

No. 26
STATE OF MICHIGAN
Journal of the Senate
93rd Legislature
REGULAR SESSION OF 2005

Senate Chamber, Lansing, Tuesday, March 22, 2005.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor John D. Cherry, Jr.

The roll was called by the Secretary of the Senate, who announced that a quorum was present.

Allen—present
Barcia—present
Basham—present
Bernero—present
Birkholz—present
Bishop—present
Brater—present
Brown—present
Cassis—present
Cherry—present
Clark-Coleman—present
Clarke—present
Cropsey—present

Emerson—present
Garcia—present
George—present
Gilbert—present
Goschka—present
Hammerstrom—present
Hardiman—present
Jacobs—present
Jelinek—present
Johnson—present
Kuipers—present
Leland—present
McManus—present

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

Messages from the Governor

The following messages from the Governor were received and read:

March 17, 2005

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 Sections 16121 and 16907 of the Public Health Code, 1978 PA 368, MCL 333.16121 and 333.16907:

Board of Marriage and Family Therapy

Ms. Lori K. Edelson of 5136 Corners Drive, West Bloomfield, Michigan 48322, county of Oakland, succeeding Alan Hovestadt, whose term has expired, representing licensed marriage and family therapists, for a term commencing March 17, 2005 and expiring June 30, 2007.

Mr. James J. Moriarty of 1141 Trowbridge Road, Bloomfield Hills, Michigan 48304, county of Oakland, succeeding Martha Bristor, whose term has expired, representing licensed marriage and family therapists, for a term commencing March 17, 2005 and expiring June 30, 2008.

March 17, 2005

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 22 of The Public School Employees Retirement Act of 1979, 1980 PA 300, MCL 38.1322:

Public School Employees' Retirement Board

Ms. Lenore Croudy of 3235 Prospect, Flint, Michigan 48504, county of Genesee, succeeding Michael Meyer, whose term has expired, representing community college administrators or trustees, for a term commencing March 17, 2005 and expiring March 30, 2008.

Mr. Marc G. Whitefield of 4797 Pickering, Bloomfield Township, Michigan 48301, county of Oakland, succeeding Leon Hank, whose term has expired, representing the general public with experience in institutional investments, for a term commencing March 17, 2005 and expiring March 30, 2008.

March 17, 2005

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 Sections 16121 and 18505 of the Public Health Code, 1978 PA 368, MCL 333.16121 and 333.18505:

Michigan Board of Social Work

Ms. Anwar Najor-Durack, M.S.W., A.C.S.W., of 6752 Wind Mill Lane, West Bloomfield, Michigan 48324, county of Oakland, succeeding Joseph Kort, who has resigned, representing certified social workers, for a term commencing March 17, 2005 and expiring December 31, 2007.

Mr. David P. Stanislaw, M.S.W., of 1072 Wimbeldon Drive, Birmingham, Michigan 48009, county of Oakland, succeeding Matthew Lyberg, whose term has expired, representing individuals engaged primarily in the practice of social work, for a term commencing March 17, 2005 and expiring December 31, 2008.

March 18, 2005

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 10 of the Michigan Education Trust Act, 1986 PA 316, MCL 390.1430:

Michigan Education Trust Board of Directors

Ms. Cynthia N. Ford of 241 Lake Shore Drive, Grosse Pointe, Michigan 48236, county of Wayne, succeeding Taylor Segue, III, whose term has expired, representing members with knowledge, skill, and experience in the academic, business, or financial field, for a term commencing March 18, 2005 and expiring December 31, 2007.

March 18, 2005

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointment and reappointment to state office under Sections 16121 and 17821 of the Public Health Code, 1978 PA 368, MCL 333.16121 and 333.17821:

Michigan Board of Physical Therapy

Ms. Elizabeth Mostrom of 3645 Reeds Lake Boulevard S.E., Grand Rapids, Michigan 49506, county of Kent, succeeding Linda S. Rice, whose term has expired, representing physical therapists, for a term commencing March 18, 2005 and expiring December 31, 2007.

Mr. David W. Perry, PT, MS, of 2065 Van Antwerp, Grosse Pointe Woods, Michigan 48236, county of Wayne, reappointed to represent physical therapists, for a term expiring December 31, 2007.

March 18, 2005

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 Sections 16121 and 18021 of the Public Health Code, 1978 PA 368, MCL 333.16121 and 333.18021:

Michigan Board of Podiatric Medicine and Surgery

Ms. Tara L. Scott, DPM, of 26464 Senator Boulevard, Southfield, Michigan 48034, county of Oakland, succeeding Karen Potchynok-Lund, whose term has expired, representing podiatrists, for a term commencing March 18, 2005 and expiring June 30, 2007.

Sincerely,
Jennifer M. Granholm
Governor

The appointments were referred to the Committee on Government Operations.

The following message from the Governor was received and read:

March 21, 2005

Due to an address change in relation to the March 17, 2005 letter filed with your office pursuant to Sections 16121 and 18505 of the Public Health Code, 1978 PA 368, MCL 333.16121 and 333.18505, please be advised of the following correction:

Michigan Board of Social Work

Ms. Anwar Najor-Durack, M.S.W., A.C.S.W., of 6752 Wind Mill Lane, West Bloomfield, Michigan 48324, county of Oakland, succeeding Joseph Kort, who has resigned, representing certified social workers, for a term commencing March 17, 2005 and expiring December 31, 2007.

Mr. David P. Stanislaw, M.S.W., of **485 Harmon, Birmingham, Michigan 48009**, county of Oakland, succeeding Matthew Lyberg, whose term has expired, representing individuals engaged primarily in the practice of social work, for a term commencing March 17, 2005 and expiring December 31, 2008.

Sincerely,
Jennifer M. Granholm
Governor

The message was referred to the Committee on Government Operations.

Senators Goschka and Johnson entered the Senate Chamber.

By unanimous consent the Senate proceeded to the order of
General Orders

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

The motion prevailed, and the President, Lieutenant Governor Cherry, designated Senator Switalski as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Cherry, having resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 79, entitled

A bill to amend 1967 (Ex Sess) PA 7, entitled "Urban cooperation act of 1967," by amending section 8a (MCL 124.508a), as amended by 1996 PA 45.

Substitute (S-3).

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

1. Amend page 4, following line 9, by inserting:

"(6) WITH THE APPROVAL OF THE COUNTY, A MUNICIPALITY OR TOWNSHIP THAT IS NOT PART OF AN INTERLOCAL AGREEMENT ESTABLISHED UNDER THIS SECTION MAY BECOME SUBJECT TO THE AGREEMENT BY OTHERWISE COMPLYING WITH THE REQUIREMENTS OF THIS SECTION." and renumbering the remaining subsections.

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

During the Committee of the Whole, Senators George and Clarke entered the Senate Chamber.

By unanimous consent the Senate returned to the order of
Third Reading of Bills

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

Senate Bill No. 301
House Bill No. 4054

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 301, entitled

A bill to amend 1972 PA 222, entitled “An act to provide for an official personal identification card; to provide for its form, issuance and use; to regulate the use and disclosure of information obtained from the card; to prescribe the powers and duties of the secretary of state; to prescribe fees; to prescribe certain penalties for violations; and to provide an appropriation for certain purposes,” by amending sections 1 and 2 (MCL 28.291 and 28.292), section 1 as amended by 1997 PA 99 and section 2 as amended by 2003 PA 143.

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. 55

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: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

House Bill No. 4054, entitled

A bill to amend 1961 PA 236, entitled “Revised judicature act of 1961,” by amending section 1312 (MCL 600.1312), as amended by 2004 PA 12.

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. 56**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: President

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor.

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

“An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,”.

The Senate agreed to the full title.

Introduction and Referral of Bills

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

Senate Bill No. 332, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 3104 and 3109 (MCL 324.3104 and 324.3109), section 3104 as amended by 2004 PA 325.

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

Senators Brater, Prusi, Jacobs, Schauer and Clarke introduced

Senate Bill No. 333, entitled

A bill to amend 1956 PA 218, entitled “The insurance code of 1956,” (MCL 500.100 to 500.8302) by adding sections 3575 and 3577.

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

Senators Patterson, Gilbert, Basham, Birkholz, Bernero, Bishop, Brater, Switalski, Jacobs, Olshove, Cherry, Clark-Coleman, Clarke, Toy, Hammerstrom and Garcia introduced

Senate Bill No. 334, entitled

A bill to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," (MCL 460.1 to 460.10cc) by adding section 10dd.

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

Senators Jacobs, Schauer, Switalski, Goschka, Cherry, Basham, Hardiman, Brater, Bernero, Barcia, Hammerstrom, Patterson and George introduced

Senate Bill No. 335, entitled

A bill to amend 1973 PA 116, entitled "An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts," by amending section 1 (MCL 722.111), as amended by 2002 PA 696, and by adding section 17a.

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

House Bill No. 4308, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2005; to provide for the expenditure of the appropriations; and to prescribe certain conditions for the appropriations.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

Statements

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

The motion prevailed.

Senator Patterson's statement is as follows:

I had a fascinating weekend this weekend, and I have read the competitiveness and premium excessiveness in the home and auto insurance industries in the state of Michigan report. I find it very interesting, and I commend it to the very thoughtful consideration of all members, especially the key findings appearing on pages 6-9, and the commissioner's findings which read in pertinent part at page 9, "Therefore, the rates charged by private insurance insurers in those markets, if challenged by the commission under Section 2114(2) could not be found to be excessive under current law, even if they were found to be unreasonably high." Very interesting.

I would also commend for people's consideration *MIRS Capitol Capsule* on Thursday, March 17, page 2 of 14, which quotes Curt Metzger, researcher from Wayne State, "The losses justify the premiums." And then Mike Miller, the actuary who oversaw the studies, "The primary drive for insurance rates in Michigan has been a steady persistent increase in the average cost of claims."

All very fascinating, especially when one considers the recommendations of the commissioner at point viii, which my readings suggest, we would abandon territorial rating and go to profiling.

Senator Scott's statement is as follows:

Let me just say it is good to be back, and I would like to thank each and every one of you for your well-wishes.

I would just like my record to reflect that in my absence from session, I would have voted on the following: Roll Call Nos. 22-26, "yes"; Roll Call Nos. 27-30, "yes"; Roll Call No. 31, "no"; Roll Call Nos. 32-35, "yes"; Roll Call

Nos. 36 and 37, "yes"; Roll Call No. 38, "no"; Roll Call No. 39, "yes"; Roll Call Nos. 40-48, "yes"; Roll Call No. 49, "no"; Roll Call Nos. 50 and 51, "yes"; Roll Call No. 52, "no"; Roll Call No. 53, "yes"; and Roll Call No. 54, "yes."

I understand that my absence was quite noticeable in that there was no one speaking out each day under Statements on the issue of insurance. However, I see today there was one speaking out. Well, I am back, and you can rest assured that during my convalescence, insurance reform was still very much on my mind and it continues to be my No. 1 top priority.

I am very much aware of the recent findings produced by Wayne State University at the request of our commissioner in the Office of Financial and Insurance Services. I also agree wholeheartedly with the OFIS commissioner when she says, "Rates are unacceptably high and unaffordable for individuals with good records in several areas, especially our urban settings." She concluded that, "It is outrageous that we cannot take action to bring down rates in places like Detroit and Flint." And I would like to add Highland Park and Hamtramck since we are surrounded by Detroit.

The fact that the report shows that the insurance market is generally competitive does not translate into premium rates that are not excessive. Like I say, I'm back and you are going to hear this every day. As I said, you have heard me speak for months now on the issue of affordability. My constituents and many of your constituents simply cannot afford the high premium rates that they must pay in order to just comply with state laws and insure their vehicles.

I will remain optimistic that in the end, we will achieve meaningful insurance reform in the state of Michigan.

I would be remiss if I didn't acknowledge the fact that a dialogue has begun on the issue as a result of the information of an insurance workgroup, a dialogue that will hopefully lead us to an exchange of ideas to bring forth a plan of action and implementation of policies that will bring significant and much needed rate relief for the citizens of Michigan. As a matter of public policy, we cannot simply ignore the fact that significant rate disparities exist in this state, and I ask that you work with me to correct this inequity.

Committee Reports

The Committee on Agriculture, Forestry and Tourism reported

Senate Bill No. 228, entitled

A bill to establish a loan repayment program for repayment of certain educational loans to agricultural employees in rural areas; to provide for the administration of the program; and to prescribe certain powers and duties of certain state officers, agencies, and departments.

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.

Gerald Van Woerkom
Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Gilbert and Jelinek

Nays: Senator Brater

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

COMMITTEE ATTENDANCE REPORT

The Committee on Agriculture, Forestry and Tourism submitted the following:

Meeting held on Thursday, March 17, 2005, at 9:00 a.m., Room 110, Farnum Building

Present: Senators Van Woerkom (C), Gilbert, Jelinek and Brater

Excused: Senator Thomas

COMMITTEE ATTENDANCE REPORT

The Committee on Banking and Financial Institutions submitted the following:

Meeting held on Thursday, March 17, 2005, at 12:00 noon, Room 100, Farnum Building

Present: Senators Bishop (C), Van Woerkom, Sanborn, Stamas, Leland and Clark-Coleman

Excused: Senator Olshove

COMMITTEE ATTENDANCE REPORT

The Committee on Families and Human Services submitted the following:
 Joint meeting held on Thursday, March 17, 2005, at 1:00 p.m., Room 519, Anderson House Office Building
 Present: Senators Hardiman (C), Sanborn and Jacobs
 Excused: Senators Hammerstrom and Clark-Coleman

COMMITTEE ATTENDANCE REPORT

The Committee on Local, Urban and State Affairs submitted the following:
 Public hearing held on Thursday, March 17, 2005, at 1:00 p.m., DiPonio Room (#500-D), VisTaTech Center,
 Schoolcraft Community College, 18600 Haggerty Road, Livonia
 Present: Senator Toy (C)
 Excused: Senators Birkholz, Goschka, Basham and Bernero

COMMITTEE ATTENDANCE REPORT

The Subcommittee on State Police and Military Affairs submitted the following:
 Meeting held on Thursday, March 17, 2005, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower
 Present: Senators Brown (C) and Clarke
 Excused: Senator Stamas

COMMITTEE ATTENDANCE REPORT

The Committee on Education submitted the following:
 Meeting held on Thursday, March 17, 2005, at 2:00 p.m., Room 210, Farnum Building
 Present: Senators Kuipers (C), Cassis, Van Woerkom and Leland
 Excused: Senator Clark-Coleman

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Agriculture submitted the following:
 Meeting held on Thursday, March 17, 2005, at 2:30 p.m., Senate Hearing Room, Ground Floor, Boji Tower
 Present: Senators Brown (C), Jelinek and Barcia

Scheduled Meetings

Appropriations - Wednesday, March 23, 9:00 a.m. and 3:00 p.m. or later immediately following Joint Senate/House Appropriations Committee meeting, Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Subcommittees -

Agriculture - Thursdays, March 24 and April 14, 2:30 p.m.; and April 21, 3:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-5932)

Commerce, Labor and Economic Development - Wednesdays, March 23 (CANCELED), April 13, April 20 and April 27, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2420)

Family Independence Agency - Thursday, March 24, 8:30 a.m., Room 100, Farnum Building (373-1801)

General Government - Tuesdays, April 12, April 19 and April 26, 1:00 p.m., Room 810, Farnum Building (373-2420)

History, Arts, and Libraries - Tuesday, April 19, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building; and Monday, April 11, 5:00 p.m., Kalamazoo (location to be announced) (373-0793)

State Police and Military Affairs - Thursdays, March 24 and April 14, 1:00 p.m.; and April 21, 2:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-5932)

Transportation Department - Tuesdays, April 12 and April 19, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Appropriations, Joint Senate/House - Wednesday, March 23, 2:30 p.m., House Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Economic Development, Small Business and Regulatory Reform - Wednesday, March 23, 3:00 p.m., Rooms 402 and 403, Capitol Building (373-7670)

Education - Thursday, March 24, 2:00 p.m., Room 210, Farnum Building (373-6920)

Finance - Wednesday, March 23, 1:00 p.m., Room 110, Farnum Building (373-1758)

Local, Urban and State Affairs - Thursday, March 24, 1:00 p.m., Room 110, Farnum Building (373-1707)

Senior Citizens and Veterans Affairs - Wednesday, March 23, 1:00 p.m., Room 100, Farnum Building (373-1707)

Technology and Energy - Wednesdays, March 23 and April 13, 3:00 p.m., Room 210, Farnum Building (373-7350)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 10:31 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Wednesday, March 23, 2005, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate