Senate Journal No. 17

No. 17 STATE OF MICHIGAN Journal of the Senate

92nd Legislature REGULAR SESSION OF 2004

Senate Chamber, Lansing, Thursday, February 19, 2004.

10:00 a.m.

The Senate was called to order by the President pro tempore, Senator Patricia L. Birkholz.

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—excused
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 Laura M. Toy of the 6th District offered the following invocation:

Gracious God, today we ask that You bless this Senate body as we strive to serve the citizens of this great state with honesty, integrity, and the spirit of compassion. We further ask that You grant us the courage and insight to make decisions that protect and better the lives of constituents we are honored to represent.

Lord, bless the brave men and women of our military as they advance the causes of freedom and justice throughout the world. Bless, too, their families, heroes themselves, who wait and hope patiently for their safe and swift return.

We humbly pray for these blessings of protection, justice, and mercy in Your holy name. Amen.

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

Motions and Communications

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

The Secretary announced that the following House bills were received in the Senate and filed on Wednesday, February 18:

House Bill Nos. 4261 4525 5021 5116

The Secretary announced that the following official bills were printed on Wednesday, February 18, and are available at the legislative Web site:

Senate Bill Nos. 992 993 994 995 996 997

House Bill Nos. 5543 5544 5545 5546 5547 5548 5549 5550 5551 5552 5553 5554

By unanimous consent the Senate proceeded to the order of

Messages from the House

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

Senate Bill No. 506

Senate Bill No. 557

Senate Bill No. 806

Senate Bill No. 502

Senate Bill No. 57

Senate Bill No. 497

Senate Bill No. 498

Senate Bill No. 499

Senate Bill No. 500

Senate Bill No. 715

The motion prevailed.

Senate Bill No. 588, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 2006 (MCL 500.2006), as amended by 2002 PA 316.

The House of Representatives has substituted (H-1) the bill.

The House of Representatives has passed the bill as substituted (H-1), ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

Pursuant to rule 3.202, the bill was laid over one day.

Senator Jacobs moved that Senator Leland be excused from today's session.

The motion prevailed.

Senator Jacobs moved that Senator Thomas be temporarily excused from today's session.

The motion prevailed.

Senators Thomas and Garcia entered the Senate Chamber.

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, 811i, 811k, 811l, and 811n (MCL 257.217d, 257.801, 257.811d, 257.811e, 257.811f, 257.811g, 257.811h, 257.811i, 257.811j, 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 79, and by adding sections 811m, 811o, and 811p; and to repeal acts and parts of acts.

Substitute (H-6).

The question being on concurring in the substitute made to the bill by the House,

The substitute was concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 66	Yeas—26

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

Cropsey Jacobs

Nays—11

Basham	Cherry	Emerson	Scott
Bernero	Clark-Coleman	Prusi	Switalski
Brater	Clarke	Schauer	

Excused—1

Leland

Not Voting—0

In The Chair: Birkholz

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 full title.

The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

Senators Scott, Hardiman and Johnson asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Scott's statement is as follows:

Well, It's been a sad day for a couple of weeks, and I think that I have been in denial. Ron Hicks has been my chief of staff for the last year and two months, and somehow the Family Independence Agency found a way to take him away from me. So Ron has left and has gone over to the Family Independence Agency, and we do want to honor his many years that he has given to the House and Senate.

As you know, Ron worked for Maxine Berman for many years, also more recently for Alma Wheeler Smith, who was the ranking member on the Democratic side for appropriations, and Ron served as her person. Not only just for Alma, Maxine, and myself, but Ron was an inspiration to all of us and certainly helped all of us. Deb Cherry and I are thinking about finding a way that we can maximize his salary over there to bring him back.

It has been an honor and just a real privilege. My right hand is gone. I just want to wish Ron well, and I'm glad that if you had to go that it was the Family Independence Agency, since that is my committee.

Senator Hardiman's statement is as follows:

I have had the pleasure of working with Ron Hicks on the Senator's staff and have found him to be a person of great integrity and someone who gets the job done. And I know I am going to enjoy working with him through our committee and his work at the Family Independence Agency. I just want to congratulate him publicly as well as personally.

Senator Johnson's statement is as follows:

Like all of those who know Ron, I, too, regret his leaving. He has been a priceless part of this system for many years. He and I worked together with Maxine Berman in the House, and we've spent many a long hour together negotiating issues. He's just as Senator Hardiman said, a man with enormous integrity, someone you could always rely on, and someone whose judgment you trusted. I love him dearly, and I am going to miss him.

House Bill No. 4463, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 811q. (For text of amendment, see Senate Journal No. 16, p. 213.)

The question being on concurring in the House amendment made to the Senate substitute,

The amendment was concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 67	Yeas—32

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

Nays-5

Brater Emerson Scott Switalski Clarke

Excused—1

Leland

Not Voting—0

In The Chair: Birkholz

By unanimous consent the Senate proceeded to the order of

General Orders

Senator Hammerstrom moved that the Senate resolve itself into the Committee of the Whole for consideration of the General Orders calendar.

The motion prevailed, and the President pro tempore, Senator Birkholz, designated Senator Cropsey as Chairperson. After some time spent therein, the Committee arose; and, the President pro tempore, Senator Birkholz, having resumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bill:

House Bill No. 4887, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 2 (MCL 257.2), as amended by 1997 PA 8.

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. 241, entitled

A bill to amend 2001 PA 142, entitled "Michigan memorial highway act," (MCL 250.1001 to 250.1100) by adding section 1067.

Substitute (S-1).

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

By unanimous consent the Senate returned to the order of

Third Reading of Bills

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

House Bill No. 4887

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

The following bill was read a third time:

House Bill No. 4675, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 16611 (MCL 333.16611), as amended by 2003 PA 35.

The question being on the passage of the bill,

Senator Hammerstrom moved that further consideration of the bill be postponed temporarily.

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 559, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 513 (MCL 436.1513), as amended by 2002 PA 725.

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. 68 Yeas—37

Allen	Clark-Coleman	Hardiman	Sanborn
Barcia	Clarke	Jacobs	Schauer
Basham	Cropsey	Jelinek	Scott
Bernero	Emerson	Johnson	Sikkema
Birkholz	Garcia	Kuipers	Stamas
Bishop	George	McManus	Switalski

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Olshove Thomas Brater Gilbert Goschka Brown Patterson Toy Cassis Hammerstrom Prusi Van Woerkom Cherry

Nays—0

Excused—1

Leland

Not Voting—0

In The Chair: Birkholz

The Senate agreed to the title of the bill.

The following bill was read a third time:

House Bill No. 4887, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 2 (MCL 257.2), as amended by 1997 PA 8.

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. 69 Yeas—37

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

Van Woerkom

Cherry

Nays—0

Excused—1

Leland

Not Voting—0

In The Chair: Birkholz

The question being on concurring in the committee recommendation to give the bill immediate effect,

The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

"An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,".

The Senate agreed to the full title.

By unanimous consent the Senate returned to consideration of the following bill:

House Bill No. 4675, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 16611 (MCL 333.16611), as amended by 2003 PA 35.

(This bill was read a third time earlier today and consideration postponed. See p. 227.)

The question being on the passage of the bill,

Recess

Senator Hammerstrom moved that the Senate recess subject to the call of the Chair. The motion prevailed, the time being 10:33 a.m.

10:38 a.m.

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

The question being on the passage of the bill,

Senator George offered the following amendment:

1. Amend page 7, following line 14, by inserting:

"(15) Within 30 days after the effective date of the amendatory act that added this subsection, the board shall develop patient safety and equipment guidelines or standards for dentists delegating the administration of nitrous oxide analgesia to dental hygienists and dental assistants under this part and guidelines and standards regarding the administration of sedatives to patients under 18 years of age. The guidelines or standards shall be consistent with national recommendations and published reports." and renumbering the remaining subsection.

The question being on the adoption of the amendment,

Senator Hammerstrom moved that further consideration of the bill be postponed temporarily.

The motion prevailed.

Senator Scott stated that had she been present on February 18 when the votes were taken on concurring in the House substitute to the following bills, she would have voted "yea":

Senate Bill No. 512

Senate Bill No. 513

Senate Bill No. 800

Senator Scott stated that had she been present on February 18 when the vote was taken on passage of the following bill, she would have voted "yea":

House Bill No. 5154

Senator Scott stated that had she been present on February 18 when the vote was taken on advising and consenting to the appointment of Ms. Ann M. Jousma-Miller to the Commission of Agriculture, she would have voted "yea."

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senator Switalski introduced

Senate Bill No. 1005, entitled

A bill to provide for an authority to manage and operate certain city and village water and sewer systems; and to provide for the appointment of members to the authority.

The bill was read a first and second time by title and referred to the Committee on Local, Urban and State Affairs.

Senators Leland, Scott, Switalski, Jacobs, Clark-Coleman, Schauer, Cherry and Thomas introduced

Senate Bill No. 1006, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding section 3109b. The bill was read a first and second time by title and referred to the Committee on Banking and Financial Institutions.

House Bill No. 4261, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 272.

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 Finance.

House Bill No. 4525, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 269.

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 Finance.

House Bill No. 5021, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 1615.

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 Natural Resources and Environmental Affairs.

House Bill No. 5116, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding section 5474b. 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.

By unanimous consent the Senate returned to the order of

Resolutions

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

Senate Resolution No. 218

The resolution consent calendar was adopted.

Senator Brater offered the following resolution:

Senate Resolution No. 218.

A resolution recognizing 150 years of engineering excellence at the University of Michigan.

Whereas, The discipline of engineering has had a significant impact on our world, contributing in far-reaching and beneficial ways to virtually every human enterprise, from manufacturing and aerospace to medicine and information technology; and

Whereas, The precursor to the College of Engineering was established in 1854 at the University of Michigan (U of M) as one of the first engineering degree programs in the nation; and

Whereas, Engineering at the U of M has evolved into one of the most respected and renowned programs of engineering in the world, consistently attaining the highest levels of excellence in education, research, and service, and currently comprising 11 academic departments, approximately 400 research and teaching faculty, and 7,500 students; and

Whereas, Generations of U of M engineering graduates have gone on to become outstanding practitioners, researchers, and instructors, advancing their profession and bettering the world in myriad ways; and

Whereas, U of M engineering today is leading the way not only in traditional engineering realms such as civil, aerospace, and automotive engineering, but in the newest areas of endeavor, such as cellular and molecular biotechnology, information technology, and nanotechnology and integrated microsystems; and

Whereas, The University of Michigan College of Engineering has committed itself to solving some of the largest, most pervasive, and most urgent problems confronting humankind; now, therefore, be it

Resolved by the Senate, That we hereby acknowledge and congratulate the University of Michigan for 150 years of engineering excellence. We gratefully acknowledge its ongoing contributions to the economic vitality of the state, the strength of the engineering profession, and the present and future well-being of our society; and be it further

Resolved, That copies of this resolution be transmitted to the Governor of the state of Michigan and to the University of Michigan.

Senators Birkholz, Bishop, Clark-Coleman, Clarke, Garcia, Goschka, Jacobs, Olshove, Prusi, Schauer, Switalski, Thomas and Van Woerkom were named co-sponsors of the resolution.

Statements

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

The motion prevailed.

Senator Clarke's statement is as follows:

As many of you are aware, two police officers and one security officer were murdered this week. I want to acknowledge the Senator from the 4th District for memorializing their lives a few days ago.

Now these crimes are horrible not just the way that these officers had to die, but the fact that their family members will never see their niece or nephew or father or brother again. The immediate legislative response to these crimes has been to get revenge, to institute the death penalty and execute these murderers. These crimes are cold-blooded. They were cruel and, in my opinion, they were downright evil. But these crimes don't justify the state of Michigan to kill the killers. The death penalty does not deter sick people, and it's not a fair way to consistently administer justice.

I urge this Legislature, along with the faith-based community and the civil rights community, to join together in an effort to immediately stop the campaign to reinstitute the death penalty here in Michigan. I believe that when it comes to punishing murderers in these kinds of circumstances, the decision on who should die and when they should die is best left to our Creator and not to the government of Michigan.

Committee Reports

The Committee on Judiciary reported

Senate Bill No. 788, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 518 (MCL 600.518), as amended by 2001 PA 256.

With the recommendation that the following amendment be adopted and that the bill then pass:

1. Amend page 1, line 4, after "January 1," by striking out "2005" and inserting "2007".

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

Alan L. Cropsey Chairperson

To Report Out:

Yeas: Senators Cropsey, Bishop, Sanborn, Patterson, Schauer and Brater

Nays: Senator Bernero

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

The Committee on Judiciary reported

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.

With the recommendation that the bill pass.

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

Alan L. Cropsey Chairperson

To Report Out:

Yeas: Senators Cropsey, Bishop, Sanborn, Patterson, Schauer, Bernero and Brater

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submitted the following:

Meeting held on Tuesday, February 17, 2004, at 12:00 noon, Room 210, Farnum Building Present: Senators Cropsey (C), Bishop, Sanborn, Patterson, Schauer, Bernero and Brater

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Capital Outlay submitted the following:

Meeting held on Wednesday, February 18, 2004, at 8:45 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building

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

COMMITTEE ATTENDANCE REPORT

The Committee on Appropriations submitted the following:

Meeting held on Wednesday, February 18, 2004, at 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Johnson (C), Stamas, Brown, Goschka, Garcia, Cropsey, Jelinek, McManus, Hardiman, George, Prusi, Barcia, Cherry, Clarke and Switalski

Excused: Senator Scott

COMMITTEE ATTENDANCE REPORT

The Committee on Finance submitted the following:

Meeting held on Wednesday, February 18, 2004, at 1:00 p.m., Room 405, Capitol Building

Present: Senators Cassis (C), Garcia, McManus, Thomas and Brater

COMMITTEE ATTENDANCE REPORT

The Committee on Technology and Energy submitted the following:

Meeting held on Wednesday, February 18, 2004, at 3:00 p.m., Room 210, Farnum Building

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

Scheduled Meetings

Subcommittees -

Community Colleges - Tuesdays, February 24, March 2, and March 9, 1:00 p.m., and March 16, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

Community Health Department - Thursdays, February 26, March 4, and March 18, 2:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-7946)

Environmental Quality Department - Wednesdays, February 25, March 3, March 10, and March 17, 12:00 noon, Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

Higher Education - Fridays, February 20, 10:00 a.m., Oakland University, Rochester; February 27, 10:00 a.m., University of Michigan-Flint, Flint; March 5, 10:00 a.m., Cornerstone University, Grand Rapids; and March 12, 9:00 a.m., Lake Superior State University, Sault Ste. Marie (373-1760)

Judiciary and Corrections - Tuesdays, February 24, March 2, March 9, and March 16, 3:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-3760)

K-12, School Aid, Education - Thursday, February 26, 12:00 noon and Wednesday, March 3, 2:00 p.m. or later immediately following the Senate Appropriations Meeting, Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

Natural Resources Department - Tuesdays, February 24, March 2, March 9, and March 16, 12:00 noon, Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

State Police and Military Affairs and House State Police/Military and Veterans Affairs - Thursday, February 26, 9:00 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-5932)

Transportation Department and Transportation - Tuesday, February 24, 1:00 p.m., Room 110, Farnum Building (373-7708)

Commerce and Labor - Tuesday, February 24, 3:00 p.m., Room 100, Farnum Building (373-2413)

Families and Human Services - Tuesday, February 24, 3:00 p.m., Room 210, Farnum Building (373-1801)

Local, Urban and State Affairs - Thursday, February 26, 1:00 p.m., Room 110, Farnum Building (373-1707)

Technology and Energy - Wednesday, February 25, 3:00 p.m., Room 210, Farnum Building (373-7350)

Transportation and Transportation Department Appropriations Subcommittee - Tuesday, February 24, 1:00 p.m., Room 110, Farnum Building (373-7708)

Senator Hammerstrom moved that the Senate adjourn.

The motion prevailed, the time being 11:03 a.m.

The President pro tempore, Senator Birkholz, declared the Senate adjourned until Tuesday, February 24, 2004, at 10:00 a.m.

CAROL MOREY VIVENTI Secretary of the Senate