zones; and to authorize the collection of revenue and the bonding of certain cities for the development or redevelopment projects," by amending the title and sections 1, 2, 4, 5, and 6 (MCL 125.981, 125.982, 125.984, 125.985, and 125.986), the title as amended by 2001 PA 260, sections 1, 2, and 5 as amended by 2001 PA 261, section 4 as amended by 1999 PA 49, and section 6 as amended by 1992 PA 146.

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.

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

Senate Bill No. 700, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 89a (MCL 211.89a), as amended by 1994 PA 189, and by adding section 89b.

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.

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

House Bill No. 4518, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 20919 (MCL 333.20919), as amended by 2000 PA 375.

The following is the amendment recommended by the Committee of the Whole:

1. Amend page 3, line 27, after "(c)" by striking out "Not later than" and inserting "**Within**".

The Senate agreed to the amendment recommended by the Committee of the Whole, and the bill as amended 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:
House Bill No. 4938, entitled

A bill to provide for the qualification, appointment, and regulation of notaries; to provide for the levy, assessment, and collection of certain service charges and fees and to provide for their disposition; to create certain funds for certain purposes; to provide for liability for certain persons; to provide for the admissibility of certain evidence; to prescribe powers and duties of certain state agencies and local officers; to provide for remedies and penalties; and to repeal acts and parts of acts.

Substitute (S-1).

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

1. Amend page 29, line 24, after “act.” by striking out the balance of the section.
2. Amend page 30, line 19, after “effect” by striking out “January 1, 2004” and inserting “April 1, 2004”.

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.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
House Bill No. 5156, entitled

A bill to amend 1909 PA 279, entitled “The home rule city act,” (MCL 117.1 to 117.38) by adding section 36a.

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

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

Senate Resolution No. 141

Senate Resolution No. 175

The motion prevailed.

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

Senate Resolution No. 193

The resolution consent calendar was adopted.

Senators Allen, Prusi, Goschka, Birkholz, Olshove, Cherry, George, Brown, Bishop, Van Woerkom, Stamas and McManus offered the following resolution:

Senate Resolution No. 193.

A resolution recognizing the Drummond Island Sesquicentennial Celebration.

Whereas, Drummond Island is home to over one thousand year-round residents; and

Whereas, These citizens will look back with pride upon the history of their community which stands today as it has for 150 years, strengthened by family unity, old-fashioned American values, and hope for the future; and

Whereas, Drummond Island is known as the Gem of the Huron and is located approximately one mile from the easternmost point of Michigan’s Upper Peninsula; and

Whereas, Year-round activities await visitors and residents of Drummond Island—from fishing for bass, pike, walleye, or cisco; hunting ducks, rabbits, partridge, or that big buck; nature hikes, mushroom hunts, and freighter watching; to cross-country skiing, snowmobiling-groomed trails, or competitive racing and competitive golf—the island has many great things to offer; and

Whereas, The natural beauty of Drummond Island abounds around every turn, highlighted as a photographer’s and bird watcher’s paradise with the many species of wildflowers and butterflies, over 200 varieties of songbirds, eagles, hawks, and the beautiful loon, along with the red fox, black bear, and amazing sunsets, and most notably, a recreational treat at the Maxton Plains, which has been identified as the world’s largest alvar region; and

Whereas, Drummond Island’s 133 square miles of forested landscape holds the distinction of being one of the largest freshwater islands in the United States; and

Whereas, Fort Drummond, which the British occupied from 1815 through 1828, was the last British-held possession in the United States; and

Whereas, The quiet, welcoming appeal of this enjoyable island has remained unchanged, and the citizens of Drummond Island can count themselves especially fortunate, for its future is filled with as much promise as its rich history; and

Whereas, The Sesquicentennial Planning Committee has organized a year-long calendar of events to commemorate the 150th birthday of Drummond Island; now, therefore, be it

Resolved by the Senate, That it is a privilege to join with the past and present residents of Drummond Island upon the occasion of honoring its Sesquicentennial Celebration; and be it further

Resolved, That copies of this resolution be transmitted to Drummond Island Township, the Drummond Island Historical Museum, the Drummond Island Tourism Association, and the organizers of the celebration as a token of our esteem.

Senators Clarke, Jacobs, Sanborn, Schauer, Scott, Switalski and Thomas were named co-sponsors of the resolution.

Senate Resolution No. 140.

A resolution to encourage research in Michigan on the thermal depolymerization process.

The question being on the adoption of the resolution,

The resolution was adopted.

Senate Concurrent Resolution No. 36.

A concurrent resolution to create a family resource center curriculum joint study committee to make recommendations on adult education and related family services in Michigan.

(For text of resolution, see Senate Journal No. 83, p. 1819.)

The House of Representatives has adopted the concurrent resolution and named Reps. Brandenburg, Ehardt, Meyer, Vander Veen, Clack, DeRossett, Farhat, Hager, Koetje, Kooiman, Murphy, Pastor, Richardville, Rocca, Shaffer, Stakoe, Stallworth, Stewart, Tabor, Voorhees, Bieda and Phillips as co-sponsors of the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

Introduction and Referral of Bills

Senators Sanborn and Cropsey introduced

Senate Bill No. 828, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," (MCL 760.1 to 777.69) by adding section 2b to chapter XI.

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

Senator Sanborn introduced

Senate Bill No. 829, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 517 (MCL 600.517), as amended by 2002 PA 715.

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

Senators Sanborn, Jelinek, Patterson, Cropsey, Bernero, Schauer, Garcia, Hardiman, Switalski, Olshove, Brown, Goschka, Allen and Cassis introduced

Senate Bill No. 830, entitled

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 18a of chapter XIIA (MCL 712A.18a), as amended by 1998 PA 478.

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

Senator George introduced

Senate Bill No. 831, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding part 97.

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

Senators Hammerstrom and George introduced

Senate Bill No. 832, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," (MCL 400.1 to 400.119b) by adding section 109h.

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

House Bill No. 5029, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 40103 (MCL 324.40103), as amended by 2000 PA 191, and by adding section 40110a.

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 Appropriations.

By unanimous consent the Senate returned 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 Sanborn 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. 787, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1280 (MCL 380.1280), as amended by 1997 PA 180.

Substitute (S-5).

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.

Statements

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

The motion prevailed.

Senator Birkholz's statement is as follows:

I stand before you this morning as the State Senator from the 24th District, and I stand to congratulate and strongly say thank you. We are so proud of you, Brent Morton, who is a staffer here at the Journal Clerk's desk, as you know. He passed his bar exam yesterday. Will you join me in offering our congratulations, please.

Scheduled Meetings

Agriculture, Forestry and Tourism - Thursday, November 6, 9:00 a.m., Room 110, Farnum Building (373-1635)

Appropriations -**Subcommittee -**

Natural Resources Department - Thursday, November 6, 12:00 noon, Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725) (CANCELED)

Commerce and Labor - Thursday, November 6, 1:00 p.m., Room 110, Farnum Building (373-2413)

Education - Thursday, November 6, 2:00 p.m., Room 210, Farnum Building (373-6920)

Family Resource Center Curriculum Joint Study Committee (SCR 36) - Wednesday, November 12, 4:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

Judiciary - Wednesday, November 12, 3:00 p.m., Room 110, Farnum Building (373-3760)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 10:50 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Thursday, November 6, 2003, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate