

No. 3
STATE OF MICHIGAN
Journal of the Senate
92nd Legislature
REGULAR SESSION OF 2004

Senate Chamber, Lansing, Tuesday, January 20, 2004.

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—excused
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

Father Steven Dewey of Grace Episcopal Church of Lapeer offered the following invocation:

Almighty God, source of all wisdom and knowledge, I come before You this morning on behalf of these women and men who serve in this chamber. Lord, Your servant Paul wrote to the church in Corinth that there is no authority except from You and that those that do exist have been instituted by You. Therefore, Lord, it must be Your divine providence that this Senate is gathered together for the good of the people of the state of Michigan. Fill each of them, Lord, with the love of truth and righteousness. Make each of them ever mindful of their calling to serve the people of Michigan. Give to them, Lord, wisdom and strength to know and to do Your will.

I beseech You, Lord, to guide and bless these legislators, that they may enact such laws as shall please You. Give them courage, wisdom, and foresight to provide for the needs of all our people. Heavenly Father, open their ears to hear. Cause them to listen one to another as they engage in debate, that at the end of the day their actions will be a blessing to You as well as the folks of the state of Michigan.

Almighty God, our Heavenly Father, send down upon those who hold office in this Senate the spirit of wisdom, charity, and justice; that with steadfast purpose they may faithfully serve in their offices to promote the well-being of all people.

All these things we pray in the name of Your Son Jesus. Amen.

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

Senator Barcia entered the Senate Chamber.

Recess

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

10:54 a.m.

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

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

A quorum of the Senate was present.

Motions and Communications

Senator Schauer moved that Senator Scott be temporarily excused from today's session.
The motion prevailed.

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

The Secretary announced that the following official bills and joint resolution were printed on Thursday, January 15, and are available at the legislative Web site:

Senate Bill Nos. 909 910 911 912 913 914 915 916 917
Senate Joint Resolution F

The Secretary announced that the following official bills were printed on Friday, January 16, and are available at the legislative Web site:

Senate Bill Nos. 918 919

Messages from the Governor

Senators Goschka and Birkholz entered the Senate Chamber.

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

Senate Bill No. 195

Senate Bill No. 364

Senate Bill No. 293

Senate Bill No. 265

Senate Bill No. 288

Senate Bill No. 540

Senate Bill No. 283

Senate Bill No. 464

Senate Bill No. 466

Senate Bill No. 395

Senate Bill No. 687

Senate Bill No. 474

The motion prevailed.

The following message from the Governor was received and read:

January 20, 2004

Enclosed is a copy of my Special Message on Protection of Michigan's Water Resources to the Second Session of the 92nd Michigan Legislature. This message transmitting information on the affairs of state and recommending measures I consider necessary and desirable is presented to the Michigan Senate pursuant to Section 17 of Article V of the Michigan Constitution of 1963.

Respectfully,
Jennifer M. Granholm
Governor

January 20, 2004

Members of the Michigan Legislature:

I write this message, my first Special Message to the Legislature, out of a sense of urgency to protect a key element of Michigan's legacy – our water. The Great Lakes fuel our economy, color our character and literally define the shape of our state. They are our most vital resources; their preservation and protection are too important to approach haphazardly. So today I send to you a comprehensive plan for protecting our great waters, in the hope that we can work in a bi-partisan fashion to protect them from harm. This plan addresses the major concerns facing the Great Lakes today: water withdrawal, invasive species, open water disposal, water discharge permits, a revised sanitary code, wetlands protection, and federal funding for Great Lakes restoration.

On the pages that follow, you will see that I have outlined 6 specific actions that this administration will immediately take to protect and improve our waters. I also propose a number of legislative actions – including the passage of a comprehensive water withdrawal statute – that I respectfully urge you to immediately support and take action upon. I will transmit a copy of this legislation to the newly created Groundwater Advisory Council, asking them for their expedient review and comment, as well.

Our lakes and waters are our children's playgrounds. They are our tourist attractions, our economic development tools and critical cogs in our manufacturing machine. Waves licking at sandy shores are the soundtrack of our summers. Gently bobbing lures are the harbingers of our springs.

Without our waters who would we be? Hopefully, we will never know. But if we do not take action to protect our waters today, we may yet know Michigan as a very different place.

Our waters are more threatened today than perhaps they have ever been. A thirsty country looks to our resources and sees a source of free, clean, fresh drinking water. Pollution and growth continue to threaten their health. Our critical job providers cry out for water to bottle their products, to cool their furnaces and to clean their new cars and trucks.

In the last ten years, global economic forces have changed our world dramatically. In order to survive, we must compete for business. Yet, in the 21st century the old paradigm of business versus the environment is no longer valid. Today, both must flourish. Together, Michigan's astounding natural resources and quality of life are pivotal factors in attracting jobs to our state.

In 2002, the Senate Great Lakes Conservation Task Force, headed by Senator Ken Sikkema, and joined by many legislators we are lucky to still have in the Legislature today including Senator Beverly Hammerstrom and Senator Shirley Johnson and Representative Dianne Byrum, put forth an agenda for action to protect the Great Lakes and all of the state's waters. The then Senator, Ken DeBeaussaert, current director of the Office of Great Lakes also served on the task force. Many of the issues I will address in my plan were identified in the task force report as critical to the future of Michigan's water resources.

It is time for swift action concerning Michigan's waters. We must develop and enact a comprehensive plan – one that addresses our ground water, our lakes and our rivers and our relationship to them – to protect and manage this most precious natural resource. I present to you today such a plan.

The Michigan Water Legacy Act

The cornerstone of this plan is the **Michigan Water Legacy Act**, a comprehensive water withdrawal statute which I will deliver to the Legislature before the end of next month.

Because we are the only state in the Great Lakes basin without a statutory framework, our inability to effectively manage this resource leaves us vulnerable and without legal or moral authority to meet future threats and protect our economy and our environment. A fair and balanced approach to water withdrawal will allow us to protect our water resources while also providing a predictable regulatory climate under which businesses and communities can thrive.

The case involving the Nestle Bottling plant in Mecosta County has the potential to be a pivotal case in terms of influencing and defining our water laws. As I'm sure you are aware, last November the Mecosta County Circuit Court issued an opinion in *Michigan Citizens for Water Conservation v. Nestle Waters North America*, ordering Nestle to terminate all water withdrawals of "spring water" at the plant by December 17, 2003. Nestle sought and was granted an emergency stay from the Michigan Court of Appeals to block the shutdown of the facility while an appellate review of the legal merits of the case could be conducted. This stay enables us to develop a comprehensive set of standards to oversee future withdrawals like Nestle's.

Every day, the pressure for fresh water grows in our region and around the world. Global consumption of water is doubling every 20 years. Today, one billion people lack adequate supplies of fresh water and this number will grow to three billion by 2035. Other states, including Great Lakes states, have growing populations served by increasingly depleted aquifers. If we do not take action to regulate withdrawals of water from the Great Lakes basin, those who are already eyeing our treasured lakes as the solution to their water shortages will begin arriving with their pumps and hoses to take their bounty home.

In 1985, Michigan signed the Great Lakes Charter. In that Charter, Michigan agreed to manage withdrawals of water over two million gallons per day. Almost 20 years later it is an embarrassment that we are the only state that hasn't lived up to its end of the bargain. This legislation proposes that Michigan live up to the promises made in the 1985 Great Lakes Charter.

To ensure sustainable economic growth and protect us from large scale diversions of Great Lakes water, I am also committed to completing the discussions begun by the previous administration to implement Annex 2001 to the Great Lakes Charter. The Agreements envisioned under the Annex with our neighboring Great Lakes states and provinces will be the next critical step toward managing and protecting our waters.

We must start conserving water today so it is here for our grandchildren to swim and boat and fish in tomorrow. We need the Michigan Water Legacy Act. I look forward to the input of the newly created Groundwater Advisory Council and the Legislature on this proposal.

Invasive Species

Water diversion is not the only problem facing the Great Lakes today. Exotic species like the zebra mussel have already infiltrated our waters and changed them forever. Species like the Asian Carp are leaping their way up the Chicago River toward the foot of Lake Michigan in Chicago. The ecological and economic damage caused by these invasive species threatens the livelihood of many communities and businesses in the Great Lakes region.

One report estimates the Great Lakes spend \$12 million a year to control sea lamprey and \$30 million to control zebra mussels. Individual power companies have testified that it costs each of them upwards of \$1 million per year to deal with the zebra mussels on their intake pipes. At the same time, the estimated cost to the Great Lakes fishery from introduction of the ruffe is upwards of \$119 million per year. These are clear example of the health of our water impacting the health of our economy. In 2002, Michigan joined New York, Minnesota and Illinois in filing a brief urging the Environmental Protection Agency (EPA) to regulate ballast water discharges through the Clean Water Act. In September of 2003, the EPA rejected the request. I am urging our Attorney General to join the lawsuit filed by the Northwest Environmental Advocates, or file a separate lawsuit, to force the EPA to exercise its authority to address this growing national crisis.

We need coordinated action to deal with this problem across the states, however, we are not going to stand idly by and wait for EPA to act. Later this spring, DEQ will complete its study and determine an appropriate standard for ballast water discharges, as was authorized under legislation sponsored by Senator Sikkema in 2002. We will move quickly to finalize and deliver real, technical solutions and we will be proactive in finding a solution to the problems associated with ballast water discharge.

Open Water Disposal

Exotics are not the only threat to the quality of the waters of the Great Lakes. The U.S. Army Corps of Engineers, in fulfilling its responsibility to maintain the navigability of the Great Lakes, has formally proposed to dump contaminated dredge materials into the open waters of Lake Michigan – a practice that is already happening in the Ohio waters of Lake Erie. While Congress considers funding of the Great Lakes Legacy Act to pay for dredging and removal of contaminated sediment from the Great Lakes, the Army Corps is proposing to dump that same contamination right back into the lakes. They call this “Open Water Disposal.” I call it unacceptable.

Today I will sign an Executive Directive prohibiting state agencies from approving the open water disposal of contaminated dredge materials in Michigan waters. I am also calling for legislation to permanently ban open water disposal of these same dredge materials and I will call on the Governors of other states to do the same. When I look out on the Great Lakes I want to see people pulling out steelhead and walleye, not watching barges dumping contaminated sediment.

National Pollution Discharge Elimination System

We cannot talk about the lakes without talking about the beautiful beaches that cover over 3,228 miles of the Great Lakes shoreline. Every year over 23 million people visit our beaches. We wait all winter for those great summer days when we can head out to the beach and go for a swim, sip our coffee as the sun comes up over Lake Huron, or wander along feeling the sand between our toes.

However, all too often people reach the beach only to be told that it is closed for the day or weekend due to pollution. One beach on Lake St. Clair was closed 37 times last year and 36 times in 2002 because of e.coli bacteria in the water. In a state that depends on tourism for our livelihood, we must be able to guarantee our visitors that the beaches they visit are clean, safe, and free from pollution and contaminants.

In order to address the problem of pollution in our lakes and streams, we must adequately fund programs such as the National Pollution Discharge Elimination System (NPDES). In last year’s budget, I proposed a series of fees that would take the burden off the taxpayers and replace it with a fee for service. The bills to enact these fees remain in conference committee. Each day they languish, our water and our economy are in danger. It is essential that we enact this legislation and make whole the budget to protect Michigan’s water. I am asking that the Legislature act quickly to resolve outstanding issues and present a package of bills to enact and fund the enforcement of groundwater and stormwater discharge permits.

Revised Sanitary Code

We must also support our local communities and help them eliminate sewer overflows by updating our statewide septic code. What we allow to flow into our groundwater is as important as the amounts of water we eventually allow to be withdrawn. Michigan is the ONLY state in the nation without a statewide sanitary code for septic systems. This threatens the integrity of ground water, beaches and streams, poses serious health threats to our citizens, and negatively impacts our economy.

Lack of an updated sanitary code costs our state precious federal dollars. Without an updated sanitary code, full federal funding of the Coastal Zone Management Program is seriously threatened. Michigan has more coastline than any other state, save Alaska, and yet we are our own impediment to greater federal assistance for managing and protecting that coastline.

Coastal Zone Management grants can be used for many projects, from beach stabilization to helping to fund a recreation attraction. Every year, the Department of Environmental Quality (DEQ) receives many millions of dollars of requests, but can only fulfill \$2.1 million worth of projects. Leaving these federal dollars on the table is fiscally and environmentally irresponsible, especially in such challenging economic times.

The bi-partisan Land Use Leadership Council that finished its work last year identified this issue as critical, as well, and I have now asked the DEQ to work with appropriate constituencies on this and to draft and deliver a suggested sanitary code for your consideration within 90 days.

Wetlands Protection

As we think of our coastal areas and the vast and varied habitats in Michigan, we cannot forget our wetlands. Over the years, Michigan has lost over 50 percent of its wetlands, totaling over an estimated five million acres. Wetlands filter our water, provide wildlife habitats, and keep our roads and communities from flooding. Michigan led the charge across the nation to help protect wetlands in the past, but our work here is not done.

We are still losing wetlands and all the benefits they provide. Specifically, we are losing some critical, small, isolated wetlands across the state. Through Executive Directive, I am asking the Michigan Department of Environmental Quality to promulgate a rule to protect from harm critical, isolated wetlands on State land.

Securing Federal Funding for Great Lakes Restoration Projects

Finally, we must be vigilant in securing federal funds to protect and restore the Great Lakes. It cannot be the sole responsibility of the states to protect these national treasures.

Last May, a report from the U.S. General Accounting Office (GAO) found that despite federal spending of more than \$1.7 billion on 33 restoration activities since 1992 in the Great Lakes, the federal government’s efforts lack adequate

coordination to assure Great Lakes restoration. The report also found that the Great Lakes states provide the majority of financial support for existing restoration activities.

For example, during fiscal year 2001, the Great Lakes states secured a special federal allocation of \$30 million in *Great Lakes Coastal Restoration Grants*. These dollars, administered through the National Oceanic and Atmospheric Administration (NOAA) were matched with more than \$42 million from the states. In Michigan, we matched our \$7 million allocation with close to \$17 million in state commitments.

The past few Congresses and Presidential administrations have focused billions of dollars on the restoration of the Everglades, the Chesapeake Bay and most recently there has been a renewed Congressional focus on Gulf of Mexico coastal erosion. The Great Lakes have not received the same bold level of attention.

However, during the second half of 2003 there was significant renewed federal attention to Great Lakes restoration needs. Following the release of the GAO report and after a Senate hearing on the need for a coordinated strategic plan between the federal, state and provincial governments, legislation was introduced in the U.S. House and Senate to invest significant new federal resources and assure better interagency coordination and strategic focus.

Specifically, S. 1398, introduced by Senator Mike DeWine (R-OH) and our own Senators Levin and Stabenow would provide up to \$6 billion over the next decade, while coordinating existing federal agency efforts and requiring the development of common indicators for monitoring water quality and related Great Lakes environmental factors. As Governor, I have joined with the seven other Great Lakes Governors in commenting on this legislation and similar legislation introduced in the U.S. House of Representatives. Through the Council of Great Lakes Governors, Ohio Governor Bob Taft deserves significant credit for his actions as Council Chairman to organize and focus the Great Lakes' Governors efforts to help bring national attention to the issue.

However, in the current federal and state budgetary climate, much work remains to be done to see this much-needed federal legislation enacted into law. To see our Great Lakes vision enacted in a manner that reflects the gains made in the Everglades and Chesapeake Bay, presidential leadership is needed. That is why I am asking President Bush to support this bipartisan Congressional rescue effort with his endorsement of the multi-billion-dollar Great Lakes restoration programs contained in S. 1398 and H.R. 2720. For the short-term, I urge him to include a significant boost in Great Lakes restoration funding in his 2005 budget request to Congress. The Great Lakes serve 8 states. They deserve at least as much attention as the Everglades – a single critical entity in a single state – have recently been afforded.

Conclusion

A hundred generations ago, a sea of ice receded, drawing the shapes of two familiar peninsulas and leaving behind five lakes that would shape not only our land, but our character as well. Our connection to our waters and our land is no accident, nor is our mandate to protect them.

The protection of our waters is more than just an issue; it's more than just another cause with its own set of acronyms and cast of characters and media spin. It is part and parcel of who we are in this state – it is part of our character as a people.

To protect our waters, to ensure that our children know them as we know them, to ensure that they will continue to be part of our character and our economy, we must act now to protect them. We need to take action not just because it is the right thing to do as environmental stewards; it is also the right thing to do as economic stewards. We need to conserve our water quantity and protect its quality and integrity so the Great Lakes will continue to thrive. Our lakes are often the reason people come to Michigan to visit, to live, to work, to start a business, and to raise a family.

We are at a crossroads in determining the future of the Great Lakes. We can choose to take action and ensure for future generations of Michiganders crystal blue water, brook trout, clear, babbling brooks, and green, productive fields. Or, we can choose to wait. Wait for another state or another country to determine the future of *our* Great Lakes for us. I choose to act and take the future into our hands. I know you will too.

I leave you today with the words of a highly unlikely water advocate. In 2000, while serving as the president of a global non-profit working to foster a sustainable future, Mikhail Gorbachev wrote for the magazine of the U.S. Library of Congress, that “water, not unlike religion and ideology, has the power to move millions of people. Since the very birth of human civilization, people have moved to settle close to water. People move when there is too little of it; people move when there is too much of it. People move on it. People write and sing and dance and dream about it. People fight over it. And everybody, everywhere and every day, needs it. We need water for drinking, for cooking, for washing, for food, for industry, for energy, for transport, for rituals, for fun, for life. And it is not only we humans who need it; all life is dependent upon water for its very survival.”

We in Michigan have always known the value of our water, both economically and spiritually. We all want to protect this most precious resource and many of you have been leaders in this cause throughout your careers. I look forward to working with all of you to craft a plan that will protect and preserve our Great Lakes.

Respectfully,
Jennifer M. Granholm
Governor

The message was referred to the Secretary for record.

The following messages from the Governor were received and read:

January 14, 2004

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 5 of the Michigan Strategic Fund Act, 1984 PA 270, MCL 125.2005:

Michigan Strategic Fund Board of Directors

Mr. Donald E. Jakeway of 6084 Oak Park Trail, Haslett, Michigan 48840, county of Ingham, succeeding A. Douglas Rothwell, who has resigned, representing persons with knowledge, skill, and experience in the academic, business, or financial field, for a term commencing January 14, 2004 and expiring at the pleasure of the Governor.

January 14, 2004

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following reappointment to state office pursuant to Section 7 of the Agricultural Commodities Marketing Act, 1965 PA 232, MCL 290.657:

Michigan Plum Advisory Board

Mr. Gary R. Frederickson of 10201 Foxview Drive, Northport, Michigan 49670, county of Leelanau, reappointed to represent growers from Northern Michigan, for a term expiring July 1, 2006.

January 15, 2004

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointments and reappointments to state office pursuant to Section 3 of 1965 PA 114, MCL 290.553:

Michigan Bean Commission

Mr. Daniel P. Engelhard of 5789 Clark Road, Unionville, Michigan 48767, county of Tuscola, succeeding David J. Milligan, whose term has expired, representing District 3 growers, for a term commencing January 15, 2004 and expiring December 31, 2006.

Mr. Thomas J. Wadsworth of 2193 North Sandusky Road, Sandusky, Michigan 48471, county of Sanilac, succeeding Robert S. Caister, whose term has expired, representing District 4 growers, for a term commencing January 15, 2004 and expiring December 31, 2006.

Mr. Daniel J. Leach of 228 Cedar Court, Breckenridge, Michigan 48615, county of Gratiot, reappointed to represent bean shippers, for a term expiring December 31, 2006.

Mr. Clifford J. Roggenbuck of 5234 Swayze Road, Port Hope, Michigan 48468, county of Huron, reappointed to represent District 5 growers, for a term expiring December 31, 2006.

January 15, 2004

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 302 and 1202 of the Occupational Code, 1980 PA 299, MCL 339.302 and 339.1202:

Michigan Board of Cosmetology

Ms. Cheryl M. Hadsall of 12300 Oak Street, Birch Run, Michigan 48415, county of Saginaw, succeeding Brenda Secord, whose term has expired, representing licensed cosmetologists, for a term commencing January 15, 2004 and expiring December 31, 2007.

Mr. John H. Jordan of 2714 Clairmount, Detroit, Michigan 48206, county of Wayne, succeeding Joyce McCoy, whose term has expired, representing the general public, for a term commencing January 15, 2004 and expiring December 31, 2007.

January 15, 2004

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 17721 of the Public Health Code, 1978 PA 368, MCL 333.16121 and 333.17721:

Michigan Board of Pharmacy

Mr. Jerome J. Washington of 20171 Canterbury Road, Detroit, Michigan 48221, county of Wayne, succeeding James D. Bosscher, who has resigned, representing the general public, for a term commencing January 15, 2004 and expiring June 30, 2006.

Sincerely,
Jennifer M. Granholm
Governor

The appointments were referred to the Committee on Government Operations.

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

Senator Scott entered the Senate Chamber.

The following bill was read a third time:

Senate Bill No. 625, entitled

A bill to amend 1986 PA 102, entitled "An act to establish a grant program for certain part-time, independent students in this state; and to prescribe the powers and duties of certain state agencies and institutions of higher education," by amending section 3 (MCL 390.1283).

The question being on the passage of the bill,

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

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 626, entitled

A bill to amend 1964 PA 208, entitled "An act to grant scholarships to students enrolled in postsecondary education institutions; and to provide for the administration of the scholarship program," by amending section 7 (MCL 390.977), as amended by 1980 PA 500.

The question being on the passage of the bill,

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

The motion prevailed.

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 Barcia 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. 109, entitled

A bill to amend 1975 PA 164, entitled "An act to create a commission on Spanish-speaking affairs, an office of Spanish-speaking affairs, and an interagency council on Spanish-speaking affairs; to prescribe their powers and duties; to provide for appropriations; and to abolish the advisory council for the Spanish-speaking," by amending sections 2 and 4 (MCL 18.302 and 18.304).

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 proceeded to the order of
Introduction and Referral of Bills

Senators Toy, Hammerstrom and Gilbert introduced

Senate Bill No. 920, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16131 and 16263 (MCL 333.16131 and 333.16263), as amended by 2001 PA 139, and by adding section 16346 and part 183A.

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

Senators Garcia, Toy, Cassis, George, Birkholz, Patterson, Stamas, Sanborn, McManus, Brown, Hardiman, Jelinek, Gilbert, Kuipers, Allen, Barcia, Emerson, Switalski, Bernero, Clark-Coleman, Scott, Brater, Cherry, Bishop and Basham introduced

Senate Bill No. 921, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 801 (MCL 257.801), as amended by 2003 PA 152.

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

Recess

Senator Hammerstrom moved that the Senate recess subject to the call of the Chair. The motion prevailed, the time being 11:05 a.m.

11:13 a.m.

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

By unanimous consent the Senate returned to the order of

Third Reading of Bills

The following bill was read a third time:

Senate Bill No. 627, entitled

A bill to amend 1976 PA 228, entitled "The legislative merit award program act," by amending section 4 (MCL 390.1304), as amended by 1980 PA 386.

The question being on the passage of the bill,

Senator Brater offered the following amendment:

1. Amend page 1, line 8, after "school." by inserting "**Funds awarded under this section shall not be used for sectarian religious training.**"

The question being on the adoption of the amendment,

Senator Schauer requested the yeas and nays.

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

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

Roll Call No. 1

Yeas—12

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

Nays—24

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

Excused—2

Clarke	Leland
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Not Voting—0

In The Chair: President

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. 2**Yeas—34**

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

Nays—2

Brater	Jacobs
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Excused—2

Clarke	Leland
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Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Protest

Senator Brater, under her constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 627 and moved that the statements she made during the discussion of the amendment she offered be printed as her reasons for voting “no.”

The motion prevailed.

Senator Brater’s first statement is as follows:

I stand before you today with great concern about this package of bills before us. I am totally understanding of the desire of those who would like to allow people studying theology or comparative religion, or any type of study of

religion, within a liberal arts context or within a secular context, to do so with public funding. But there is a big difference between that and using public funds to promote a particular religion or training in that religion and for the inculcation of that religion or for the practice as a clergy or educator in that religion.

I am attempting with this amendment to protect the intent of our Constitution and the federal Constitution in prohibiting the use of public funds for religious purposes. That is a central premise that our democracy was founded on—the separation of church and state. Our founding fathers recognized this premise in our Constitution. We are a society made up of people who have come together from all lands, with many ethnic and religious backgrounds. That is what makes our country great, that we have been able to blend many different cultures and become one diverse multicultural society.

I would hate to see us do something today that would run afoul of either the state or U.S. Constitution, so I am offering this amendment in order to improve these bills, and I hope you will support it.

Senator Brater's second statement is as follows:

I just wanted to reply to a couple of points. First of all, several references have been made to the venerable Northwest Ordinance. I certainly have a lot of respect for the Northwest Ordinance, but our Constitution was adopted after that ordinance, so it sort of trumps it.

But anyway, in response to the good chair of the Judiciary Committee, I do distinguish between people, as I said earlier, going to school in a secular context to study theology or comparative religion. What these bills do is strike out the prohibition for use of public funds not only for the study of theology, but also for the study of divinity and religious education. So back to my point that we are on a slippery slope here with the separation of church and state.

I am offering these amendments to narrow the scope of these bills so that the new law does not result in an unconstitutional breach of the separation of church and state built into our Constitution. I do believe that it would be unconstitutional for the state to use scholarship funds to directly fund sectarian religious training. I do not disagree that a person can study religion in pursuit of a degree, and this amendment draws that distinction between education and religious training.

In response to the good Majority Leader, who stated earlier that my amendment is too broadly crafted, I am more than willing to work with those concerned to narrow the scope of the amendment in order to accomplish the goals that we perhaps are all trying to accomplish here.

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

The motion prevailed.

Senator Cassis' statement is as follows:

We go back just a little bit in our own history in this state and the history of the Northwest Territories. The Northwest Ordinance of 1787, among other things, forbade slavery, set rules for statehood, and also had this statement embodied in it. It applies to Michigan. It applies to Ohio, Wisconsin, and the Western Frontier. These words are taken from my alma mater, Ohio University, on our class gateway. Ordinance of 1787, "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

I think this speaks to what our forefathers thought about religion and theology—not to make any one religion a state religion, but to allow for the tenants of religion, certainly, to be part of our schools and education. This is an important day in Michigan to extend this and not to in any way discriminate on an individual's major or minor course of study, as he or she applies for grants or financial assistance. Again, my friends, this goes back to the very foundations of the state of Michigan.

The following bill was read a third time:

Senate Bill No. 628, entitled

A bill to amend 1986 PA 273, entitled "An act to establish a Michigan educational opportunity grant program for resident qualified students enrolled in eligible public postsecondary schools; and to prescribe the powers and duties of certain state agencies," by amending section 3 (MCL 390.1403).

The question being on the passage of the bill,

Senator Brater offered the following amendment:

1. Amend page 1, line 5, after "growth." by inserting "**Funds awarded under this section shall not be used for sectarian religious training.**"

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

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 3**Yeas—34**

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

Nays—2

Brater	Jacobs
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Excused—2

Clarke	Leland
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Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 629, entitled

A bill to amend 1966 PA 313, entitled “An act to award tuition grants to resident students enrolled in independent nonprofit institutions of higher learning; and to make an appropriation therefor,” by amending section 4 (MCL 390.994), as amended by 1980 PA 503.

The question being on the passage of the bill,

Senator Brater offered the following amendment:

1. Amend page 2, line 1, after “education.” by inserting “**Funds awarded under this section shall not be used for sectarian religious training.**”.

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

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 4**Yeas—34**

Allen	Clark-Coleman	Jelinek	Schauer
Barcia	Cropsey	Johnson	Scott
Basham	Emerson	Kuipers	Sikkema
Bernero	Garcia	McManus	Stamas
Birkholz	George	Olshove	Switalski
Bishop	Gilbert	Patterson	Thomas
Brown	Goschka	Prusi	Toy

Cassis
CherryHammerstrom
Hardiman

Sanborn

Van Woerkom

Nays—2

Brater

Jacobs

Excused—2

Clarke

Leland

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 661, entitled

A bill to amend 1978 PA 105, entitled “An act to provide grants to students enrolled in independent nonprofit institutions of higher learning; and to provide for the promulgation of rules,” by amending section 4 (MCL 390.1274).

The question being on the passage of the bill,

Senator Jacobs offered the following amendment:

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

“(b) **Funds awarded under this section shall not be used for sectarian religious training.**” and relettering the remaining subdivisions.

The amendment was not adopted, a majority of the members serving 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. 5**Yeas—34**Allen
Barcia
Basham
Bernero
Birkholz
Bishop
Brown
Cassis
CherryClark-Coleman
Cropsey
Emerson
Garcia
George
Gilbert
Goschka
Hammerstrom
HardimanJelinek
Johnson
Kuipers
McManus
Olshove
Patterson
Prusi
SanbornSchauer
Scott
Sikkema
Stamas
Switalski
Thomas
Toy
Van Woerkom**Nays—2**

Brater

Jacobs

Excused—2

Clarke

Leland

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 662, entitled

A bill to amend 1974 PA 75, entitled “An act to provide for payment to approved independent nonprofit institutions of higher education, located within the state, for all earned degrees conferred upon Michigan residents; and to provide for appropriations,” by amending section 3 (MCL 390.1023), as amended by 1984 PA 9.

The question being on the passage of the bill,

Senator Jacobs offered the following amendments:

1. Amend page 1, line 1, after “Sec. 3.” by inserting “(1)”.
2. Amend page 1, following line 4, by inserting:

“(2) **Funds awarded under this section shall not be used for sectarian religious training.**”.

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. 6**Yeas—34**

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

Nays—2

Brater

Jacobs

Excused—2

Clarke

Leland

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

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

Senate Bill No. 625, entitled

A bill to amend 1986 PA 102, entitled “An act to establish a grant program for certain part-time, independent students in this state; and to prescribe the powers and duties of certain state agencies and institutions of higher education,” by amending section 3 (MCL 390.1283).

(This bill was read a third time earlier today and consideration postponed. See p. 28.)

The question being on the passage of the bill,

Senator Brater offered the following amendment:

1. Amend page 2, following line 15, by inserting:

“(k) **Funds awarded under this section shall not be used for sectarian religious training.**”.

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

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 7

Yeas—36

Allen	Cherry	Hardiman	Sanborn
Barcia	Clark-Coleman	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

Nays—0

Excused—2

Clarke	Leland
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Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

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

Senate Bill No. 626, entitled

A bill to amend 1964 PA 208, entitled “An act to grant scholarships to students enrolled in postsecondary education institutions; and to provide for the administration of the scholarship program,” by amending section 7 (MCL 390.977), as amended by 1980 PA 500.

(This bill was read a third time earlier today and consideration postponed. See p. 28.)

The question being on the passage of the bill,

Senator Brater offered the following amendment:

1. Amend page 1, line 8, after “pursue.” by inserting “**Funds awarded under this section shall not be used for sectarian religious training.**”.

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

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 8**Yeas—34**

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

Nays—2

Brater	Jacobs
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Excused—2

Clarke	Leland
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Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Scheduled Meetings

Agriculture, Forestry and Tourism and Agriculture Appropriations Subcommittee, Joint - Thursday, January 22, 9:00 a.m., Room 110, Farnum Building (373-1635)

Appropriations -**Subcommittees -**

Agriculture and Agriculture, Forestry and Tourism, Joint - Thursday, January 22, 9:00 a.m., Room 110, Farnum Building (373-5932)

Higher Education, Joint Senate/House - Wednesday, January 28, 8:30 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1760)

Education - Thursday, January 22, 2:00 p.m., Room 210, Farnum Building (373-6920)

Finance - Wednesday, January 21, 1:00 p.m., Room 110, Farnum Building (373-1758)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 11:52 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Wednesday, January 21, 2004, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

