

No. 99
STATE OF MICHIGAN
Journal of the Senate
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REGULAR SESSION OF 2005

Senate Chamber, Lansing, Thursday, November 3, 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 not 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 Hansen Clarke of the 1st District offered the following invocation:

Lord, please give us the wisdom and the courage to set aside political considerations so that we can truly serve and care for all the people that we represent. Amen.

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

Recess

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

10:58 a.m.

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

During the recess, Senators Bernero, Cassis, Sikkema, Gilbert, Goschka, Birkholz, Sanborn, Garcia, Hammerstrom, Allen, Bishop, Jelinek, Johnson, Patterson, Stamas, McManus, Brown, Cropsey, Van Woerkom, Kuipers, George, Hardiman and Toy entered the Senate Chamber.

A quorum of the Senate was present.

Motions and Communications

The following communication was received and read:
Office of the Senate Majority Leader

November 2, 2005

Pursuant to Senate Rule 2.104(c), I am requesting that the Senate Appropriations Committee hold a hearing on the appointments of Bryan Amann and Robert Brown to the Michigan State Waterways Commission and make a written recommendation to the Government Operations Committee on these appointments.

Sincerely,
Ken Sikkema
Chairman Senate Government Operations Committee

The communication was referred to the Secretary for record.

The following communication was received:
Office of the Auditor General

November 1, 2005

Enclosed is a copy of the following audit report:
Performance audit of the Teradata Data Warehouse, Department of Information Technology.

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

The communication was referred to the Secretary for record.

The Secretary announced that the following official bills were printed on Wednesday, November 2, and are available at the legislative website:

Senate Bill Nos.	853	854	855	856	857	858	859												
House Bill Nos.	5381	5382	5383	5384	5385	5386	5387	5388	5389	5390	5391	5392	5393	5394	5395				

Senator Hammerstrom moved that rule 3.902 be suspended to allow the guests of Senator Birkholz admittance to the Senate floor, including the center aisle.

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

Senator Hammerstrom moved that rule 3.901 be suspended to allow photographs to be taken from the Senate floor, including the center aisle and Gallery.

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

Recess

Senator Hammerstrom moved that the Senate recess subject to the call of the Chair.

The motion prevailed, the time being 11:02 a.m.

11:09 a.m.

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

During the recess, Senator Birkholz introduced the Saugatuck High School Boys Golf Team, 2005 Michigan High School Athletic Association Division IV State Champions, Coach Tom Clark and Superintendent Tim Wood; and presented them with a Special Tribute.

By unanimous consent the Senate proceeded to the order of

Messages from the House

House Bill No. 4315, entitled

A bill to amend 1909 PA 283, entitled "An act to revise, consolidate, and add to the laws relating to the establishment, opening, discontinuing, vacating, closing, altering, improvement, maintenance, and use of the public highways and private roads; the condemnation of property and gravel therefor; the building, repairing and preservation of bridges; maintaining public access to waterways under certain conditions; setting and protecting shade trees, drainage, and cutting weeds and brush within this state; providing for the election or appointment and defining the powers, duties, and compensation of state, county, township, and district highway officials; and to prescribe penalties and provide remedies," by amending section 6 of chapter IV (MCL 224.6), as amended by 1982 PA 299.

The House of Representatives has nonconcurred in the Senate substitute (S-1) and appointed Reps. LaJoy, Hoogendyk and Anderson as conferees.

The message was referred to the Secretary for record.

Senate Bill No. 193, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 8117 (MCL 600.8117), as amended by 1997 PA 161.

Substitute (H-1).

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. 545

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
Cassis
Cherry

Goschka
Hammerstrom
Hardiman

Patterson
Prusi

Toy
Van Woerkom

Nays—0

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

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 Assistant President pro tempore, Senator Sanborn, designated Senator Brater 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 11:35 a.m.

11:40 a.m.

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

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

House Bill No. 4335, entitled

A bill to amend 1965 PA 203, entitled "Commission on law enforcement standards act," by amending section 9 (MCL 28.609), as amended by 2004 PA 379.

House Bill No. 4978, entitled

A bill to amend 1927 PA 372, entitled "An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act," (MCL 28.421 to 28.435) by adding section 6.

House Bill No. 5052, entitled

A bill to amend 1993 PA 327, entitled "Tobacco products tax act," by amending sections 2 and 8 (MCL 205.422 and 205.428), as amended by 2004 PA 474.

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. 714, entitled

A bill to amend 1970 PA 91, entitled "Child custody act of 1970," by amending sections 2, 5, and 7 (MCL 722.22, 722.25, and 722.27), section 2 as amended by 2004 PA 542, section 5 as amended by 1993 PA 259, and section 7 as amended by 2001 PA 108.

Substitute (S-1).

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

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

House Bill No. 5100, entitled

A bill to amend 1970 PA 91, entitled "Child custody act of 1970," by amending sections 2 and 7 (MCL 722.22 and 722.27), section 2 as amended by 2004 PA 542 and section 7 as amended by 2001 PA 108.

Substitute (S-2).

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

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

House Bill No. 5237, entitled

A bill to amend 1991 PA 179, entitled "Michigan telecommunications act," by amending sections 101, 102, 103, 201, 202, 203, 203a, 204, 205, 210, 213, 214, 301, 302, 303, 304, 305, 306, 307, 309, 309a, 310, 312, 314a, 315, 316, 316a, 317, 321, 352, 353, 355, 357, 358, 359, 401, 502, 505, and 604 (MCL 484.2101, 484.2102, 484.2103, 484.2201, 484.2202, 484.2203, 484.2203a, 484.2204, 484.2205, 484.2210, 484.2213, 484.2214, 484.2301, 484.2302, 484.2303, 484.2304, 484.2305, 484.2306, 484.2307, 484.2309, 484.2309a, 484.2310, 484.2312, 484.2314a, 484.2315, 484.2316, 484.2316a, 484.2317, 484.2321, 484.2352, 484.2353, 484.2355, 484.2357, 484.2358, 484.2359, 484.2401, 484.2502, 484.2505, and 484.2604), sections 101, 103, 201, 203, 203a, 302, 303, 304, 310, 312, 502, and 604 as amended and sections 214 and 316a as added by 2000 PA 295, section 102 as amended by 1998 PA 41, sections 202, 205, 210, 301, 305, 306, 307, 309a, and 401 as amended and sections 317, 321, 352, 353, 355, 357, 358, and 359 as added by 1995 PA 216, section 213 as amended by 2004 PA 591, section 314a as added by 2003 PA 206, section 316 as amended by 1999 PA 31, and section 505 as added by 1998 PA 260, and by adding sections 211a, 252, 301a, 305a, 305b, 310a, and 353a; and to repeal acts and parts of acts.

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

1. Amend page 9, line 12, by striking out "**COMMUNICATIONS ACT OF 1934**" and inserting "**TELECOMMUNICATIONS ACT OF 1996**".
2. Amend page 25, line 15, after "**ITS**" by striking out "**INCORPORATED**".
3. Amend page 25, line 22, after "**PROVIDERS**" by striking out the balance of the subdivision and inserting a period.
4. Amend page 26, line 8, by striking out "**(4)**" and inserting "**(3)**".
5. Amend page 26, line 10, by striking out "**INCORPORATED**".
6. Amend page 27, following line 2, following subdivision (F) by inserting:

"(6) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A MUNICIPALLY-OWNED UTILITY FROM PROVIDING TO ITS ENERGY CUSTOMERS, EITHER DIRECTLY OR INDIRECTLY, ANY ENERGY RELATED SERVICE INVOLVING THE TRANSFER OR RECEIPT OF INFORMATION OR DATA CONCERNING THE USE, MEASUREMENT, MONITORING, OR MANAGEMENT OF ENERGY SERVICES PROVIDED BY THE MUNICIPALLY-OWNED UTILITY, INCLUDING SERVICES SUCH AS LOAD MANAGEMENT OR AUTOMATED METER READING." and renumbering the remaining subsection.

7. Amend page 33, line 6, after "**CALL.**" by inserting "**THE COMMISSION SHALL CONVENE A WORKGROUP OF INTERESTED PARTIES FOR THE PURPOSE OF RESOLVING ISSUES SURROUNDING VIRTUAL NXX. VIRTUAL NXX IS THE ASSIGNMENT OF A TELEPHONE NUMBER TO CUSTOMERS WHO ARE NOT PHYSICALLY LOCATED IN THE EXCHANGE TO WHICH THE NXX IS ASSIGNED. THE WORKGROUP SHALL CONSIDER THE UTILIZATION OF VIRTUAL NXX SERVICES TO TRANSPORT**

INTEREXCHANGE TRAFFIC AND THE ASSOCIATED INTER-CARRIER COMPENSATION. PRIOR TO JULY 1, 2006, THE COMMISSION SHALL SUBMIT A REPORT TO THE GOVERNOR AND THE HOUSE AND SENATE STANDING COMMITTEES WITH OVERSIGHT OF TELECOMMUNICATION ISSUES ON THE PROGRESS OF WORKGROUP DISCUSSIONS. THE REPORT SHALL INCLUDE A COMMISSION POLICY STATEMENT RELATING TO THE PROVISION OF VIRTUAL NXX SERVICES, AND RECOMMENDATIONS FOR LEGISLATION, IF ANY.”.

8. Amend page 34, line 3, after the second “OR” by inserting “A PERSON WHO PROVIDES A SERVICE FOR”.

9. Amend page 34, following line 21, by inserting:

“(16) A PROVIDER SHALL FILE WITH THE COMMISSION FOR REVIEW AND APPROVAL A TARIFF FOR THE RATES AND CHARGES FOR CALLS MADE THAT EXCEED THE 100-CALL LIMIT OF PRIMARY BASIC LOCAL EXCHANGE SERVICE.”.

10. Amend page 39, line 12, after “(A)” by striking out the balance of the line through “SERVICE” on line 13.

11. Amend page 44, line 9, after “AFTER” by striking out “JANUARY” and inserting “JUNE”.

12. Amend page 44, line 15, after “THAN” by striking out “JANUARY” and inserting “JUNE”.

13. Amend page 44, line 16, after the second “THE” by inserting “PRIMARY”.

14. Amend page 44, line 19, after “2005.” by striking out the balance of the subsection.

15. Amend page 47, line 18, by striking out all of subdivision (D).

16. Amend page 47, following line 19, by inserting:

“SEC. 314B. (1) EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, A TELECOMMUNICATION PROVIDER SHALL NOT DISCONTINUE BASIC LOCAL EXCHANGE TELECOMMUNICATION SERVICE TO A RESIDENCE OF A PERSON WHO IS CERTIFIED AS DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED BY A LICENSED PHYSICIAN, LICENSED AUDIOLOGIST, OR QUALIFIED STATE AGENCY, WHO HAS MADE A FILING UNDER THIS SECTION.

(2) A DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER MAY APPLY FOR SHUT-OFF PROTECTION FOR TELECOMMUNICATION SERVICES UNDER THIS SECTION BY NOTIFYING THE PROVIDER THAT THE DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER IS IN NEED OF ASSISTANCE CAUSED BY A REDUCTION IN HOUSEHOLD INCOME.

(3) A PROVIDER OF SERVICE MAY REQUEST VERIFICATION OF THE REDUCTION IN HOUSEHOLD INCOME FROM THE DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER.

(4) A PROVIDER OF SERVICE MAY REQUIRE RESTRICTIONS OR ELIMINATION OF CALLING FEATURES OR TOLL SERVICE AS A CONDITION OF GRANTING A DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER’S REQUEST FOR SHUT-OFF PROTECTION UNDER THIS SECTION. THE PROVIDER SHALL NOT RESTRICT THE DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER’S ACCESS TO A TELECOMMUNICATION RELAY SERVICE REQUIRED UNDER SECTION 315.

(5) A DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER MAY RECEIVE SHUT-OFF PROTECTION FROM THE PROVIDER OF SERVICE UNDER THIS SECTION FOR UP TO 90 DAYS. UPON APPLICATION TO THE PROVIDER, THE PROVIDER MAY GRANT THE QUALIFYING CUSTOMER 1 OR MORE EXTENSIONS.

(6) UNLESS WAIVED BY THE PROVIDER, THE SHUT-OFF PROTECTION PROVIDED UNDER THIS SECTION DOES NOT VOID OR LIMIT THE OBLIGATION OF THE QUALIFYING CUSTOMER TO PAY FOR TELECOMMUNICATION SERVICES RECEIVED DURING THE TIME OF ASSISTANCE.

(7) WITHIN 48 HOURS OF RECEIVING ALL INFORMATION REQUESTED OF THE DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER, A PROVIDER SHALL DO ALL OF THE FOLLOWING:

(A) CREATE A REPAYMENT PLAN REQUIRING MINIMUM MONTHLY PAYMENTS THAT ALLOWS THE DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER TO PAY ANY PAST DUE AMOUNTS OVER A REASONABLE TIME PERIOD NOT TO EXCEED 1 YEAR.

(B) PROVIDE A DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER WITH INFORMATION REGARDING ANY GOVERNMENTAL, PROVIDER, OR OTHER ASSISTANCE PROGRAMS.

(8) THIS SECTION DOES NOT AFFECT OR AMEND ANY COMMISSION RULES OR ORDERS PERTAINING TO BILLING STANDARDS. IF THE TERMS AND CONDITIONS ARRANGED BY THE PROVIDER WITH THE DEAF OR HARD OF HEARING, OR SPEECH-IMPAIRED CUSTOMER UNDER SUBSECTION (7) ARE NOT FOLLOWED BY THE CUSTOMER, THEN THE PROVIDER SHALL FOLLOW PROCEDURES AS SET FORTH IN THE COMMISSION’S BILLING STANDARDS FOR BASIC RESIDENTIAL TELECOMMUNICATION SERVICE.”.

17. Amend page 63, following line 12, by inserting:

“Sec. 504. Each regulated telecommunications provider DOING BUSINESS IN THIS STATE shall file with the commission a small and minority owned telecommunication business, as defined by the department of management and budget, participation plan within 60 days of the effective date of this act. Competing telecommunication providers NO

LATER THAN MARCH 1, 2006. A NEW PROVIDER SEEKING TO DO BUSINESS IN THIS STATE shall file such a plan with the commission with ~~their~~ **ITS** application for license. ~~Such~~ **THE** plan shall contain ~~such~~ **THE** entity's plan for purchasing goods and services from small and minority telecommunications businesses and information on programs, if any, to provide technical assistance to ~~such~~ **SMALL AND MINORITY TELECOMMUNICATIONS** businesses.”.

18. Amend page 64, line 12, after “360,” by striking out “504;”.

19. Amend page 64, line 14, after “484.2360,” by striking out “484.2504;”.

The Senate agreed to the amendments recommended by the Committee of the Whole, and the bill as amended 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. 5237

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

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

House Bill No. 5237

Senate Bill No. 712

Senate Bill No. 778

House Bill No. 4860

Senate Bill No. 263

Senate Bill No. 794

Senate Bill No. 88

House Bill No. 4403

House Bill No. 4369

Senate Bill No. 788

Senate Bill No. 120

The motion prevailed.

The following bill was read a third time:

House Bill No. 5237, entitled

A bill to amend 1991 PA 179, entitled “Michigan telecommunications act,” by amending sections 101, 102, 103, 201, 202, 203, 203a, 204, 205, 210, 213, 214, 301, 302, 303, 304, 305, 306, 307, 309, 309a, 310, 312, 314a, 315, 316, 316a, 317, 321, 352, 353, 355, 357, 358, 359, 401, 502, 505, and 604 (MCL 484.2101, 484.2102, 484.2103, 484.2201, 484.2202, 484.2203, 484.2203a, 484.2204, 484.2205, 484.2210, 484.2213, 484.2214, 484.2301, 484.2302, 484.2303, 484.2304, 484.2305, 484.2306, 484.2307, 484.2309, 484.2309a, 484.2310, 484.2312, 484.2314a, 484.2315, 484.2316, 484.2316a, 484.2317, 484.2321, 484.2352, 484.2353, 484.2355, 484.2357, 484.2358, 484.2359, 484.2401, 484.2502, 484.2505, and 484.2604), sections 101, 103, 201, 203, 203a, 302, 303, 304, 310, 312, 502, and 604 as amended and sections 214 and 316a as added by 2000 PA 295, section 102 as amended by 1998 PA 41, sections 202, 205, 210, 301, 305, 306, 307, 309a, and 401 as amended and sections 317, 321, 352, 353, 355, 357, 358, and 359 as added by 1995 PA 216, section 213 as amended by 2004 PA 591, section 314a as added by 2003 PA 206, section 316 as amended by 1999 PA 31, and section 505 as added by 1998 PA 260, and by adding sections 211a, 252, 301a, 305a, 305b, 310a, and 353a; and to repeal acts and parts of acts.

The question being on the passage of the bill,

Senator Schauer offered the following amendments:

1. Amend page 26, line 26, after “**NOVEMBER**” by striking out “**1**” and inserting “**30**”.
2. Amend page 26, line 27, after the first “**NOVEMBER**” by striking out “**1**” and inserting “**30**”.
3. Amend page 26, line 27, after the second “**NOVEMBER**” by striking out “**1**” and inserting “**30**”.

The amendments were 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. 546**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: Birkholz

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

The Assistant President pro tempore, Senator Sanborn, resumed the Chair.

Senator Brown offered to amend the title to read as follows:

A bill to amend 1991 PA 179, entitled "An act to regulate and insure the availability of certain telecommunication services; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties; to repeal certain acts and parts of acts; and to repeal this act on a specific date," by amending sections 101, 102, 103, 201, 202, 203, 203a, 204, 205, 210, 213, 214, 301, 302, 303, 304, 305, 306, 307, 309, 309a, 310, 312, 314a, 315, 316, 316a, 317, 321, 352, 353, 355, 357, 358, 359, 401, 502, 504, 505, and 604 (MCL 484.2101, 484.2102, 484.2103, 484.2201, 484.2202, 484.2203, 484.2203a, 484.2204, 484.2205, 484.2210, 484.2213, 484.2214, 484.2301, 484.2302, 484.2303, 484.2304, 484.2305, 484.2306, 484.2307, 484.2309, 484.2309a, 484.2310, 484.2312, 484.2314a, 484.2315, 484.2316, 484.2316a, 484.2317, 484.2321, 484.2352, 484.2353, 484.2355, 484.2357, 484.2358, 484.2359, 484.2401, 484.2502, 484.2504, 484.2505, and 484.2604), sections 101, 103, 201, 203, 203a, 302, 303, 304, 310, 312, 502, and 604 as amended and sections 214 and 316a as added by 2000 PA 295, section 102 as amended by 1998 PA 41, sections 202, 205, 210, 301, 305, 306, 307, 309a, and 401 as amended and sections 317, 321, 352, 353, 355, 357, 358, 359, and 504 as added by 1995 PA 216, section 213 as amended by 2004 PA 591, section 314a as added by 2003 PA 206, section 316 as amended by 1999 PA 31, and section 505 as added by 1998 PA 260, and by adding sections 211a, 252, 301a, 305a, 305b, 310a, 314b, and 353a; and to repeal acts and parts of acts.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

The following bill was read a third time:

Senate Bill No. 712, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 303a (MCL 750.303a), as added by 1996 PA 539.

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—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. 778, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 2521 (MCL 324.2521), as added by 1999 PA 195.

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—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:

House Bill No. 4860, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending section 3109 (MCL 324.3109), as amended by 2005 PA 32.

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—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 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 protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts;”.

The Senate agreed to the full title.

The following bill was read a third time:

Senate Bill No. 263, entitled

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” (MCL 760.1 to 777.69) by adding section 27b to chapter VIII.

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.

Senators Allen, Barcia, Basham, Bernero, Birkholz, Bishop, Brown, Cassis, Cherry, Clark-Coleman, Clarke, Cropsey, George, Gilbert, Goschka, Hardiman, Jacobs, Jelinek, Kuipers, McManus, Olshove, Patterson, Prusi, Sanborn, Schauer, Scott, Sikkema, Stamas, Toy and Van Woerkom were named co-sponsors of the bill.

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

The motion prevailed.

Senator Cropsey's statement is as follows:

Before we vote on these two bills, I want to again publicly thank the Senators from the 13th District and the 17th District for introducing these bills and pushing the issue forward. As I mentioned yesterday, they have spent five tireless years attempting to get these policy changes implemented through the court rule process, only to see opposition from certain attorneys kill those rule changes.

Allow me to once again quote from two sources on these policy changes: first, from the Department of Justice based on the police reports, including rape, physical assault, and stalking, almost 25 percent of the white women in America have reported some type of domestic victimization; and this goes up to a staggering 37.5 percent of American Indian women.

Secondly, from a report entitled "The Motherhood Study" from the University of Minnesota and the University of Connecticut, findings that should be obvious, and I quote: "Presented with a list of possible changes to make life better for mothers and children, mothers most often indicated as high priorities: first, reducing all forms of family violence—94 percent; second, enabling mothers to spend more time with their children—86 percent; and third, promoting healthy marriages—86 percent." As the authors summarize this, they state, "Three issues identified in the key findings seem to have particular salience with mothers in this study, and appear to be ripe for immediate action. First, mothers place a high priority on reducing family violence and promoting healthy marriages." And then they go on.

Domestic violence has to end. The women we are elected to represent deserve this at the very least. It's time to put a stop to this madness. The time is, indeed, ripe for immediate action. It's time to pass these bills, and again, I want to thank Senators Johnson and Hammerstrom, and I urge your support for Senate Bill No. 120 and Senate Bill No. 263.

The following bill was read a third time:

Senate Bill No. 794, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding sections 5430 and 5432.

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. 88, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 3515, 3517, 3519, 3523, 3529, 3533, 3539, and 3571 (MCL 500.3515, 500.3517, 500.3519, 500.3523, 500.3529, 500.3533, 500.3539, and 500.3571), sections 3515 and 3519 as amended by 2002 PA 621, sections 3517, 3533, 3539, and 3571 as added by 2000 PA 252, and sections 3523 and 3529 as amended by 2002 PA 304.

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. 552**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:

House Bill No. 4403, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending section 16215 (MCL 333.16215), as amended by 1999 PA 60.

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. 553**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 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 protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and

prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates;”.

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 4369, entitled

A bill to provide for the establishment of commercial rehabilitation districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain qualified facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of certain local governmental officials; and to provide penalties.

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 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. 788, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” by amending sections 685, 686, 688, and 695 (MCL 257.685, 257.686, 257.688, and 257.695), sections 686 and 688 as amended by 1990 PA 98 and section 695 as amended by 1995 PA 221, and by adding section 684a.

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

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 120, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," (MCL 760.1 to 777.69) by adding section 27b to chapter VIII.

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. 556**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 Allen, Barcia, Basham, Bishop, Brown, Clark-Coleman, Clarke, Cropsey, Garcia, Gilbert, Goschka, Hardiman, Jelinek, Kuipers, Olshove, Patterson, Prusi, Sanborn, Sikkema, Stamas and Van Woerkom were named co-sponsors of the bill.

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senators Clark-Coleman, Clarke, Switalski, Bernero, Basham, Leland, Olshove, Emerson, Schauer, Brater and Prusi introduced

Senate Bill No. 860, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 217c (MCL 257.217c), as amended by 2002 PA 642.

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

Senator Emerson introduced

Senate Bill No. 861, entitled

A bill to amend 1999 PA 94, entitled "Michigan merit award scholarship act," by amending section 7 (MCL 390.1457), as amended by 2004 PA 595.

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

Senator George introduced

Senate Bill No. 862, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 275.

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

Senator George introduced

Senate Bill No. 863, entitled

A bill to amend 1975 PA 228, entitled "Single business tax act," (MCL 208.1 to 208.145) by adding section 35e.

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

Senators Kuipers, Emerson, Johnson, Jelinek, Switalski and Prusi introduced

Senate Bill No. 864, entitled

A bill to amend 1975 PA 228, entitled "Single business tax act," by amending section 4 (MCL 208.4), as amended by 2003 PA 240.

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

Statements

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

The motion prevailed.

Senator Scott's statement is as follows:

For Tuesday, I missed session because of the death of my nephew, and I missed two roll call votes. On Roll Call No. 543, "yes" and 544, "yes."

I just want to thank the leaders for no voting on yesterday as a number of us attended the icon Rosa Parks' funeral, which was just awesome. It took me back a number of years, but hopefully, we can get beyond some of those things

that happened—the reason why she sat on that bus and made history. I think that folks from all over—because last night even when we left the funeral, there were just lines of folks down Seven Mile and Eight Mile. It was just awesome and those who were not able to view her body stood in line for hours to say goodbye to such a wonderful woman. So we thank God for her life and what she meant to all of us.

I think, however, though, we could do something here in this chamber that would honor her life and that is that we treat all segments of the population in this state the same. I attended a meeting of the insurance last week and in the 25th District, the Senator had a bill that we dealt with. Well, I've had bills that's been for three years and we're not taking up those bills, so it still lets me know that we take care of some parts of this state and not the others. So, if her life meant anything, I would hope that we would start taking up these bills so that we can help all people in regards to insurance. We have made the city of Detroit the poorest city in the country where people cannot afford insurance, where they cannot get to jobs out in the suburbs because there are no jobs in the city for them, and they don't even have the transportation to do that, and even if they had transportation, they could not afford the insurance.

I would hope that we would start taking up these bills to deal with the inequity that exists in some of our cities, especially in our urban areas—we all know that all of the accidents and all of the thefts don't happen there—that we get some affordable insurance for all people.

Now I'm going to just read a couple of them today that's on my website. Well, I guess I don't have time for that, but I'll have time for one. It says, "This is not my story, but I just want to know that you have my support. It's about time someone stood up and let the insurance companies know that we're tired and broke of being taken advantage of. Thank you so much, Mrs. Scott, and God bless you."

Committee Reports

The Committee on Natural Resources and Environmental Affairs reported

Senate Bill No. 783, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 11526d, 11526e, 11526f, 11526g, and 11526h.

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.

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Patterson, Van Woerkom, Brater and Basham

Nays: None

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

The Committee on Natural Resources and Environmental Affairs reported

House Bill No. 5176, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 11526e.

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.

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Patterson, Van Woerkom and Brater

Nays: None

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

The Committee on Natural Resources and Environmental Affairs reported

House Bill No. 5177, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 11549 (MCL 324.11549).

With the recommendation that the bill pass.

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

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Patterson, Van Woerkom and Brater

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Natural Resources and Environmental Affairs reported

House Bill No. 5178, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 13c of chapter XVII (MCL 777.13c), as amended by 2004 PA 382.

With the recommendation that the bill pass.

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

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Patterson, Van Woerkom, Brater and Basham

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Natural Resources and Environmental Affairs submitted the following:

Meeting held on Tuesday, November 1, 2005, at 3:00 p.m., Room 110, Farnum Building

Present: Senators Birkholz (C), Patterson, Van Woerkom, Brater and Basham

The Committee on Finance reported

Senate Bill No. 859, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 7dd (MCL 211.7dd), as amended by 2003 PA 140.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

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

Nancy Cassis
Chairperson

To Report Out:

Yeas: Senators Cassis, Garcia and McManus

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 Finance submitted the following:

Meeting held on Wednesday, November 2, 2005, at 1:00 p.m., Room 110, Farnum Building

Present: Senators Cassis (C), Garcia and McManus

Excused: Senators Thomas and Brater

The Committee on Senior Citizens and Veterans Affairs reported

House Bill No. 4421, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 1204c (MCL 500.1204c), as amended by 2001 PA 228.

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

1. Amend page 11, line 6, after "act" by striking out the balance of the sentence and inserting "takes effect February 1, 2006."

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

Laura M. Toy
Chairperson

To Report Out:

Yeas: Senators Toy, Gilbert and Olshove

Nays: None

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

COMMITTEE ATTENDANCE REPORT

The Committee on Senior Citizens and Veterans Affairs submitted the following:

Meeting held on Wednesday, November 2, 2005, at 1:00 p.m., Room 100, Farnum Building

Present: Senators Toy (C), Gilbert and Olshove

Excused: Senators Stamas and Clark-Coleman

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

Natural Resources Department - Tuesday, November 8, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

Health Policy - Wednesday, November 9, 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-3543)

Michigan Capitol Committee - Tuesdays, November 8 (CANCELED) and November 29, 3:00 p.m., Room 426, Capitol Building (373-0289)

Natural Resources and Environmental Affairs - Tuesday, November 8, 3:00 p.m., and Wednesday, November 9, 8:00 a.m., Room 110, Farnum Building; Thursday, November 10, 11:00 a.m. or later immediately following session, Rooms 402 and 403, Capitol Building (373-3447)

Senator Hammerstrom moved that the Senate adjourn.

The motion prevailed, the time being 12:20 p.m.

The Assistant President pro tempore, Senator Sanborn, declared the Senate adjourned until Tuesday, November 8, 2005, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

