

**No. 96**  
**STATE OF MICHIGAN**  
**Journal of the Senate**  
**92nd Legislature**  
**REGULAR SESSION OF 2003**

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Senate Chamber, Lansing, Wednesday, November 12, 2003.

10:00 a.m.

The Senate was called to order by the Assistant President pro tempore, Senator Alan Sanborn.

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—present  
Toy—present  
Van Woerkom—present

Senator Gerald Van Woerkom of the 34th District offered the following invocation:

Our Father in Heaven, we come to You this morning and offer You honor and praise. We pray that what we do here may offer You honor and praise as well.

We pray that You will give us wisdom, and give us direction as we set about to do the work of the people of the state of Michigan. Lord, yesterday we were reminded of the proud work that our veterans have done on behalf of all of us in ensuring our safety, our well-being, and our freedom here. We pray that You will continue to bless veterans. We thank You particularly for our active military personnel, and we pray that You will keep them safe, especially being near those who are in the face of danger today. We pray that You will guide and protect them.

Lord, we pray all these things in Your holy name. Amen.

The Assistant President pro tempore, Senator Sanborn, led the members of the Senate in recital of the *Pledge of Allegiance*.

### Motions and Communications

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

### Recess

Senator Hammerstrom moved that the Senate recess subject to the call of the Chair. The motion prevailed, the time being 10:04 a.m.

10:10 a.m.

The Senate was called to order by the Assistant President pro tempore, Senator Sanborn.

During the recess, Senators Birkholz, Bishop, Brown, Cassis, Clarke, Garcia, George, Goschka, Hardiman, Jelinek, Johnson, Kuipers, McManus, Patterson, Sikkema and Toy entered the Senate Chamber.

Senator Hammerstrom moved that the Committee on Government Operations be discharged from further consideration of the following appointment:

#### **Michigan Tax Tribunal**

Ms. Patricia L. Halm of 1749 Maisonette, Lansing, Michigan 48911, county of Ingham, representing the general public, succeeding Robert L. Brackenbury, whose term has expired, for a term commencing September 26, 2003 and expiring June 30, 2007.

The motion prevailed, a majority of the members serving voting therefor, and the appointment was placed on the order of Messages from the Governor.

The following communication was received and read:  
Government Operations Committee

November 6, 2003

Pursuant to Senate Rule 2.104(c), I am requesting that the Senate Appropriations Committee hold a hearing on the appointment of Curtis Hertel, Sr., Janet Mansfield, and Carol Oakley to the Michigan State Waterways Commission, and make a written recommendation to the Government Operations Committee on these appointments.

Sincerely,

Senator Ken Sikkema

Chairman, Senate Government Operations Committee

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, November 6:

**House Bill Nos. 4587 5089 5107 5173 5188 5199**

The Secretary announced that the following bills were available at the legislative Web site on Thursday, November 6:

**Senate Bill Nos. 828 829 830 831 832 833 834 835 836**

**House Bill Nos. 5251 5252 5253 5254 5255 5256 5257 5258 5259 5260 5261 5262 5263 5264 5265**

### 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.

### Michigan Tax Tribunal

Ms. Patricia L. Halm of 1749 Maisonette, Lansing, Michigan 48911, county of Ingham, representing the general public, succeeding Robert L. Brackenbury, whose term has expired, for a term commencing September 26, 2003 and expiring June 30, 2007.

Senator Hammerstrom moved that the Senate advise and consent to the appointment.

The question being on advising and consenting to the said appointment to office,

The Senate advised and consented to the said appointment to office, a majority of the members serving voting therefor, as follows:

### Roll Call No. 542

### Yeas—37

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

### Nays—0

### Excused—1

**Not Voting—0**

In The Chair: Sanborn

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

The motion prevailed.

Senator Bernero's statement is as follows:

I just want to stand up and say a couple of words on behalf of Patti Halm. I am sure many of you remember Patti. I worked with Patti when I worked for Senator Berryman, right here on the floor. Patti was, I think, one of the finest staff members we had. She was always prepared and always had the answer. If she didn't have the answer, she would find it posthaste—just an outstanding individual. I think she will do an outstanding job on the Tax Tribunal, so I am happy to add my words of support, and hope that my colleagues will confirm this.

Senator Cassis' statement is as follows:

It is my privilege and pleasure to share with my colleagues in the Senate that last week Patricia Halm, former Democratic policy advisor to the Senate Finance Committee, was unanimously approved for this appointment. Based on her background and experience, Patricia is well-qualified to assume the duties and challenges that go hand in hand with the Michigan Tax Tribunal.

I urge her approval this morning.

The following messages from the Governor were received and read:

November 7, 2003

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointments to state office under Section 721 of the Occupational Code, 1980 PA 299, MCL 339.721:

**State Board of Accountancy**

Ms. Sally Fedus of 39520 Ann Arbor Trail, Plymouth, Michigan 48170, county of Wayne, succeeding Dr. Samuel P. Graci, whose term has expired, representing the general public, for a term commencing November 7, 2003 and expiring June 30, 2007.

Mr. Robert S. Sher of 3208 Bloomfield Shore Drive, West Bloomfield, Michigan 48323, county of Oakland, succeeding Richard F. Fabiano, whose term has expired, representing Certified Public Accountants, for a term commencing November 7, 2003 and expiring June 30, 2007.

November 7, 2003

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointments to state office under Section 26 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.26:

**Michigan Aeronautics Commission**

Mr. Terry J. Everman of 1465 Coutant Street, Flushing, Michigan 48433, county of Genesee, succeeding Frederick Rakunas, whose term has expired, for a term commencing November 7, 2003 and expiring May 27, 2007.

Mr. Eric V. Smith of 17433 Rollingwoods Circle, Northville Township, Michigan 48167, county of Wayne, succeeding the late Alice Gustafson, for a term commencing November 7, 2003 and expiring May 27, 2007.

November 7, 2003

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointments to state office under Section 1 of 1964 PA 233, MCL 390.941:

**State Higher Education Facilities Commission**

Mr. Herbert S. Kehrl of 2539 Deborah Drive, Monroe, Michigan 48162, county of Monroe, succeeding Matt Milosch, who has resigned, representing residents of the state, for a term commencing November 7, 2003 and expiring May 22, 2007.

Mr. James W. Woolfolk of 3323 Corvair Lane, Saginaw, Michigan 48602, county of Saginaw, succeeding Dr. Marylee Davis, whose term has expired, representing residents of the state, for a term commencing November 7, 2003 and expiring May 22, 2007.

November 7, 2003

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointment to state office under Section 17221 of the Public Health Code, 1978 PA 368, MCL 333.17221:

**Michigan Board of Nursing**

Ms. Nina A. Bugbee, R.N., of 7177 Johnson Road, Flushing, Michigan 48433, county of Genesee, succeeding Theresa Niemi, R.N., who has resigned, representing registered professional nurses with a baccalaureate degree engaged in nursing practice or nursing administration, for a term commencing November 7, 2003 and expiring June 30, 2005.

Ms. Margherita P. Clark, R.N., M.S.N., of 3637 South Francis Road, St. Johns, Michigan 48879, county of Clinton, succeeding Susan Meeker, R.N., M.S.N., whose term has expired, representing registered professional nurses with a master's degree from an accredited college with a major in nursing engaged in nursing education in less than a baccalaureate program, for a term commencing November 7, 2003 and expiring June 30, 2007.

Ms. Liza M. Gamel-Marrell, R.N., of 109 Park Meadows Drive, Lansing, Michigan 48917, county of Ingham, succeeding Sandy Place, R.N., whose term has expired, representing registered professional nurses without a baccalaureate degree engaged in professional nursing practice or nursing administration, for a term commencing November 7, 2003 and expiring June 30, 2007.

Ms. Deborah L. Heath, R.N., of 6752 Shepard Road, Adrian, Michigan 49221, county of Lenawee, succeeding Gail E. Urness, R.N., whose term has expired, representing registered professional nurses without a baccalaureate degree engaged in nursing practice or nursing administration, for a term commencing November 7, 2003 and expiring June 30, 2007.

Ms. Amy M. Perry, R.N., M.S.N., of 2923 Atterberry Drive, Ann Arbor, Michigan 48103, county of Washtenaw, succeeding Patricia Underwood, R.N., M.S.N., Ph.D., whose term has expired, representing registered professional nurses with a master's degree engaged in nursing education in a baccalaureate or higher program, for a term commencing November 7, 2003 and expiring June 30, 2007.

Ms. Linda S. Taft, R.N., of 23675 Aviva Drive, Clinton Township, Michigan 48035, county of Macomb, succeeding Cynthia Phillips, R.N., whose term has expired, representing professional registered nurses without a baccalaureate degree engaged in nursing practice or nursing administration, for a term commencing November 7, 2003 and expiring June 30, 2007.

Ms. Esther Lee Wyatt of 18094 St. Marys, Detroit, Michigan 48235, county of Wayne, succeeding Dee White, whose term has expired, representing the general public, for a term commencing November 7, 2003 and expiring June 30, 2007.

Sincerely,  
Jennifer M. Granholm  
Governor

The appointments were referred to the Committee on Government Operations.

**Messages from the House**

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

**Senate Bill No. 352**

The motion prevailed.

By unanimous consent the Senate proceeded to the order of

**Introduction and Referral of Bills**

Senators Bishop, Johnson, Cassis, Kuipers and Allen introduced

**Senate Bill No. 837, entitled**

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 614 (MCL 380.614), as amended by 2002 PA 157.

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

Senators Garcia, Basham, Prusi, Brater, Barcia, Goschka, Emerson, Cropsey, Scott, Hammerstrom, Thomas and Jelinek introduced

**Senate Bill No. 838, entitled**

A bill to amend 1969 PA 317, entitled "Worker's disability compensation act of 1969," by amending section 405 (MCL 418.405), as amended by 1980 PA 457.

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

Senator Jelinek introduced

**Senate Bill No. 839, entitled**

A bill to authorize the state administrative board to convey certain state owned property in Berrien county; to prescribe conditions for the conveyance; to prescribe certain powers and duties of state departments and agencies regarding the conveyance; and to provide for disposition of the revenue from the conveyance.

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

Senators Stamas, Kuipers, Johnson, Hardiman, Jelinek, McManus, Goschka, Allen, Toy, Birkholz, Van Woerkom, Brown, Patterson, Garcia, Gilbert, Bishop, Sanborn, Hammerstrom and Sikkema introduced

**Senate Bill No. 840, entitled**

A bill to create certain offices in certain departments; to provide for the appointment of certain officers with the advice and consent of the senate; and to impose certain duties and responsibilities on those officers and on certain state employees.

The bill was read a first and second time by title and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

Senators Kuipers, Johnson, Hardiman, Jelinek, McManus, Goschka, Allen, Toy, Birkholz, Van Woerkom, Brown, Patterson, Garcia, Gilbert, Bishop, Sanborn, Hammerstrom and Sikkema introduced

**Senate Bill No. 841, entitled**

A bill to create certain offices in certain departments; to provide for the appointment of certain officers with the advice and consent of the senate; and to impose certain duties and responsibilities on those officers and on certain state employees.

The bill was read a first and second time by title and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

**House Bill No. 4587, entitled**

A bill to amend 1975 PA 238, entitled "Child protection law," by amending section 7d (MCL 722.627d), as added by 1998 PA 428.

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 Families and Human Services.

**House Bill No. 5089, entitled**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 320a, 601b, and 627 (MCL 257.320a, 257.601b, and 257.627), section 320a as amended by 2003 PA 61, section 601b as amended by 2001 PA 103, and section 627 as amended by 1990 PA 165, and by adding sections 79d and 616a.

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 Transportation.

**House Bill No. 5107, 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 section 1c (MCL 247.651c), as amended by 1982 PA 438.

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 Transportation.

**House Bill No. 5173, entitled**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 601b (MCL 257.601b), as amended by 2001 PA 103.

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 Judiciary.

**House Bill No. 5188, 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," by amending section 10a (MCL 460.10a), as added by 2000 PA 141.

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.

Senator Hammerstrom moved that rule 3.203 be suspended and that the bill be referred to the Committee of the Whole and placed on the order of General Orders.

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

**House Bill No. 5199, entitled**

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending sections 9 and 9a of chapter X (MCL 770.9 and 770.9a), section 9a as amended by 2002 PA 483, and by adding section 9b to chapter X.

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 Judiciary.

Senator Brater entered the Senate Chamber.

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 Assistant President pro tempore, Senator Sanborn, designated Senator Patterson as Chairperson.

After some time spent therein, the Committee arose; and, the Assistant President pro tempore, Senator Sanborn, having resumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bills:

**House Bill No. 4011, entitled**

A bill to repeal 1927 LA 9, entitled "An act to prohibit hunting on Sunday in the county of Washtenaw and to prescribe penalties for the violation thereof."

**House Bill No. 4666, entitled**

A bill to amend 1921 PA 207, entitled "City and village zoning act," by amending section 4b (MCL 125.584b).

**House Bill No. 4667, entitled**

A bill to amend 1943 PA 184, entitled "Township zoning act," by amending section 16c (MCL 125.286c).

**House Bill No. 4668, entitled**

A bill to amend 1943 PA 183, entitled "County zoning act," by amending section 16c (MCL 125.216c).

**House Bill No. 5027, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 82101, 82106, 82107, and 82109 (MCL 324.82101, 324.82106, 324.82107, and 324.82109), section 82101 as amended by 2003 PA 43, section 82106 as amended by 1998 PA 297, and sections 82107 and 82109 as added by 1995 PA 58.

**House Bill No. 5188, 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," by amending section 10a (MCL 460.10a), as added by 2000 PA 141.

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:

**Senate Bill No. 785, entitled**

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 217d, 801, 811d, 811e, 811f, 811g, 811h, 811i, 811j, 811k, 811l, and 811n (MCL 257.217d, 257.801, 257.811d, 257.811e, 257.811f, 257.811g, 257.811h, 257.811i, 257.811j, 257.811k, 257.811l, and 257.811n), sections 217d, 801, and 811h as amended by 2003 PA 152, sections 811d, 811f, and 811g as added by 2000 PA 77, section 811e as amended by 2001 PA 124, section 811i as added by 2000 PA 74, section 811j as added by 2000 PA 71, section 811k as added by 2000 PA 73, section 811l as added by 2000 PA 70, and section 811n as added by 2000 PA 79, and by adding sections 811m, 811o, and 811p; and to repeal acts and parts of acts.

Substitute (S-2).

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

1. Amend page 22, line 14, after "a" by striking out "fund or designate an existing" and inserting "**nonprofit fund or designates an existing nonprofit**".

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**

The following bill was read a third time:

**House Bill No. 4599, entitled**

A bill to repeal local acts restricting hunting on Sundays in the counties of Tuscola, Lenawee, Hillsdale, and St. Clair.

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. 543****Yeas—33**

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

**Nays—5**

Brater	Jacobs	Leland	Scott
Clark-Coleman			

**Excused—0****Not Voting—0**

In The Chair: Sanborn

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. The Senate agreed to the title of the bill.

The following bill was read a third time:

**Senate Bill No. 637, entitled**

A bill to amend 1998 PA 58, entitled “Michigan liquor control code of 1998,” by amending section 703 (MCL 436.1703), as amended by 1999 PA 53.

The question being on the passage of the bill,

Senator Brater offered the following amendments:

1. Amend page 2, line 9, after “PA 8,” by striking out the balance of the line through “**adjudication,**” on line 10.
2. Amend page 2, line 11, after “\$200.00,” by striking out “**or both,**”.
3. Amend page 2, line 21, by striking out “**by imprisonment for not more than 60 days but only if the minor has been found by the court to have violated an order of probation for that conviction or juvenile adjudication,**”.
4. Amend page 2, line 22, after “\$500.00,” by striking out “**or both,**”.

The amendments were not adopted, a majority of the members serving not voting therefor.

Senator Schauer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendments were not adopted, a majority of the members serving not voting therefor, as follows:

**Roll Call No. 544****Yeas—13**

Bernero	Clarke	Leland	Scott
Brater	Emerson	Olshove	Switalski
Cherry	Jacobs	Prusi	Thomas
Clark-Coleman			

**Nays—23**

Allen	Cassis	Hammerstrom	Sanborn
Barcia	Cropsey	Hardiman	Sikkema
Basham	Garcia	Jelinek	Stamas
Birkholz	George	Kuipers	Toy
Bishop	Gilbert	McManus	Van Woerkom
Brown	Goschka	Patterson	

**Excused—0****Not Voting—2**

Johnson	Schauer
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In The Chair: Sanborn

Senator Switalski offered the following amendments:

1. Amend page 1, line 3, after “liquor,” by inserting “or”.
2. Amend page 1, line 4, after “liquor,” by striking out “**or have any bodily alcohol content,**”.
3. Amend page 5, line 7, after “liquor” by striking out “**or has any bodily alcohol content**”.
4. Amend page 5, line 14, after “liquor” by striking out the balance of the line through “**content**” on line 15.
5. Amend page 5, line 22, after “**liquor,**” by inserting “or”.
6. Amend page 5, line 23, after “liquor,” by striking out the balance of the line.
7. Amend page 7, line 20, by striking out subsection **(14)**.

The amendments were not adopted, a majority of the members serving not voting therefor.

Senator Schauer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendments were not adopted, a majority of the members serving not voting therefor, as follows:

**Roll Call No. 545****Yeas—17**

Barcia	Clarke	Johnson	Schauer
Basham	Emerson	Leland	Scott
Bernero	Goschka	Olshove	Switalski
Brater	Jacobs	Prusi	Thomas
Clark-Coleman			

**Nays—20**

Allen	Cherry	Hardiman	Sanborn
Birkholz	Cropsey	Jelinek	Sikkema
Bishop	George	Kuipers	Stamas
Brown	Gilbert	McManus	Toy
Cassis	Hammerstrom	Patterson	Van Woerkom

**Excused—0****Not Voting—1**

Garcia

In The Chair: Sanborn

Senator Switalski offered the following amendments:

- 1. Amend page 7, line 21, after “**means**” by striking out “**either of**”.
- 2. Amend page 7, line 22, after “**than**” by striking out “**0.02**” and inserting “**0.08**”.
- 3. Amend page 7, line 25, by striking out all of subdivision (b).

The amendments were not adopted, a majority of the members serving not voting therefor.

Senator Brater offered the following amendment:

- 1. Amend page 6, following line 10, by inserting:

**“(8) A minor who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for treatment or for observation, any other minor who accompanies that minor, and any minor who contacts a peace officer or emergency medical services personnel are not considered in violation of subsection (1). As used in this subsection:**

**(a) “Emergency medical services personnel” means that term as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.**

**(b) “Health facility or agency” means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.”** and renumbering the remaining subsections.

The question being on the adoption of the amendment,

Senator Schauer moved that further consideration of the amendment be postponed temporarily.

The motion did not prevail.

The amendment was not adopted, a majority of the members serving not voting therefor.

Senator Schauer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

**Roll Call No. 546**

**Yeas—19**

Barcia	Clark-Coleman	Johnson	Scott
Basham	Clarke	Leland	Switalski
Bernero	Emerson	Olshove	Thomas
Brater	Goschka	Prusi	Toy
Cherry	Jacobs	Schauer	

**Nays—19**

Allen	Cropsey	Hardiman	Sanborn
Birkholz	Garcia	Jelinek	Sikkema
Bishop	George	Kuipers	Stamas
Brown	Gilbert	McManus	Van Woerkom
Cassis	Hammerstrom	Patterson	

**Excused—0**

**Not Voting—0**

In The Chair: Sanborn

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. 547****Yeas—24**

Allen	Cassis	Hammerstrom	Sanborn
Barcia	Cropsey	Hardiman	Schauer
Basham	Garcia	Jelinek	Sikkema
Birkholz	George	Kuipers	Stamas
Bishop	Gilbert	McManus	Toy
Brown	Goschka	Patterson	Van Woerkom

**Nays—14**

Bernero	Clarke	Leland	Scott
Brater	Emerson	Olshove	Switalski
Cherry	Jacobs	Prusi	Thomas
Clark-Coleman	Johnson		

**Excused—0****Not Voting—0**

In The Chair: Sanborn

The Senate agreed to the title of the bill.

**Protest**

Senator Switalski, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 637 and moved that the statement he made during the discussion of the bill be printed as his reasons for voting “no.”

The motion prevailed.

Senator Switalski’s statement is as follows:

You might ask yourself, why is this bill necessary? Are we suddenly being overwhelmed by rampant alcohol abuse by the youth of Michigan? No. I doubt kids are drinking any more today than they did 20, 30, or 50 years ago in Michigan, or 1,000 years ago among the Vikings. They probably drink less. In fact, the State Court Administrator’s Office reports that minor in possession convictions have dropped nearly 1,000 a year in the last three years.

The current system adopted three years ago appears to be working, yet we’re being asked to distort and misconstrue the meaning of possession and provide for jail time if our kids drink a swig of beer. What is it that’s made us so desperate? The Michigan Court of Appeals issued a decision last year that said it was not a crime for minors to drink legally in Canada and then come home to Michigan. I think it’s wrong to try to manipulate the meaning of words, distort our laws, and put kids in jail for doing something that is patently legal and is many times misbehavior, but we want jail time. Today we are prepared to brand our own children as criminals, categorize them as substance abusers, compel them to undergo therapy, put them on probation for a year, charge them thousands of dollars for these privileges, scar them with a criminal record that may limit their aspirations for the rest of their lives, and ultimately, put them in jail—all in the name of helping them—because a kid celebrates his 19th birthday, while on leave from the Iraqi war, by going to Canada with the President’s daughter and drinking a beer. I thought you’d like that one, Mr. President.

Kids are not stupid. They know when they are being misused. They have a keen sense for hypocrisy, and they resent injustice when they see it. Does a college sophomore at a frat house kegger really need a year of counseling and monthly visits to his probation officer? Do kids in the basement at a New Year’s eve party need to perform 100 hours of community service, extensive rehab, and undergo substance abuse screening? Will this make them respect the law, obey their elders, and believe in the values of our society? No. It will do exactly the opposite. Have we lost all perspective?

The jails in Macomb County are full. When we hit seven straight days over capacity, the chief judge has to let somebody out. He'll have to let more out if we need to make room for kids who drink beer in Canada on the weekends. Is that how we want our kids treated and how we want to run our jails?

Senators Switalski, Brater, Cropsey and George asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Switalski's statement is as follows:

This amendment would eliminate the part of this bill that reverses the Michigan Court of Appeals decision in *Michigan v Rutledge*. That decision said it was okay for a minor to drink legally in Canada and come home to Michigan. I doubt that many legislators who will vote on this amendment have actually read the decision or given this issue a fraction of as much thought as the Court of Appeals did. Certainly, the rapidity with which the bill has reached us suggests the review to date has been cursory. I suspect that is because the minors who are immediately affected by this bill don't vote in large numbers. But this will also affect their parents, and perhaps that will give us pause. Even if we lack the memory to recall our own actions at age 18, perhaps we can summon the imagination to see what further criminalizing a diluted definition of possession would really mean.

This bill changes current law in two important ways. It redefines possession to include presence in the body. Number two, it provides for the option of jail time for repeat offenders. Senator Brater's amendment dealt with jail time, and this amendment deals with the redefinition of possession. My amendment addresses the first change, the meaning of possession. It would restore the definition of possession to its common use, meaning to have control of or to have on one's person. I concur with the Michigan Court of Appeals ruling on the meaning of the word, and I object to this bill's debasement of the English language. We should all beware of laws that distort the common meaning of words, especially in criminal matters. If truth in sentencing dictates that minimum means minimum, then truth in charging should dictate that possession means possession.

Without this amendment, we enter uncharted waters. If we are saying the mere presence of trace amounts of alcohol in a minor's system is criminal possession, consider the implications. If that is possession, then minors who ingest mouthwash, cough syrup, a rum raisin ice cream cone, or grandma's vanilla-flavored Christmas cookies are criminals. And I suppose grandma and the ice cream man and the grocery store clerk are guilty of furnishing alcohol to a minor. Maybe the priest or Eucharistic minister who offered the common cup of wine should also be locked up. True, current law grants an exception for generally recognized religious ceremonies. Maybe the police will reconsider when they stop a Gratiot Avenue cruiser after Saturday night vigil mass. Or maybe they'll just say "Yeah, right. Tell it to the judge." A good lawyer and a few thousand dollars later, the kid might even be exonerated. That might be your kid. Beware, the presence of trace elements of illegal substances in the body constitutes criminal possession, and adults may find themselves directly affected by this law. If we start analyzing people's hair samples, someone is just a poppy seed muffin away from a positive screen for narcotics. And beware of second-hand smoke at rock concerts. Are we sure we want to water down the meaning of possession? "Come on," you say, "you're just paranoid." So maybe I am paranoid, maybe we all should be, and maybe it's our job to be.

Senator Brater's first statement is as follows:

I rise to bring before you an amendment to address a bill that I think is very ill-advised. This is the bill that would create jail time on a second and third offense for minors in possession. The history of this bill is when the drinking age was raised from 18 to 21, the Legislature was careful not to create a criminal penalty. It was a civil infraction at the time. Eventually the offense became criminalized with fines and other sanctions, such as community service and losing a driver's license, which are very good fines for this age group. Now before us we have a bill that would actually create jail time for people under 21 who are found in possession of alcohol or having it in their blood alcohol level.

Mr. President, our jails are overcrowded, at least I know in Washtenaw County. I passed out an article to all of you that appeared in the *Ann Arbor News* on November 10. The county is trying to deal with overcrowding jails; they are talking about releasing inmates. I am sure, as you know, that judges are not putting people in jail with these overcrowding situations already who don't need to be in jail. I have heard from my chief of police that they get people on B & E; they get to jail and then are released. They go out and recommit these crimes. I think that we need to reserve our jail time for the people whom we are afraid of.

I visited our county jail recently—I hope some of you have done the same. They have taken over the gymnasium and put mattresses on the floor of the gym. That's where some of the inmates are now sleeping. If we are going to add kids who are under the age of 21 into this environment, that's where they are going to be. They are going to be on mattresses on the floor in the gym, with, goodness who knows, whoever else is in that facility.

Now if the desired outcome is to reduce the use of alcohol, which I certainly think is a good objective, we have to look at the facts and the scientific studies that have been done on what's the most effective way to do this. The Office of Juvenile Justice Delinquency Prevention has done a study entitled, "The Best Strategies for Preventing Youth Access to Alcohol." The study concluded that "The most active area of legislation addressing youth access to alcohol is to

impose a wider range of more stringent penalties on young people. This trend is unfortunate because stiffer penalties will have little or no effect. Imposing stiffer penalties provides the appearance of addressing the problem without political fallout but is likely to have no actual preventive impact.”

The recidivisms rate for youth in Washtenaw County who are in treatment programs is less than two percent. They have an educational component that includes a discussion about alcohol poisoning, signs of addiction, binge drinking, self-test for addiction, and a discussion of the legal ramifications.

I hope my colleagues would listen up, as I have one more important point to make, and this is a very important topic, Mr. President. The last point that I would like to make in support of my amendment is the program at Washtenaw County at the U of M Trauma Burn Center is called Alcohol 101. It involves parents as well as the teenagers and youth. The reason they do this is to get the parents involved in addressing the problem. As you know, many times alcohol abuse is a multi-jurisdictional problem in a family. We are not really going to solve this unless we get to the root causes of it. So I hope we will look at what is the best public policy here, and adopt my amendment that would eliminate the jail time that is imposed in this bill.

Senator Brater’s second statement is as follows:

As you know, I do represent a college community, actually two college communities. I live in one of them, and I am certainly not very fond of kids who have been to fraternity parties carousing around my neighborhood after they have done whatever it is that they do at fraternity parties. I am sure that most of the people on this floor have also attended those parties in their times or have been with someone who has been at one of them and has done it at least three or four times. So I know you know what happens there, and I know you know what the consequences could have been and how people on this floor could have been eligible for four convictions under this proposed law.

Now, the good chair of the Judiciary Committee, for whom I have the utmost respect and enjoy working with very much, I know he is intending to do the right thing for kids on this bill. He states that he wants to get kids into treatment if they have an alcohol problem, and I do too.

Let me tell you, I have spent a lot of time with people on the telephone in my district with student legal services and judges and other people who deal with this problem in my district. They have told me that what actually is happening under this law now is that kids get into situations where they know someone is sick with alcohol poisoning, but they are afraid to call the police or go for help because they are all afraid they are in violation and are going to have the sanction of a fine or be ordered into treatment. So if the goal is to get kids treatment, then you want to vote for my amendment, which creates a safe harbor for anyone who calls for help for a person in their company who is in need of treatment for alcohol abuse. It would include any call to emergency medical services personnel or any kind of health facility. I would hope that you will support this amendment.

Senator Brater’s third statement is as follows:

I would just like to explain something more about my amendment in response to the good chair of the Judiciary Committee. Last year, a group of students at the University of Michigan had consumed some alcohol. One of the students had much, much too much to drink. They took him back to his dormitory room in West Quad. They put him to bed, he got out of bed, he ran around the room thrashing around and bumping into things, and they put him back to bed. They stayed with him for half an hour, and then they left. He then dove out of his fourth story window. Miraculously, all he did was break his leg.

Now if those kids who had been with him had taken him to a nursing home, I would be very happy if that’s how they understood health facility. I think students at public universities know where to take students who are in need of alcohol treatment. They know to go to a hospital emergency or call an ambulance, but they are afraid to do that. I am telling you this based on student legal services attorneys who defend these kids when they do get into trouble.

So I am asking you, please, to consider—if your goal is to get these kids into treatment, then please support this amendment.

Senator Cropsey’s first statement is as follows:

I would hope that this body would turn down these amendments. These amendments basically will gut the whole intent of the legislation. Let’s walk through what this bill actually does. First of all, right now under current law, the judge cannot impose any jail time and that’s the problem. It’s because we have young people coming in paying their fines and the judge requiring them to do certain things, which they do not have to do. If they do not abide by the judge’s order, there is really very little that the judge can do—just impose a \$100 fine.

What this legislation would do, and by the way, under current law, is that they have a criminal record, which is different if someone is picked up for, let’s say, possession of marijuana—there is a provision in the current law for possession of marijuana they can do a 7411—which basically means they go in front of the judge. The judge can say, you know what, we will not give you a criminal record if you abide by these rules. And because of 7411 on their first offense, they do not have a criminal record if the judge in his or her wisdom says they have abided by what they told them to do, they have gotten help for their substance abuse, and we aren’t going to give them a criminal record.

For minor in possession, they are convicted by the judge or the jury, and they have a criminal record. I would think that a minor in possession is actually a smaller offense than possession of other types of drugs.

The legislation that Dr. George is proposing here has a very beneficial impact on young people who are looking to go on in their lives where they can become teachers, go into the military, that type of thing, and not have a criminal record. What Dr. George's legislation does here is that it sets up a 7411 type of diversion where first offense they come in, they say what they did was wrong, and they will abide by what the judge wants them to do. The judge can on the first offense say, all right, we are not going to give you a criminal record. We are not going to ruin it so you can't become a teacher, so you can't go into the military, and we will not give you a record as a criminal. That's first offense. So they get a free pass which they currently do not have.

Second offense, they come in front of the judge under this legislation, and it would be like what it is currently. They can get a fine, the judge can order them to do certain things, whether or not they abide by the judge's order, the judge really can't enforce his order very well. But that's what it is under the first conviction, second offense. It's only until you get to the third offense that the judge can use a threat of jail time, and then the judge can only use the threat of jail time if the perpetrator of the crime does not abide by his probation. The only way that person can go to jail is if that person violates probation.

Now folks, that is what we are talking about—jail time. The reason why the judges want this is because most kids when they come in the courts, the 7411 type of thing is going to take care of them, and they are not going to be back in front of the judge. It's only kids who have a very serious substance abuse issue who will be back in front of the judge, and the judge on the third offense finally is able to say you better do this, or I am going to put you in jail—just like it is with other types of substance abuse.

On the third conviction, they can get up to 60 days in jail, but only if they violate their probation. They cannot go to jail unless they violate their probation, where the judge has laid down the law. Is this a serious issue? You better believe this is a serious issue. Statistically, both nationally and in Michigan, over 80 percent of all persons arrested are either high on drugs or drunk. They have a substance abuse problem they are supporting.

A study 10 years ago in Kalamazoo County found that 100 percent of juveniles arrested had either been drinking or were high on a controlled substance. As former Senator Jack Welborn use to say, it's not drugs or crime; it's drugs and crime. Nationally, the statistics are that 1 in 3 Americans will be a victim of a serious crime in their lifetime. All of us are at risk of criminal victimization, and the vast majority of that victimization will occur because the offender was abusing either alcohol or controlled substances. We just passed legislation addressing the issue of meth labs and the devastation of meth labs wreak upon society.

We have heard from Senator Birkholz's law enforcement officers in Allegan and Eaton Counties when we dealt with the meth lab issue on the crimes committed by juveniles and young adults who abuse drugs. Alcohol is also a very serious problem. The issue before us is protecting our constituents by addressing the root problem of alcohol abuse; 50 percent of all alcohol in the United States is drunk by minors or for binge drinking. Our jails are overcrowded. Why are jails overcrowded? Because of alcohol abuse and drug abuse. We need to give our judges the tools to get people into treatment so we take care of the root problem, and that's what this legislation is doing.

To give you an idea. Youth binge drinking is dangerous, *BBC News*. Colleges try but can't cut binge drinking. This is from the *Free Press*. Data at U of M figures go up. More women are affected. This is alcohol abuse. Teen beer sales bubble over by the *City Times*. Alcohol sales illustrate the risk. Severe steps to curb teen drinking are urged. Folks, this is a problem. Group booze ad talks, kids listen. Students find alcohol learning curve a deadly one. Tragedy suggest youth don't know overindulging alone can kill. That's why we need that legislation. It's to protect not only our constituents, but also to protect our young people who don't realize the dangers that we have here.

Study—college drinking and 1,400 deaths—more than 1,400 deaths cited between the ages of 18 and 24. Colleges try but can't cut binge drinking. Folks, this is a problem. Senator George has offered legislation to help take care of this problem to get people to realize the problem we have with substance abuse. If you don't get some help, we are going to put you away until you do get help. The judges need that, and our society needs that. I would hope that we would turn down this amendment.

Senator Cropsey's second statement is as follows:

Keep that in mind that before February 15, 2002, Michigan had a very strict law on minor in possession as far as body alcohol count. That definition was changed by the Court of Appeals. It is very interesting as you take a look at the Court of Appeals case, which I have right here. They end up saying this: "We acknowledge that this interpretation may somewhat hinder police officers, particularly in areas of Michigan near Canadian borders, attempting to enforce a minor in possession statute." They go on and they say, right on at the end that, "If the Legislature intended to criminalize this conduct, it could have easily have done so or amended the statute to include it."

What this legislation does is it amends the statute to put in the definition, if you will, of what everybody knew was minor in possession before this court opinion, which is a year and a half old. That's what this is doing.

Now as a practical matter, when the court says this might affect how the police handle it, especially in counties that are close to the Canadian border, they are exactly right because the students know that if they are caught drinking, no

matter where they have been, unless they have got the beer can in the car, or unless they are coming out of a kegger party, if they are caught with alcohol in their blood, all they have to say is my friends and I were in Canada, and we were drinking there. They are smart enough to know that they can use that excuse. They also know that the police do not have the resources to go and check out every single time somebody makes that claim.

What this decision has done is it has made the minor in possession statute effectively unenforceable. What this legislation would do is it makes it enforceable again by putting back what everybody knew minor in possession was before February 2002. That's all we are doing. It's not a new definition. It's just a definition to overturn an activist court reinterpreting the law.

By the way, minor in possession is not something that this Legislature did. It was voted on by the people. We are enforcing a law that was voted on by the people. So I would hope that we would make sure that this law is enforceable as a result.

Senator Cropsey's third statement is as follows:

I would hope that we would turn this down. This is basically saying that it is all right for a young person to drink up until the legally drunk limit if someone is driving a car. That is roughly five beers. I don't think we want to go that way; I think that is wrong. The people of this state have already said that they do not want it. This is trying to change it without the vote of the people, and I think this is wrong. I would hope that we would vote against it.

Senator Cropsey's fourth statement is as follows:

I appreciate the good Senator's conversion to the idea that we need to put some tools into people's hands to get these young people who have substance abuse problems, to get them some help.

I am not unsympathetic to this amendment, but I do think this amendment has some unintended consequences, and I suggested to the maker of this amendment that she introduce a blueback, and I would like to either take it up in my committee, or perhaps the Health Policy Committee should take it up. As far as a safe harbor for folks who drop off a young person who is drunk and in danger, however, when you take a look at the amendment, there are some problems with the amendment. Where it talks about health agencies, they can actually drop a young person off, who maybe has a very serious issue, at a home for the aging or a nursing home or a hospice or a hospice residence. Now this is part of the definitions that are referred to. I would strongly urge at this point that we would turn this amendment down and legislation be introduced so that we do not have unintended consequences. I would hope that we would turn this down and the sponsor of this amendment would introduce a blueback on this, and we would certainly take a good look at it, have the hearings that should be held, before we go into something like this.

This is not something that should be done by an amendment on the floor.

Senator Cropsey's fifth statement is as follows:

Once again, I want this body to realize that I am sympathetic to the idea behind this amendment. This is not the place to do it though. The Senator should offer a blueback and have it go through the process so we don't have unintended consequences or as few as possible so that we actually get to the problem that's involved here. If it comes to my committee, I will plan to have a hearing on it, work on it, and get it reported out. But this is not the time or place to do it.

Senator Cropsey's sixth statement is as follows:

I just want to re-emphasize that what we are talking about is young people getting substance abuse treatment; giving the judges the authority and the power to actually compel it. That is what we are talking about in this legislation.

Dr. George has come up with a very good solution. We are also talking about, on first offense, that they would not have a criminal record. On second offense, first conviction, there would not be any jail time. On third offense, second conviction, the only way jail time would be imposed is if they flout what the judge has asked, told, ordered them to do, which is to get drug treatment.

By the way, if you have a young person having a third offense and second conviction, do you have any doubt that that young person has got a drinking problem? Here, if you have a young person with a drinking problem, in two or three years when they turn 21, does that mean the drinking problem goes away? No. The drinking problem needs to be addressed as a young person. That's what we're giving the courts the authority to do, so that we don't have further victimization and so that the young person actually gets the substance abuse treatment that is necessary.

Senator George's first statement is as follows:

I rise to speak against this amendment and to explain why it's important that there be a jail time option. The Senator from the 18th District is correct when she states that the legal drinking age in Michigan of 21 was set by the voters in 1978 with a constitutional amendment. It passed with 57 percent of the vote. What has happened in the ensuing twenty-five years is that court rulings have made it difficult to enforce the will of the citizens of Michigan. One of those court rulings has made it so that judges cannot allow or cannot require probation offenders to be sentenced to jail time. It



used to be that judges could fine individuals who repeatedly violated probation in contempt of court and sentence them to jail time. That option has been removed by a court ruling, hence weakening the law. When the Senator refers to treatment programs that have low recidivism rates; when she refers to Alcohol 101 programs that are successful, the reason these programs are successful is because individuals attend them.

The individuals who don't attend them, who don't participate, or who are violating their probation won't successfully complete treatment of their addiction. What is it that makes them attend? Well, ask your drug court professionals. Ask them what allows their treatment programs to be successful. It's the threat of jail time.

Successful drug treatment involves both offering incentives for good behavior and punishment for bad behavior, and without those two tools, drug treatment and rehabilitation is ineffective because, really, you are treating a behavioral problem. And it's the same whether you are treating a physician who has stolen drugs from a patient or a lawyer or a legislative colleague or a housewife or a farmer or a clerk or a student. The tools that the drug court uses and the tools that the court uses are the same, and they have to involve both incentives and disincentives. That's why Senate Bill No. 637 is a good bill because it offers both of those options. The jail time is only available if an individual returns to the courts and is convicted for a second time, which, in fact, would likely be the third offense because of the new provision that we are putting in allowing the first offense to be withdrawn from the record upon successful completion of a probationary period. We are talking about a repeated offender. Now when I've talked to judges in my communities in my district, I find that they have some individuals who are 14 and 16 years of age who have been in their court multiple times, who scoff at the probationary requirements, and the judges feel powerless.

Now to listen to some, you would think that we are taking a heavy-handed approach, but I would say that ignoring this problem and not having a disincentive in place is not the sign of a caring, compassionate society. The proper response for a society faced with minors who are addicted to alcohol is not to smirk about it and turn the other way and repeatedly assign probation that is ignored. The court has to have some tool to enforce the very treatment that the sponsor of the amendment is talking about. Without that enforcement, the treatment will be ineffective.

Let's look at the amount of jail time we are talking about. It's 30 days over a two-year period, and because those in jail are given credit for a partial day, we are really talking about 10 weekends in two years—10 weekends out of 104 if a person continues to violate their probation—if they are unable to follow what their community treatment requires or their education or their abstinence requirements. For some of them, if they can remain sober for 10 percent of the time, that will be an improvement. The judges need this tool, Mr. President, and I would ask my colleagues to retain it in Senate Bill No. 637 by rejecting this amendment.

Senator George's second statement is as follows:

Well, I also rise to speak against this amendment. As the previous speaker mentioned, it was a court ruling that now hinders enforcement of the existing law. It has opened the door for minors to state that they were consuming alcohol legally in another jurisdiction, and therefore, it is important that we return this provision to the minor in possession law.

Some have said if it's legal in Canada, why wouldn't we want our minors to be able to go over to Canada and come back drunk? I would just point out that we've fought so that we could create our own laws, so that we are not Canadians. Part of Michigan was captured by Canada in the War of 1812, and our forebears fought to create our own government so we could make our own laws. Just because you can do it illegally in Canada doesn't mean that you can bring an illegal substance back to Michigan or that a minor should be able to drink and come back drunk. You can't bring fireworks back that you buy illegally in Canada. You can't go to Africa and buy a venomous snake and bring it back to Michigan. I can't go to Mexico and get a law degree and come back and practice law. I bet you can't go to Mexico and get a medical degree and come back to Michigan to practice medicine.

We have fought for the option to create our own rules and laws, and the voters have put this into place. Rather than looking the other way, we should give our law enforcement people the tools to enforce it.

Senator George's third statement is as follows:

I rise just to echo the comments of the previous speaker—to encourage my colleagues to vote against this amendment.

Senator George's fourth statement is as follows:

Senate Bill No. 637 does a couple of very important things. In response to court rulings, that will make it possible for law enforcement and the courts to now better handle the problem of minors who continue to drink. As stated before, it is important because it creates both leniency for the first-time offender, but also disincentives for recurrent offenders. It is exactly the tool that is needed if we are going to be able to require repeat offenders to perform community service, to seek treatment, to follow court-ordered requirements to attend a school, to continue to work, and to remain abstinent.

Minors who continue to drink, just like many others who have substance abuse problems, really are reflecting a cry for help. It's the sign of a caring and compassionate society that it would not turn its back on those who are crying for help, but would offer them the treatment needed.

For many of them, they won't comply with treatment unless there's something to enforce it. I would suggest that our jails would be less full. The jail in Macomb County might be less full if juveniles got treatment earlier when it's more effective, rather than having the courts recurrently order probation, which is ignored, allowing an addiction to progress until it's too late. So if we're really going to tackle this problem, it is appropriate that it be tackled when it first presents itself and that it be seen for what it is. A recurrent offender is really making a cry for help, and to give them help, the court needs to have tools at both ends of the system—incentives and disincentives.

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 Assistant President pro tempore, Senator Sanborn, designated Senator Patterson as Chairperson.

### Recess

Senator Hammerstrom moved that the Committee of the Whole recess subject to the call of the Chairperson. The motion prevailed, the time being 11:53 p.m.

12:05 p.m.

The Committee of the Whole was called to order by the Chairperson, Senator Patterson.

After some time spent therein, the Committee arose; and, the Assistant President pro tempore, Senator Sanborn, having resumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bill:

#### **Senate Bill No. 820, entitled**

A bill to amend 1975 PA 228, entitled "Single business tax act," by amending section 37d (MCL 208.37d), as amended by 1999 PA 100.

The bill 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. 821, entitled**

A bill to amend 1975 PA 228, entitled "Single business tax act," by amending section 37c (MCL 208.37c), as amended by 2000 PA 429.

Substitute (S-1).

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

1. Amend page 3, line 2, after "(7)" by striking out the balance of the line through "verify" on line 3 and inserting "Each tax year that a taxpayer claims a credit under this section, the taxpayer shall attach to its annual return on which the credit is claimed a statement prepared by a certified public accountant verifying".

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 amendment, the following bill:

#### **Senate Bill No. 822, entitled**

A bill to amend 1975 PA 228, entitled "Single business tax act," by amending section 38g (MCL 208.38g), as amended by 2002 PA 726.

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

1. Amend page 18, line 17, after "2009." by striking out the balance of the line through "verify" on line 18 and inserting "Each tax year that a taxpayer claims a credit under this section, the taxpayer shall attach to its annual return on which the credit is claimed, a statement prepared by a certified public accountant verifying".

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:  
**Senate Bill No. 824, entitled**

A bill to amend 1995 PA 24, entitled “Michigan economic growth authority act,” by amending sections 4, 5, 6, and 10 (MCL 207.804, 207.805, 207.806, and 207.810), section 6 as amended by 2000 PA 144.

Substitute (S-4).

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

1. Amend page 6, following line 24, by inserting:

“(o) **“Rural business” means an eligible business located in a county with a population of 75,000 or less.**”

and relettering the remaining subdivision.

2. Amend page 13, following line 7, by inserting:

“(v) **A minimum of 5 qualified new jobs at the facility if the eligible business is a rural business.**”

3. Amend page 14, following line 3, by inserting:

“(v) **If the eligible business is a rural business, all the following apply:**

**(A) A minimum of 5 qualified new jobs at the facility.**

**(B) A minimum of 25 qualified new jobs at the facility within 5 years after the date of the expansion or location as determined by the authority.**”

4. Amend page 17, line 26, after “**business**” by striking out “**will**” and inserting “**is encouraged to**”.

5. Amend page 19, line 12, after “**businesses**” by inserting “**or rural business**”.

6. Amend page 19, line 19, after “**businesses**” by inserting “**or rural business. Only 5 of the 50 written agreements for businesses that are qualified high-technology businesses or rural business may be executed each year for qualified rural business**”.

7. Amend page 19, line 26, after “**corporation**” by striking out the balance of the line through the second “**business**” on line 1 of page 20.

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 bills, now on the order of Third Reading of Bills, be placed on their immediate passage at the head of the Third Reading of Bills calendar:

**House Bill No. 4011**

**Senate Bill No. 820**

**Senate Bill No. 821**

**Senate Bill No. 822**

**Senate Bill No. 824**

**House Bill No. 5188**

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

The following bill was read a third time:

**House Bill No. 4011, entitled**

A bill to repeal 1927 LA 9, entitled “An act to prohibit hunting on Sunday in the county of Washtenaw and to prescribe penalties for the violation thereof.”.

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. 548**

**Yeas—32**

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

**Nays—5**

Brater  
Clark-Coleman

Hardiman

Jacobs

Scott

**Excused—0**

**Not Voting—1**

Thomas

In The Chair: Sanborn

Senator Schauer moved that Senator Thomas be temporarily excused from the balance of today’s session. The motion prevailed.

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. The Senate agreed to the title of the bill.

The following bill was read a third time:

**Senate Bill No. 820, entitled**

A bill to amend 1975 PA 228, entitled “Single business tax act,” by amending section 37d (MCL 208.37d), as amended by 1999 PA 100.

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. 549**

**Yeas—37**

Allen  
Barcia  
Basham  
Bernero  
Birkholz  
Bishop  
Brater  
Brown  
Cassis  
Cherry

Clark-Coleman  
Clarke  
Cropsey  
Emerson  
Garcia  
George  
Gilbert  
Goschka  
Hammerstrom

Hardiman  
Jacobs  
Jelinek  
Johnson  
Kuipers  
Leland  
McManus  
Olshove  
Patterson

Prusi  
Sanborn  
Schauer  
Scott  
Sikkema  
Stamas  
Switalski  
Toy  
Van Woerkom

**Nays—0**

**Excused—1**

Thomas

**Not Voting—0**

In The Chair: Sanborn

The Senate agreed to the title of the bill.

Senator Thomas entered the Senate Chamber.

The following bill was read a third time:

**Senate Bill No. 821, entitled**

A bill to amend 1975 PA 228, entitled “Single business tax act,” by amending section 37c (MCL 208.37c), as amended by 2000 PA 429.

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. 550****Yeas—38**

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

**Nays—0****Excused—0****Not Voting—0**

In The Chair: Sanborn

The Senate agreed to the title of the bill.

The following bill was read a third time:

**Senate Bill No. 822, entitled**

A bill to amend 1975 PA 228, entitled “Single business tax act,” by amending section 38g (MCL 208.38g), as amended by 2002 PA 726.

The question being on the passage of the bill,

Senator Schauer offered the following substitute:

Substitute (S-1).

The substitute was not adopted, a majority of the members serving not 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. 551****Yeas—38**

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

**Nays—0****Excused—0****Not Voting—0**

In The Chair: Sanborn

The Senate agreed to the title of the bill.

The following bill was read a third time:

**Senate Bill No. 824, entitled**

A bill to amend 1995 PA 24, entitled “Michigan economic growth authority act,” by amending sections 3, 4, 5, 6, 8, and 10 (MCL 207.803, 207.804, 207.805, 207.806, 207.808, and 207.810), section 3 as amended by 2000 PA 428 and sections 6 and 8 as amended by 2000 PA 144, and by adding section 8a.

The question being on the passage of the bill,

Senator Olshove offered the following amendment:

1. Amend page 5, following line 10, by inserting:

“(x) **Tool and die manufacturing.**”

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

Senator Schauer offered the following amendment:

1. Amend page 11, following line 8, by inserting:

“(g) To promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, necessary to carry out the purposes of this act.” and relettering the remaining subdivisions.

The amendment was not adopted, a majority of the members serving not voting therefor.

Senator Schauer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

**Roll Call No. 552****Yeas—16**

Barcia	Cherry	Jacobs	Schauer
Basham	Clark-Coleman	Leland	Scott
Bernero	Clarke	Olshove	Switalski
Brater	Emerson	Prusi	Thomas

**Nays—22**

Allen	Garcia	Jelinek	Sanborn
Birkholz	George	Johnson	Sikkema
Bishop	Gilbert	Kuipers	Stamas
Brown	Goschka	McManus	Toy
Cassis	Hammerstrom	Patterson	Van Woerkom
Cropsey	Hardiman		

**Excused—0****Not Voting—0**

In The Chair: Sanborn

Senator Schauer offered the following substitute:  
Substitute (S-3).

The question being on the adoption of the substitute,  
Senator Schauer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The substitute was not adopted, a majority of the members serving not voting therefor, as follows:

**Roll Call No. 553****Yeas—16**

Barcia	Cherry	Jacobs	Schauer
Basham	Clark-Coleman	Leland	Scott
Bernero	Clarke	Olshove	Switalski
Brater	Emerson	Prusi	Thomas

**Nays—22**

Allen	Garcia	Jelinek	Sanborn
Birkholz	George	Johnson	Sikkema
Bishop	Gilbert	Kuipers	Stamas
Brown	Goschka	McManus	Toy
Cassis	Hammerstrom	Patterson	Van Woerkom
Cropsey	Hardiman		

**Excused—0****Not Voting—0**

In The Chair: Sanborn

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. 554****Yeas—38**

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

**Nays—0****Excused—0****Not Voting—0**

In The Chair: Sanborn

The Senate agreed to the title of the bill.

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

The motion prevailed.

Senator Sikkema's statement is as follows:

I just wanted to make some comments on the passage of this package of bills, Senate Bill Nos. 820, 821, 822, and 824. I really think this package of bills is a vital component of our efforts here in Michigan to encourage private investment and job creation. I think Section 2 of the Michigan Economic Growth Authority Act that is in front of us right now probably says it all. Section 2 is the legislative finding section, and it says very clearly, and I quote, "The legislature finds that it is in the public interest to promote economic growth and to encourage private investment, job creation, and job upgrading for residents in this state." That says it all.

MEGA, which has been under joint review by the Senate Committee on Commerce and Labor and the Appropriations subcommittee, jointly chaired by Senator Allen and Senator Valde Garcia, after four hearings has documented that MEGA has served us well. It is one of the tools in the tool box of what we need to create jobs in this state and to make Michigan an attractive place for job growth and job creation. But they also documented that we need to make some adjustments to MEGA because we have to respond to the times we are in.

The legislation in front of us provides some more flexibility in the area of the high-tech sector than MEGA currently does. There's some language that could prove vital to this state in terms of Electrolux in west Michigan and Allied Automotive down in southeast Michigan. We've added some language so that businesses in the rural areas of Michigan and in northern Michigan and the Upper Peninsula could qualify for MEGA grants. We've added some language to ensure more accountability of fuller public disclosure of information, more openness, and we've made some changes that ensure more bipartisanship on the issue of the MEGA board. All of those are good changes. They build on the success that MEGA has had in the last few years.

Let me just close by saying there's a lot of attention, appropriately so, on the budget deficit in this state, but we also need to focus like a laser beam on the issue of job creation. The \$900 million deficit is a significant statistic, but even more significant is the fact that in the last 21 months Michigan, with 4 percent of the nation's workforce, has lost 23 percent of the nation's jobs. The deficit we face today is a jobs lost deficit, and we have to do everything we can to make this state an attractive state for business investment and job creation. The passage of this package of bills today is the second plank in the Republican plank to do just that.



Senator Schauer’s statement is as follows:

I agree with many things that the Senate Majority Leader said, that the extension of the MEGA single business tax credit sunset is desperately needed at this time. We’ve lost 170,000 manufacturing jobs in Michigan in the last three years. Michigan’s unemployment rate continues to be 7.4 percent when the national unemployment rate has just dipped to 6 percent. Michigan is not just experiencing a jobless recovery; we’re experiencing a job loss recovery.

Those who testified for these bills—and we heard hours of testimony in the Commerce and Labor Committee, in the Joint Select Committee on Business Competitiveness—and we did hear a call from those industries and from the Michigan Economic Development Corporation for some changes. Senator Kuipers and I offered an amendment in committee to make a minor change for high-tech MEGAs, which with the Technology Tri-Corridor that Governor Granholm is supporting, is needed to help us support high-tech ventures in our state, to help support Electrolux in Greenville, and to help support the Ford Automotive Alliance in Flat Rock. Those were called for by industry and by the MEDC as improvements, along with the extension of the sunset.

But as far as the Legislature recommending additional appointments to the MEGA board, that does raise a serious separation of powers issue that I am concerned about. Along with giving those appointees special automatic executive committee status, it subjects the entire MEGA board to Senate advice and consent. That separation of powers concern is something we should take seriously, and I hope the House fixes it, along with the deletion of rule promulgation authority.

My previous amendment was not trying to provide something new but just maintain in law something that’s already there and something that Governor John Engler in 2000 said was important, that these state departments and quasi-public organizations like the MEDC had. So I do have some reservations. I think we are moving the process along in an important way. I hope the House addresses some of these concerns of some of the problems that exist in the bill.

The following bill was read a third time:

**House Bill No. 5188, 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,” by amending section 10a (MCL 460.10a), as added by 2000 PA 141.

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. 555**

**Yeas—38**

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

**Nays—0**

**Excused—0**

**Not Voting—0**

In The Chair: Sanborn

Senator Hammerstrom moved that the bill be given immediate effect.  
The motion prevailed, 2/3 of the members serving voting therefor.  
The Senate agreed to the title of the bill.

**Resolutions**

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

**Senate Resolution No. 197****Senate Resolution No. 198**

The resolution consent calendar was adopted.

Senator Bernero offered the following resolution:

**Senate Resolution No. 197.**

A resolution declaring December 1, 2003, as World AIDS Day.

Whereas, December 1, 2003, has been designated as World AIDS Day. The Lansing Area AIDS Network (LAAN) is a program that is dedicated to providing emotional, psychological, and spiritual support to those affected by HIV/AIDS; promoting and advocating dignity, safety, and quality of life for those affected by HIV/AIDS; facilitating the delivery of health, human, and legal services to meet the multifaceted needs of persons with HIV/AIDS; and providing educational materials and programs about HIV/AIDS in prevention of HIV infection; and

Whereas, World AIDS Day provides opportunities to focus on the existing concerns and policies affecting the global fight against HIV and AIDS. It also draws attention to the massive impact that HIV and AIDS has on our community; and

Whereas, The United Nations Program on HIV and AIDS annually observes December 1 as World AIDS Day, a day to increase and reinforce the universal effort to end the proliferation of HIV and AIDS and to bring awareness to the global intricacies we face; and

Whereas, There continues to be a growth in the spreading of this pandemic, in addition to the estimated 45 million people living with HIV and AIDS. The American Association for World Health is encouraging a better understanding of the challenges of HIV and AIDS nationally and globally, responding effectively to the challenges posed by poverty, racism, homophobia, misogyny, and lack of life-saving medications and adequate health care; and

Whereas, December 1, 2003, will mark the celebration of World AIDS Day, being sponsored by the Lansing Area AIDS Network in hopes purging the world of the ignominy that surrounds the AIDS virus by raising awareness, educating, and fighting prejudice; and

Whereas, This year's theme is "Live and Let Live - Fighting Stigma and Discrimination." The Lansing Area AIDS Network is working along with the Lansing community to ensure that people living with AIDS and HIV throughout our community are treated with respect and dignity; now, therefore, be it

Resolved by the Senate, That the members of this legislative body declare December 1, 2003, as World AIDS Day. We urge all citizens to recognize the many accomplishments and contributions that the Lansing Area AIDS Network has made to our state, nation, and world; and be it further

Resolved, That a copy of this resolution be transmitted to the Lansing Area AIDS Network as a token of our esteem. Senators Brater, Clark-Coleman, Clarke, Jacobs, Switalski and Thomas were named co-sponsors of the resolution.

Senators Sanborn, Cherry, Sikkema, Jelinek, Patterson, Bishop, Bernero, Kuipers, Garcia, Hardiman, Olshove, Switalski, George, Prusi, Brater, Goschka, Cassis, Allen, Clarke, Leland, Thomas, Clark-Coleman, Basham, Emerson, Scott, Barcia, Schauer, Johnson, Jacobs, Cropsey, Birkholz, McManus, Gilbert, Van Woerkom, Stamas, Toy, Hammerstrom and Brown offered the following resolution:

**Senate Resolution No. 198.**

A resolution honoring Milo Radulovich.

Whereas, Fifty years ago, Milo Radulovich was served notice that he was being cashiered out of the United States Air Force not for any action on his part, but for the alleged activities of his father and sister; and

Whereas, In the face of great odds and an unsettling political environment, Milo Radulovich chose the more difficult path and elected to fight the charges, for at stake was the honor of his family name; and

Whereas, Despite valiant efforts, Milo Radulovich had great difficulties obtaining legal assistance due to the nature of the accusations against him; and

Whereas, Attorneys Kenneth Sanborn and Charles C. Lockwood, at no small peril to their respective careers, came forward to represent Milo Radulovich pro bono; and

Whereas, According to author Michael Ranville in his book on the Radulovich case, *To Strike At A King*, Kenneth Sanborn and Charles C. Lockwood's decision to represent Milo Radulovich "did single-handedly straighten the backbone of a community's legal profession"; and

Whereas, The military tribunal hearing the case of Milo Radulovich found him guilty of charges too confidential to disclose, even to Milo and his counsel, and saw fit to convict him based on the contents of a sealed envelope; and

Whereas, This miscarriage of justice attracted the attention of the famed CBS News team of Edward R. Murrow, Fred W. Friendly, and Joe Wershba, who highlighted the plight of Milo Radulovich on a special edition of their television program, "See It Now"; and

Whereas, On November 24, 1953, Secretary of the Air Force Harold Talbott announced Milo's complete exoneration, acknowledging that after careful examination of the facts, there was no evidence he was a security risk; now, therefore, be it

Resolved by the Senate, That on the Fiftieth Anniversary of the Milo Radulovich case, the Michigan Senate hereby proclaims the personal courage, patriotism, and devotion to family and country exhibited by Milo Radulovich; and be it further

Resolved, That we acknowledge the personal courage and devotion to justice exhibited by attorneys Charles C. Lockwood and Kenneth Sanborn; and be it further

Resolved, That we extend this legislative body's respect and admiration to Milo Radulovich, Kenneth Sanborn, and Charles C. Lockwood; and be it further

Resolved, That copies of this resolution be transmitted to Milo Radulovich, Kenneth Sanborn, and the family of Charles C. Lockwood.

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

**Senate Resolution No. 141**

**Senate Resolution No. 175**

**Senate Resolution No. 139**

The motion prevailed.

Senators Stamas, Van Woerkom, Gilbert, Brown, Cropsey, Allen, Kuipers, Bishop, McManus, Patterson and Goschka offered the following resolution:

**Senate Resolution No. 196.**

A resolution to urge the Department of Natural Resources to implement a program of double crested cormorant management pursuant to authority extended by the United States Fish and Wildlife Service.

Whereas, For many years, wildlife management officials in Michigan and across the country have struggled with how to deal with increasing populations of the double crested cormorant. This migratory bird has become a significant problem in many locations due to the adverse effects it has on populations of recreational and commercial fish. The double crested cormorant has gone from a protected status to being a serious nuisance in many areas in a relatively short period of time; and

Whereas, Individual states have worked with the United States Fish and Wildlife Service (USFWS) to devise strategies to deal with the cormorant population. In 1998, the USFWS established a program allowing participating states to pursue certain management options through a permit system. With the experience gained through this system, a final rule of the USFWS has been put in place to permit 24 states, including Michigan, to take several control measures without obtaining a federal permit; and

Whereas, The new USFWS rule, which becomes effective November 7, 2003, offers fish and wildlife officials in our state an opportunity to deal effectively with a problem that is often very local in nature and requires a strong response. Doing so will help protect our state's overall resources in a reasonable and meaningful way; now, therefore, be it

Resolved by the Senate, That we urge the Department of Natural Resources to implement a program of double crested cormorant management pursuant to authority extended by the United States Fish and Wildlife Service; and be it further

Resolved, That copies of this resolution be transmitted to the Department of Natural Resources.

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 Natural Resources and Environmental Affairs.

The motion prevailed.

Senators Prusi and Switalski were named co-sponsors of the resolution.

Senator Hammerstrom offered the following concurrent resolution:

**Senate Concurrent Resolution No. 37.**

A concurrent resolution prescribing the legislative schedule.

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns on Thursday, November 13, 2003, it stands adjourned until Tuesday, December 2, 2003, at 10:00 a.m.; and be it further

Resolved, That when the House of Representatives adjourns on Wednesday, November 12, 2003, it stands adjourned until Tuesday, December 2, 2003, at 1:00 p.m.

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 concurrent resolution was adopted.

Senator Hammerstrom offered the following concurrent resolution:

**Senate Concurrent Resolution No. 38.**

A concurrent resolution prescribing the legislative schedule.

Resolved by the Senate (the House of Representatives concurring), That when the Legislature adjourns on Thursday, November 13, 2003, it stands adjourned until Tuesday, December 2, 2003, at 10:00 a.m. for the Senate and 1:00 p.m. for the House of Representatives.

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 concurrent resolution was adopted.

### Statements

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

The motion prevailed.

Senator Gilbert's statement is as follows:

I stand before you today to remember another of America's fallen heroes, Staff Sergeant Mark Vasquez. A resident of Port Huron Township, he was a devoted husband, father of two, and a loyal servant of this nation. Over the past weekend, Sergeant Vasquez was killed when the Bradley fighting vehicle he was traveling in hit a hidden artillery shell, known in the service as an improvised explosive device, while on patrol in the city of Fallujah, Iraq.

Vasquez had just graduated from Army ranger school and was then deployed to Iraq less than two months ago. He was a squad leader assigned to the 1st Battalion, 16th Infantry Regiment, 1st Infantry Division based out of Fort Riley, Kansas. Sergeant Vasquez attended Port Huron High School. He originally dropped out of school at the age of 17, but went back to school to earn his GED for the express purpose of being able to enlist in the U.S. Army and to serve this country. He had spent his entire career in the military, having joined the armed forces in 1993. Sergeant Vasquez died trying to save others, for this was his unit's main objective. The 16th Infantry's primary mission in Iraq is searching for hidden bombs and land mines. They had done this with great success. They had found 34 of these devices so far, and up until last weekend, they did it without losing a single soldier.

Nobody knows for sure how many lives the 16th Infantry has saved by finding so many of these stealth killers before they could go off. Tragically, last Saturday the roles were reversed, and the bombs found them. Sergeant Vasquez and one of his comrades, Staff Sergeant Gary Collins of Hardin, Texas, were killed in the explosion.

May we convey our sincere admiration and gratitude to his wife Nicole and their children, Breanna and Cameron. His family and friends will remember him as a devoted husband, a loving father, and a true friend. And just like our other fallen heroes in Iraq, we will remember him in admiration as an American soldier who answered the call and made the ultimate sacrifice in service to his nation. May we keep him and his family in our thoughts and prayers.

Senator Toy's statement is as follows:

As we recognize the passing of Veterans Day, may we remember with profound respect and gratitude the veterans of this great nation. As the good Senator from Canton expressed this morning in our press conference, Veterans Day didn't end yesterday; it starts again today. These men and women are the patriotic heroes who have risked their lives so that we might have such fortune, blessed lives in these United States of America. As we are so acutely aware in these uncertain times, the freedoms and the opportunities we enjoy today do indeed come at a price. And it is our noble veterans who have been willing to pay that price and to make that sacrifice without complaint, without objection, and too often without praise. Let us give them that mightily deserved praise and thanks, and let us also solemnly remember

those who answer the call of duty in this country and never come back. We should also keep in our thoughts and in our prayers those valiant men and women who followed in our veterans' impressive footsteps and who are currently stationed across the globe in serving and defending not only our nation, but securing the peace and freedom we enjoy for each other and less fortunate countries as well. We should also empathize with—and express appreciation for our soldiers on the home front—the military families who so bravely and patiently preserve and wait and pray for the safe return of their loved ones.

May God bless our veterans, our military, our families, and may God bless America.

Senator Thomas stated that had he been present when the votes were taken on the passage of the following bills, he would have voted “yea”:

**House Bill No. 4011**

**Senate Bill No. 820**

### Committee Reports

The Committee on Commerce and Labor reported

**Senate Resolution No. 189.**

A resolution to memorialize the Congress of the United States to take necessary actions, through the International Monetary Fund or otherwise, to ensure that foreign nations that trade with the United States do so fairly and do not manipulate their currency.

(For text of resolution, see Senate Journal No. 92, p. 1969.)

With the recommendation that the resolution be adopted.

Jason Allen  
Chairperson

To Report Out:

Yeas: Senators Allen, Kuipers and Schauer

Nays: None

The resolution was placed on the order of Resolutions.

The Committee on Commerce and Labor reported

**Senate Resolution No. 190.**

A resolution to memorialize the Congress of the United States to develop economic incentives and other programs to aid in the recovery and stabilization of the manufacturing industry in the United States.

(For text of resolution, see Senate Journal No. 92, p. 1969.)

With the recommendation that the resolution be adopted.

Jason Allen  
Chairperson

To Report Out:

Yeas: Senators Allen, Kuipers and Schauer

Nays: None

The resolution was placed on the order of Resolutions.

### COMMITTEE ATTENDANCE REPORT

The Committee on Commerce and Labor submitted the following:

Meeting held on Thursday, November 6, 2003, at 1:00 p.m., Room 110, Farnum Building

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

Excused: Senator McManus

The Committee on Health Policy reported

**Senate Bill No. 296, entitled**

A bill to amend 1956 PA 218, entitled “The insurance code of 1956,” (MCL 500.100 to 500.8302) by adding section 3406/.

With the recommendation that the substitute (S-3) be adopted and that the bill then pass.

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

Beverly S. Hammerstrom  
Chairperson

## To Report Out:

Yeas: Senators Hammerstrom, Patterson and George

Nays: Senators Bernero and Jacobs

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

The Committee on Health Policy reported

**Senate Bill No. 297, entitled**

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," (MCL 550.1101 to 550.1704) by adding section 418a.

With the recommendation that the substitute (S-2) be adopted and that the bill then pass.

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

Beverly S. Hammerstrom

Chairperson

## To Report Out:

Yeas: Senators Hammerstrom, Patterson and George

Nays: Senators Bernero and Jacobs

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

The Committee on Health Policy reported

**Senate Resolution No. 133.**

A resolution to encourage the judicious use of antibiotics.

(For text of resolution, see Senate Journal No. 69, p. 1297.)

With the recommendation that the following amendment be adopted and that the resolution then be adopted:

1. Amend the third Whereas clause, line 1, after "Antibiotics" by striking out "overuse" and inserting "use".

Beverly S. Hammerstrom

Chairperson

## To Report Out:

Yeas: Senators Hammerstrom, Patterson, George and Jacobs

Nays: None

The resolution and the amendment recommended by the committee were placed on the order of Resolutions.

## COMMITTEE ATTENDANCE REPORT

The Committee on Health Policy submitted the following:

Meeting held on Wednesday, November 5, 2003, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower)

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

The Committee on Education reported

**Senate Resolution No. 194.**

A resolution to urge the Michigan Education Alliance to study the issue of replacing the MEAP test with an alternative.

(For text of resolution, see Senate Journal No. 95, p. 2019.)

With the recommendation that the resolution be adopted.

Wayne Kuipers

Chairperson

## To Report Out:

Yeas: Senators Kuipers, Cassis, Van Woerkom, Clark-Coleman and Leland

Nays: None

The resolution was placed on the order of Resolutions.

The Committee on Education reported

**Senate Bill No. 307, entitled**

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding section 1294.

With the recommendation that the substitute (S-2) be adopted and that the bill then pass.

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

Wayne Kuipers

Chairperson

**To Report Out:**

Yeas: Senators Kuipers, Cassis, Van Woerkom, Clark-Coleman and Leland

Nays: None

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

**COMMITTEE ATTENDANCE REPORT**

The Committee on Education submitted the following:

Meeting held on Thursday, November 6, 2003, at 2:00 p.m., Room 210, Farnum Building

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

**COMMITTEE ATTENDANCE REPORT**

The Subcommittee on Capital Outlay submitted the following:

Meeting held on Thursday, October 30, 2003, at 8:45 a.m., House Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Johnson (C), Goschka, Cropsey, George, Prusi, Cherry and Clarke

Excused: Senator Hardiman

**Scheduled Meetings****Appropriations -****Subcommittee -**

**Natural Resources Department** - Thursday, December 4, 12:00 noon, Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

**Commerce and Labor** - Thursday, November 13, 9:00 a.m., Room 100, Farnum Building (373-2413)

**Natural Resources and Environmental Affairs** - Thursday, November 13, 8:00 a.m., Room 110, Farnum Building (373-3447)

Senator Hammerstrom moved that the Senate adjourn.

The motion prevailed, the time being 1:00 p.m.

The Assistant President pro tempore, Senator Sanborn, declared the Senate adjourned until Thursday, November 13, 2003, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate

