

No. 77

# JOURNAL OF THE SENATE

---

Senate Chamber, Lansing, Tuesday, December 22, 1998.

11:45 a.m.

The Senate was called to order by the Assistant President pro tempore, Senator Philip E. Hoffman.

The roll was called by the Secretary of the Senate, who announced that a quorum was not present.

Bennett—present  
Berryman—absent  
Bouchard—present  
Bullard—absent  
Byrum—present  
Cherry—present  
Cisky—absent  
Conroy—absent  
DeBeussaert—present  
DeGrow—present  
Dingell—present  
Dunaskiss—absent  
Emmons—absent

Gast—present  
Geake—present  
Gougeon—present  
Hart—absent  
Hoffman—present  
Jaye—absent  
Koivisto—absent  
McManus—absent  
Miller—absent  
Murphy—absent  
North—present  
O'Brien—absent  
Peters—absent

Posthumus—present  
Rogers—present  
Schuette—absent  
Schwarz—absent  
Shugars—present  
A. Smith—present  
V. Smith—absent  
Steil—absent  
Stille—present  
Van Regenmorter—absent  
Vaughn—present  
Young—absent

Senator Jackie Vaughn III of the 4th District offered the following invocation:

In ancient times when men and women felt helpless, separated, and left out from each other, they prayed to God. Today when we feel helpless, estranged, and left out in a different and perhaps more frightening way, we are called on to pray.

Spirit of the loving God, You call us to be daring, stewards, and co-creators of Your world to care for Your generation. Be with this important body which is charged, entrusted, and empowered with so much. By love, which is justice, grant us passion in law to care for the poor, the oppressed, and the least among us. By love, which is compassion, help us to overcome parochial and crippling divisions to transcend law alone, for it is love that binds us together.

Hear our prayer, O Lord, and give ear unto our cries. Hold not Thy peace at my tears for I am a stranger with Thee in the land and a sojourner, as our foreparents were.

This is my prayer for Christ's sake. Amen.

### **Motions and Communications**

The following communications were received:  
Joint Committee on Administrative Rules

#### Certificates of Approval

Date: December 9, 1998  
Subject: Trans. No. 98-76

I hereby certify that the Joint Committee on Administrative Rules approved the administrative rules from the Department of Education, Proprietary School Unit pertaining to Proprietary Schools, dated August 6, 1998.

Date: December 9, 1998  
Subject: Trans. No. 98-77

I hereby certify that the Joint Committee on Administrative Rules approved the administrative rules from the Department of Environmental Quality, Drinking Water and Radiological Protection Division pertaining to Supplying Water to the Public, dated July 31, 1998.

Date: December 9, 1998  
Subject: Trans. No. 98-78

I hereby certify that the Joint Committee on Administrative Rules approved the administrative rules from the Department of Environmental Quality, Surface Water Quality Division pertaining to Sewerage Systems, dated October 28, 1998.

Date: December 9, 1998  
Subject: Trans. No. 98-79

I hereby certify that the Joint Committee on Administrative Rules approved the administrative rules from the Department of Environmental Quality, Underground Storage Tank Division pertaining to Underground Storage Tanks, dated August 31, 1998.

Date: December 9, 1998  
Subject: Trans. No. 98-87

I hereby certify that the Joint Committee on Administrative Rules approved the administrative rules from the Department of Consumer and Industry Services, Director's Office, pertaining to Construction Code—Michigan Uniform Energy Code (Part 10), dated December 7, 1998.

Sincerely,  
Senator Walter H. North  
Chair

The communications were referred to the Secretary for record.

The following communications were received:  
Joint Committee on Administrative Rules

December 9, 1998

Pursuant to the authority granted in subsection (3) of section 45 of the Administrative Procedures Act, being 24.245 of the Michigan Compiled Laws, the Committee by majority vote extended the time for consideration of Trans. No. 98-80 submitted by the Department of Environmental Quality, Air Quality Division pertaining to Air Pollution Control.

December 9, 1998

Pursuant to the authority granted in subsection (3) of section 45 of the Administrative Procedures Act, being 24.245 of the Michigan Compiled Laws, the Committee by majority vote extended the time for consideration of Trans. No. 98-81 submitted by the Department of Consumer and Industry Services, Director's Office, pertaining to Construction Code—Plumbing Code (Part 7).

December 9, 1998

Pursuant to the authority granted in subsection (3) of section 45 of the Administrative Procedures Act, being 24.245 of the Michigan Compiled Laws, the Committee by majority vote extended the time for consideration of Trans. No. 98-83 submitted by the Department of Consumer and Industry Services, Carnival-Amusement Safety Board pertaining to General Rules (Part 4. Participatory Rides—Go-Karts).

December 9, 1998

Pursuant to the authority granted in subsection (3) of section 45 of the Administrative Procedures Act, being 24.245 of the Michigan Compiled Laws, the Committee by majority vote extended the time for consideration of Trans. No. 98-84 submitted by the Department of Community Health pertaining to Health Legislation and Policy Development—Communicable and Related Diseases.

December 9, 1998

Pursuant to the authority granted in subsection (3) of section 45 of the Administrative Procedures Act, being 24.245 of the Michigan Compiled Laws, the Committee by majority vote extended the time for consideration of Trans. No. 98-86 submitted by the Department of Consumer and Industry Services, Director's Office pertaining to Marriage and Family Therapy.

Sincerely,  
Senator Walter H. North  
Chair

The communications were referred to the Secretary for record.

#### COMMITTEE ATTENDANCE REPORT

The Joint Committee on Administrative Rules submits the following:

Meeting held on Wednesday, December 9, 1998, at 8:30 a.m., Rooms 402 and 403, Capitol Building

Present: Senators North (C), Schwarz, Dingell and Byrum

Absent: Senator Van Regenmorter

The following communications were received:

Office of the Auditor General

December 10, 1998

Enclosed is a copy of the following audit report/or executive digest:

Financial Audit, Including the Provisions of the Single Audit Act, of the Family Independence Agency and Michigan Commission for the Blind Federal Programs, Within the Department of Consumer and Industry Services, October 1, 1994, through September 30, 1996.

December 10, 1998

Enclosed is a copy of the following audit report/or executive digest:

Performance and Financial Related Audit of the Michigan Information Processing Center, Department of Management and Budget, December 1998.

December 11, 1998

Enclosed is a copy of the following audit report and/or executive digest:

Performance Audit of Mid Michigan Community College, December 1998.

December 17, 1998

Enclosed is a copy of the following audit report/or executive digest:

Performance and Financial Related Audit of the Hospital Patients' Trust Fund, Department of Community Health, December 1998.

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

The communications were referred to the Secretary for record.

The following communication was received:  
Michigan Higher Education Assistance Authority  
Michigan Higher Education Student Loan Authority

December 11, 1998

Public Act 77 of 1960, as amended, requires that the Michigan Higher Education Assistance Authority submit an annual report to the Governor and the Legislature. Enclosed, for your review, is the Annual Report for 1996-97 of both the Michigan Higher Education Assistance Authority and the Michigan Higher Education Student Loan Authority.

Sincerely,  
H. Jack Nelson  
Executive Director

The communication was referred to the Secretary for record.

The following communication was received:  
Office of the Mackinac County Prosecuting Attorney

December 14, 1998

Enclosed please find the annual Citizen Advisory Committee Report of Activities for Mackinac County. Should you have any questions regarding this report, please contact this office.

Sincerely,  
W. Clayton Graham  
Prosecuting Attorney

The communication was referred to the Secretary for record.

The Secretary announced the enrollment printing and presentation to the Governor on Tuesday, December 15, for his approval the following bills:

**Enrolled Senate Bill No. 152 at 3:44 p.m.**  
**Enrolled Senate Bill No. 728 at 3:46 p.m.**  
**Enrolled Senate Bill No. 752 at 3:48 p.m.**  
**Enrolled Senate Bill No. 1086 at 3:50 p.m.**  
**Enrolled Senate Bill No. 1087 at 3:52 p.m.**  
**Enrolled Senate Bill No. 1088 at 3:54 p.m.**  
**Enrolled Senate Bill No. 1148 at 3:56 p.m.**  
**Enrolled Senate Bill No. 1170 at 3:58 p.m.**

The Secretary announced the enrollment printing and presentation to the Governor on Wednesday, December 16, for his approval the following bills:

**Enrolled Senate Bill No. 5 at 2:55 p.m.**  
**Enrolled Senate Bill No. 184 at 2:57 p.m.**  
**Enrolled Senate Bill No. 375 at 2:59 p.m.**  
**Enrolled Senate Bill No. 378 at 3:01 p.m.**  
**Enrolled Senate Bill No. 379 at 3:03 p.m.**  
**Enrolled Senate Bill No. 380 at 3:05 p.m.**

The Secretary announced the enrollment printing and presentation to the Governor on Monday, December 21, for his approval the following bills:

**Enrolled Senate Bill No. 479 at 1:10 p.m.**  
**Enrolled Senate Bill No. 1007 at 1:12 p.m.**  
**Enrolled Senate Bill No. 1096 at 1:14 p.m.**  
**Enrolled Senate Bill No. 1283 at 1:16 p.m.**

The Secretary announced the printing and placement in the members' files on Friday, December 11 of:

**House Bill Nos. 6317 6318**

The Secretary announced the printing and placement in the members' files on Tuesday, December 15 of:

**House Bill No. 6319**  
**House Joint Resolution KK**

#### Messages from the Governor

Senator Bouchard entered the Senate Chamber.

The following messages from the Governor were received:

Date: December 17, 1998  
Time: 10:04 a.m.

To the President of the Senate:

Madam—I have this day approved and signed

**Enrolled Senate Bill No. 1148 (Public Act No. 393), being**

An act to amend 1972 PA 239, entitled “An act to establish and operate a state lottery and to allow state participation in certain lottery-related joint enterprises with other sovereignties; to create a bureau of state lottery and to prescribe its powers and duties; to prescribe certain powers and duties of other state departments and agencies; to license and regulate certain sales agents; to create the state lottery fund; to provide for the distribution of lottery revenues and earnings for certain purposes; to provide for an appropriation; and to provide for remedies and penalties,” by amending section 12 (MCL 432.12), as amended by 1996 PA 167.

(Filed with the Secretary of State on December 17, 1998, at 2:42 p.m.)

Date: December 18, 1998  
Time: 10:37 a.m.

To the President of the Senate:

Madam—I have this day approved and signed

**Enrolled Senate Bill No. 1086 (Public Act No. 411), being**

An act to amend 1986 PA 268, entitled “An act to create the legislative council; to prescribe its membership, powers, and duties; to create a legislative service bureau to provide staff services to the legislature and the council; to provide for operation of legislative parking facilities; to create funds; to provide for the expenditure of appropriated funds by legislative council agencies; to authorize the sale of access to certain computerized data bases; to establish fees; to create the Michigan commission on uniform state laws; to create a law revision commission; to create a senate fiscal agency and a house fiscal agency; to create a Michigan capitol committee; to create a commission on intergovernmental relations; to prescribe the powers and duties of certain state agencies and departments; to repeal certain acts and parts of acts; and to repeal certain parts of this act on specific dates,” (MCL 4.1101 to 4.1901) by adding section 204f.

(Filed with the Secretary of State on December 21, 1998, at 11:14 a.m.)

Date: December 18, 1998  
Time: 2:48 p.m.

To the President of the Senate:

Madam—I have this day approved and signed

**Enrolled Senate Bill No. 152 (Public Act No. 412), being**

An act to amend 1980 PA 350, entitled “An act to provide for the incorporation of nonprofit health care corporations; to provide their rights, powers, and immunities; to prescribe the powers and duties of certain state officers relative to the exercise of those rights, powers, and immunities; to prescribe certain conditions for the transaction of business by those corporations in this state; to define the relationship of health care providers to nonprofit health care corporations and to specify their rights, powers, and immunities with respect thereto; to provide for a Michigan caring program; to provide for the regulation and supervision of nonprofit health care corporations by the commissioner of insurance; to prescribe powers and duties of certain other state officers with respect to the regulation and supervision of nonprofit health care corporations; to provide for the imposition of a regulatory fee; to regulate the merger or consolidation of certain corporations; to prescribe an expeditious and effective procedure for the maintenance and conduct of certain administrative appeals relative to provider class plans; to provide for certain administrative hearings relative to rates for health care benefits; to provide for certain causes of action; to prescribe penalties and to provide civil fines for violations of this act; and to repeal certain acts and parts of acts,” (MCL 550.1101 to 550.1704) by adding section 401f.

(Filed with the Secretary of State on December 21, 1998, at 11:16 a.m.)

Date: December 18, 1998  
Time: 2:52 p.m.

To the President of the Senate:

Madam—I have this day approved and signed

**Enrolled Senate Bill No. 1088 (Public Act No. 413), being**

An act to amend 1986 PA 268, entitled “An act to create the legislative council; to prescribe its membership, powers, and duties; to create a legislative service bureau to provide staff services to the legislature and the council; to provide for operation of legislative parking facilities; to create funds; to provide for the expenditure of appropriated funds by legislative council agencies; to authorize the sale of access to certain computerized data bases; to establish fees; to create the Michigan commission on uniform state laws; to create a law revision commission; to create a senate fiscal

agency and a house fiscal agency; to create a Michigan capitol committee; to create a commission on intergovernmental relations; to prescribe the powers and duties of certain state agencies and departments; to repeal certain acts and parts of acts; and to repeal certain parts of this act on specific dates," (MCL 4.1101 to 4.1901) by adding section 204d.

(Filed with the Secretary of State on December 21, 1998, at 11:18 a.m.)

Date: December 18, 1998

Time: 2:54 p.m.

To the President of the Senate:

Madam—I have this day approved and signed

**Enrolled Senate Bill No. 1087 (Public Act No. 414), being**

An act to amend 1986 PA 268, entitled "An act to create the legislative council; to prescribe its membership, powers, and duties; to create a legislative service bureau to provide staff services to the legislature and the council; to provide for operation of legislative parking facilities; to create funds; to provide for the expenditure of appropriated funds by legislative council agencies; to authorize the sale of access to certain computerized data bases; to establish fees; to create the Michigan commission on uniform state laws; to create a law revision commission; to create a senate fiscal agency and a house fiscal agency; to create a Michigan capitol committee; to create a commission on intergovernmental relations; to prescribe the powers and duties of certain state agencies and departments; to repeal certain acts and parts of acts; and to repeal certain parts of this act on specific dates," (MCL 4.1101 to 4.1901) by adding section 204c.

(Filed with the Secretary of State on December 21, 1998, at 11:20 a.m.)

Date: December 18, 1998

Time: 3:07 p.m.

To the President of the Senate:

Madam—I have this day approved and signed

**Enrolled Senate Bill No. 752 (Public Act No. 415), being**

An act to amend 1956 PA 5, entitled "An act to establish and promote a uniform system of municipal courts in cities; to consolidate justice courts in cities into a system of municipal courts; to change the name of existing justice courts and justices of the peace in cities to municipal courts and municipal judges; to promote uniformity in practice and procedure in such courts; to prescribe the powers, duties and functions of such courts; and to provide for substitute municipal judges in cities in cases of death, absence, disability or removal of the regularly elected or appointed municipal judges and in cases where temporary judicial assistance is needed in such courts," by amending section 23 (MCL 730.523) and by adding section 23a.

(Filed with the Secretary of State on December 21, 1998, at 11:22 a.m.)

Respectfully,  
John Engler  
Governor

The following messages from the Governor were received and read:

December 18, 1998

There are herewith presented for consideration and confirmation by the Senate, the following reappointments to office:

**Commission on Services to the Aging**

Dr. Nancy G. Boykin, 17224 Fairfield, Detroit, Michigan 48221, county of Wayne, as a member representing Republicans, succeeding herself, for a term expiring on July 28, 2001.

Mr. Donald Hoffman, 7575 Woodbridge Lane, Portage, Michigan 49024, county of Kalamazoo, as a member representing Democrats, succeeding himself, for a term expiring on July 28, 2001.

Mr. John M. Gonzales, 531 Townsend Drive, Apt. 2, Imlay City, Michigan 48444, county of Lapeer, as a member representing Independents, succeeding himself, for a term expiring on July 28, 2001.

Mr. Theodore W. Breitenbach, 116 South 22nd Street, Escanaba, Michigan 49829, county of Delta, as a member representing Independents, succeeding himself, for a term expiring on July 28, 2001.

Ms. Ann Marie Shoop, 23899 Lynwood Drive, Novi, Michigan 48374, county of Oakland, as a member representing Independents, succeeding herself, for a term expiring on July 28, 2001.

December 21, 1998

There is herewith presented for consideration and confirmation by the Senate, the following reappointment to office:

**Michigan Natural Resources Trust Fund Board**

Dr. Gordon E. Guyer, 862 Whitman, East Lansing, Michigan 48823, county of Ingham, as a member representing the general public, succeeding himself, for a term expiring on October 1, 2002.

December 21, 1998

There is herewith presented for consideration and confirmation by the Senate, the following reappointment to office:  
**Michigan Gaming Control Board**

The Honorable Michael L. Stacey, 6414 Countryside Lane, West Bloomfield, Michigan 48323, county of Oakland, as a member representing the general public, succeeding himself, for a term expiring on December 20, 2002.

Sincerely,  
John Engler  
Governor

The appointments were referred to the Committee on Government Operations.

**Messages from the House**

The following message was received and read:

December 22, 1998

I herewith return to the Senate the following Senate Bills, Joint Resolutions and Senate Concurrent Resolutions which failed of passage or adoption by the House of Representatives:

|                         |           |           |           |           |           |           |           |           |           |            |            |            |            |            |
|-------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------------|------------|------------|------------|------------|
| <b>Senate Bill Nos.</b> | <b>18</b> | <b>33</b> | <b>34</b> | <b>35</b> | <b>36</b> | <b>50</b> | <b>52</b> | <b>72</b> | <b>78</b> | <b>101</b> | <b>102</b> | <b>104</b> | <b>113</b> | <b>126</b> |
|                         | 146       | 151       | 153       | 163       | 188       | 190       | 193       | 199       | 202       | 207        | 224        | 226        | 235        | 236        |
|                         | 251       | 255       | 271       | 280       | 288       | 289       | 290       | 291       | 292       | 293        | 298        | 300        | 306        | 312        |
|                         | 341       | 351       | 354       | 356       | 366       | 410       | 411       | 435       | 436       | 437        | 438        | 456        | 459        | 460        |
|                         | 461       | 462       | 463       | 466       | 467       | 473       | 474       | 475       | 476       | 480        | 486        | 493        | 494        | 502        |
|                         | 507       | 509       | 512       | 513       | 528       | 529       | 530       | 532       | 535       | 536        | 537        | 538        | 539        | 549        |
|                         | 555       | 556       | 557       | 558       | 559       | 560       | 561       | 562       | 563       | 564        | 565        | 567        | 573        | 576        |
|                         | 580       | 584       | 585       | 588       | 589       | 593       | 594       | 599       | 610       | 611        | 615        | 623        | 626        | 633        |
|                         | 634       | 636       | 640       | 647       | 648       | 649       | 666       | 669       | 680       | 683        | 689        | 694        | 695        | 715        |
|                         | 718       | 749       | 753       | 755       | 757       | 760       | 761       | 785       | 786       | 805        | 809        | 814        | 816        | 818        |
|                         | 825       | 827       | 852       | 853       | 860       | 876       | 877       | 881       | 886       | 888        | 890        | 891        | 898        | 942        |
|                         | 943       | 944       | 945       | 947       | 949       | 957       | 962       | 964       | 965       | 966        | 968        | 974        | 975        | 978        |
|                         | 988       | 989       | 990       | 991       | 994       | 995       | 1008      | 1009      | 1010      | 1011       | 1012       | 1020       | 1021       | 1026       |
|                         | 1027      | 1040      | 1046      | 1049      | 1050      | 1051      | 1052      | 1056      | 1057      | 1058       | 1071       | 1079       | 1080       | 1081       |
|                         | 1082      | 1083      | 1091      | 1095      | 1097      | 1109      | 1110      | 1111      | 1122      | 1123       | 1132       | 1143       | 1150       | 1159       |
|                         | 1163      | 1164      | 1165      | 1166      | 1168      | 1181      | 1213      | 1214      | 1228      | 1231       | 1258       | 1340       | 1342       |            |

**Senate Joint Resolutions L R**

|  |          |           |           |           |           |           |           |           |           |           |           |           |
|--|----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| <b>Senate Concurrent Resolution Nos.</b> | <b>9</b> | <b>11</b> | <b>16</b> | <b>17</b> | <b>26</b> | <b>30</b> | <b>31</b> | <b>36</b> | <b>52</b> | <b>59</b> | <b>75</b> | <b>77</b> |
|  | 78       | 87        | 90        | 105       |           |           |           |           |           |           |           |           |

Very respectfully,  
Mary Kay Scullion, Clerk  
House of Representatives

The following message was received and read:

December 22, 1998

I have the honor to inform you that the House of Representatives has completed the business of the session and is now ready to adjourn sine die.

Very respectfully,  
Mary Kay Scullion, Clerk  
House of Representatives

**Statements**

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

The motion prevailed.

Senator Byrum's statement is as follows:

I will be speaking to Senator Bob Geake because it was my first year as a state Representative, and pretty darn green I might add, that the two of us paired up and were able to put together a four-bill package of legislation that I thought

really was landmark legislation and ended up being the toughest anti-stalking law in the nation. I just wanted to acknowledge how much I appreciated the good Senator—his willingness to work with this young Democrat, understanding that it did take both sides of the aisle in both houses in order to put this package together. I think we did real good work, and it stood constitutional muster. In fact, it has been a pattern for a lot of other states to follow. I'm just grateful and pleased that I was able to be here and play a part in that role.

I wish you the very best in your retirement. I'm sure there's going to be lots yet ahead for you and that you will make your mark yet again. Thank you and God's speed.

### Committee Reports

#### COMMITTEE ATTENDANCE REPORT

The Conference Committee on Senate Bill No. 514 submits the following:  
Meeting held on Tuesday, December 8, 1998, at 3:00 p.m., Room S-208, Capitol Building  
Present: Senator Shugars (C)  
Excused: Senators Schwarz and Byrum

#### COMMITTEE ATTENDANCE REPORT

The Joint Committee on Administrative Rules submits the following:  
Meeting held on Wednesday, December 9, 1998, at 8:30 a.m. Rooms 402 and 403, Capitol Building  
Present: Senators North (C), Schwarz, Dingell and Byrum  
Excused: Senator Van Regenmorter

#### COMMITTEE ATTENDANCE REPORT

The Legislative Retirement Board of Trustees submits the following:  
Meeting held on Wednesday, December 9, 1998, at 12:00 p.m., Elijah Myers Room, Capitol Building  
Present: Senator Conroy  
Excused: Senators McManus (C), Emmons and Schwarz

#### COMMITTEE ATTENDANCE REPORT

The Conference Committee on Senate Bill 514 submits the following:  
Meeting held on Thursday, December 10, 1998, at 9:45 a.m., Room S-208, Capitol Building  
Present: Senator Shugars (C)  
Excused: Senators Schwarz and Byrum

#### COMMITTEE ATTENDANCE REPORT

The Trial Court Assessment Commission submits the following:  
Meeting held on Friday, December 11, 1998 at 9:00 a.m., 8th Floor Conference Room, Farnum Building  
Present: Senator Dingell  
Excused: Senator Van Regenmorter

The hour of 12:00 Noon having arrived,

Pursuant to the resolution fixing the date of final adjournment and the provision of the Constitution determining the hour of such adjournment, the Assistant President pro tempore, Senator Hoffman, declared the Senate adjourned without day.

CAROL MOREY VIVENTI  
Secretary of the Senate.