

No. 18
STATE OF MICHIGAN
Journal of the Senate
92nd Legislature
REGULAR SESSION OF 2004

Senate Chamber, Lansing, Tuesday, February 24, 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 present.

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

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

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

Senator Gerald Van Woerkom of the 34th District offered the following invocation:

Our Father in Heaven, we come to You this morning to acknowledge that You are the Lord of all. We offer You praise and honor for that, that You are our God. We come to You to ask for Your help today. We pray that You'll bless each and every one of us as we seek to do Your will and as we seek to do the will of the people of the state of Michigan. We pray that You'll bless us and grant us wisdom and guidance.

We pray for others, too, who are in positions of authority. We pray for our President, we pray for our Governor, and we pray for those who govern in local units of government. We pray, too, that You will give them all wisdom and direction as they seek what is good and what is right for our people.

Bless us, Lord. In Your Son's name. Amen.

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

Motions and Communications

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

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

Senator Schauer moved that Senator Leland be excused from this week's sessions.
The motion prevailed.

Senators Bernero and Johnson entered the Senate Chamber.

Senator Hammerstrom moved that rule 3.902 be suspended to allow the guests of Senator Bishop 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 10:07 a.m.

10:15 a.m.

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

During the recess, Senator Bishop introduced to the Senate the Rochester Adams High School Varsity Football Team, 2003 Division II State Champions, and Coach Tony Patritto, and presented them with a Special Tribute.

Coach Patritto responded briefly.

Senator Garcia entered the Senate Chamber.

The following communications were received:
Department of State

Administrative Rules
Notices of Filing

January 7, 2004

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 2:50 p.m. this date,

administrative rule (04-01-01) for the Department of Management and Budget, Public School Employees' Retirement Board, entitled "Public School Employees' Retirement Board General Rules," effective 7 days after filing with the Secretary of State.

February 12, 2004

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 2:22 p.m. this date, administrative rule (04-02-03) for the Department of Labor and Economic Growth, Workers' Compensation Agency, entitled "Workers' Compensation Health Care Services Rules," effective 7 days after filing with the Secretary of State.

Sincerely,
Terri Lynn Land
Secretary of State
Elena L. Beasley, Manager
Office of the Great Seal

The communications were referred to the Secretary for record.

The following communication was received:
Office of the Auditor General

February 18, 2004

Enclosed is a copy of the following audit report:
Performance audit of the Office of Children's Ombudsman, Department of Management and Budget.

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

The communication was referred to the Secretary for record.

The Secretary announced that the following House bills were received in the Senate and filed on Thursday, February 19:
House Bill Nos. 4260 5390 5418 5445

The Secretary announced the enrollment printing and presentation to the Governor on Thursday, February 19, for her approval the following bills:

Enrolled Senate Bill No. 275 at 3:51 p.m.
Enrolled Senate Bill No. 780 at 3:53 p.m.

The Secretary announced the enrollment printing and presentation to the Governor on Friday, February 20, for her approval the following bill:

Enrolled Senate Bill No. 801 at 2:42 p.m.

The Secretary announced that the following official bills and joint resolution were printed on Thursday, February 19, and are available at the legislative Web site:

Senate Bill Nos. 1001 1002 1003 1004
House Bill Nos. 5555 5556 5557 5558 5559 5560 5561 5562 5563 5564 5565 5566 5567 5568
5569 5570 5571 5572 5573 5574 5575 5576 5577 5578 5579 5580 5581 5582
House Joint Resolution W

The Secretary announced that the following official bills were printed on Friday, February 20, and are available at the legislative Web site:

Senate Bill Nos. 1005 1006
House Bill Nos. 5583 5584 5585 5586

By unanimous consent the Senate proceeded to the order of
Messages from the House

Senator Hammerstrom moved that consideration of the following bills be postponed for today:
Senate Bill No. 506
Senate Bill No. 557
Senate Bill No. 806

Senate Bill No. 502**Senate Bill No. 57****Senate Bill No. 497****Senate Bill No. 498****Senate Bill No. 499****Senate Bill No. 500****Senate Bill No. 715**

The motion prevailed.

Senate Bill No. 842, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 616a.

The House of Representatives has substituted (H-2) the bill.

The House of Representatives has passed the bill as substituted (H-2), ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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

Senate Bill No. 588, entitled

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

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. 70**Yeas—36**

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

Nays—0**Excused—2**

Leland

Scott

Not Voting—0

In The Chair: President

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

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

The Senate agreed to the full title.

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

Third Reading of Bills

The following bill was announced:

House Bill No. 4675, entitled

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

(This bill was read a third time on February 19, amendment offered and consideration postponed. See Senate Journal No. 17, p. 227.)

The question being on the adoption of the amendment offered by Senator George, Senator George withdrew the amendment.

Senator George offered the following amendment:

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

“(15) Within 30 days after the effective date of the amendatory act that added this subsection, the board shall develop patient safety and equipment practice guidelines for dentists delegating to dental hygienists and dental assistants the administration of nitrous oxide analgesia under this part. The practice guidelines shall be consistent with national recommendations.” and renumbering the remaining subsection.

The amendment was 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. 71

Yeas—36

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

Nays—0

Excused—2

Leland	Scott
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Not Voting—0

In The Chair: President

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

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

“An act to 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:

Senate Bill No. 241, entitled

A bill to amend 2001 PA 142, entitled “Michigan memorial highway act,” (MCL 250.1001 to 250.1100) by adding section 1073.

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. 72

Yeas—36

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

Nays—0

Excused—2

Leland

Scott

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

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 without amendment, the following bill:

House Bill No. 5199, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending sections 9 and 9a of chapter X (MCL 770.9 and 770.9a), section 9a as amended by 2002 PA 483, and by adding section 9b to chapter X.

The bill was placed on the order of Third Reading of Bills.

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

Senate Bill No. 788, entitled

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

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

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

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

Resolutions

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

Senate Resolution No. 175

Senate Resolution No. 139

The motion prevailed.

Senators Allen, Bishop, Jelinek, Kuipers, Brown, Van Woerkom, Goschka, Garcia, Bernero, Jacobs, Switalski, Olshove, Schauer, Barcia, Stamas and Sanborn offered the following resolution:

Senate Resolution No. 219.

A resolution to urge the United States Department of Energy to develop the Rare Isotope Accelerator at Michigan State University.

Whereas, Basic scientific research provides a foundation of knowledge that makes possible advances in virtually all fields. Gaining new understanding of elements can lead to discoveries that can impact multiple aspects of life—from medicine to national security. In an effort to spur our country to new achievements in nuclear science, the federal government is committed to developing the Rare Isotope Accelerator (RIA). This major project has significant implications for our nation, our state, and our world; and

Whereas, Michigan's achievements in scientific research are well-established. Our universities have spearheaded several breakthroughs that reap benefits for the world today. The establishment and success of the Life Sciences Corridor is an example of the commitment our state has made to advancing the frontiers of knowledge; and

Whereas, The Rare Isotope Accelerator will be dedicated to producing and exploring isotopes that cannot be found in nature today. The research will be a natural extension of the activities currently conducted at the National Superconducting Cyclotron Laboratory (NSCL) at Michigan State University. This highly regarded facility has demonstrated its value to the country with a proven record of accomplishment and cost effectiveness. While the new accelerator will be many times more powerful, the existing resources, infrastructure, and personnel at Michigan State University have made the National Superconducting Cyclotron Laboratory the leading rare isotope research facility in the country; and

Whereas, The Department of Energy listed the Rare Isotope Accelerator project as tied for third in its list of priority projects over the next twenty years. The RIA must now pass through several stages before being officially funded; and

Whereas, Locating the Rare Isotope Accelerator at Michigan State University is a logical extension of the commitment the nation has already made and the work that is already conducted at NSCL. The university has developed ambitious plans for this next generation of isotope research. Renewing the country's wise investment by locating the new Rare Isotope Accelerator at Michigan State University is a decision that is in the country's best interest for many reasons; now, therefore, be it

Resolved by the Senate, That we urge the United States Department of Energy to develop the Rare Isotope Accelerator at Michigan State University; and be it further

Resolved, That copies of this resolution be transmitted to the United States Secretary of Energy and the members of the Michigan congressional delegation.

Pending the order that, under rule 3.204, the resolution be referred to the Committee on Government Operations, Senator Hammerstrom moved that the rule be suspended.

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

The question being on the adoption of the resolution,
Senator Hammerstrom moved that the resolution be referred to the Committee on Economic Development, Small Business and Regulatory Reform.
The motion prevailed.
Senators Cassis and Cropsey were named co-sponsors of the resolution.

Introduction and Referral of Bills

Senator Gilbert introduced
Senate Bill No. 1007, entitled
A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 725 (MCL 257.725), as amended by 1998 PA 247.
The bill was read a first and second time by title and referred to the Committee on Transportation.

Senator Jacobs introduced
Senate Bill No. 1008, 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 176.
The bill was read a first and second time by title and referred to the Committee on Health Policy.

Senators Cropsey, Patterson and Kuipers introduced
Senate Bill No. 1009, entitled
A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 218 (MCL 750.218), as amended by 1998 PA 312.
The bill was read a first and second time by title and referred to the Committee on Judiciary.

House Bill No. 4260, entitled
A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 174a (MCL 750.174a), as added by 2000 PA 222.
The House of Representatives has passed the bill and ordered that it be given immediate effect.
The bill was read a first and second time by title and referred to the Committee on Judiciary.

House Bill No. 5390, entitled
A bill to amend 1982 PA 540, entitled "Library of Michigan act," by amending section 9 (MCL 397.19), as amended by 1983 PA 114.
The House of Representatives has passed the bill and ordered that it be given immediate effect.
The bill was read a first and second time by title and referred to the Committee on Local, Urban and State Affairs.

House Bill No. 5418, entitled
A bill to amend 1975 PA 238, entitled "Child protection law," by amending section 8d (MCL 722.628d), as amended by 2002 PA 661.
The House of Representatives has passed the bill and ordered that it be given immediate effect.
The bill was read a first and second time by title and referred to the Committee on Families and Human Services.

House Bill No. 5445, entitled
A bill to amend 1975 PA 228, entitled "Single business tax act," by amending section 37c (MCL 208.37c), as amended by 2003 PA 251.
The House of Representatives has passed the bill and ordered that it be given immediate effect.
The bill was read a first and second time by title and referred to the Committee on Commerce and Labor.

Committee Reports

The Committee on Finance reported

Senate Bill No. 581, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 438. 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, McManus, Thomas and Brater

Nays: None

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

The Committee on Finance reported

Senate Bill No. 582, entitled

A bill to establish the Amanda's fund for breast cancer research in the department of community health; to provide for the distribution of money from the fund; to prescribe the duties and powers of certain agencies and officials; and to provide for appropriations.

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, McManus, Thomas and Brater

Nays: None

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

The Committee on Finance reported

House Bill No. 4702, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending sections 8 and 27 (MCL 211.8 and 211.27), section 8 as amended by 2002 PA 620 and section 27 as amended by 2002 PA 744.

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: Senators Thomas and Brater

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

COMMITTEE ATTENDANCE REPORT

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

Meeting held on Thursday, February 19, 2004, at 8:00 a.m., Room 110, Farnum Building

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

COMMITTEE ATTENDANCE REPORT

The Committee on Education submitted the following:

Meeting held on Thursday, February 19, 2004, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower

Present: Senators Kuipers (C), Cassis, Van Woerkom and Clark-Coleman

Excused: Senator Leland

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Department of Community Health submitted the following:
Meeting held on Thursday, February 19, 2004, at 3:00 p.m., Rooms 402 and 403, Capitol Building
Present: Senators Stamas (C), George, Cherry and Clarke
Excused: Senators Johnson and Garcia

Scheduled Meetings

Agriculture, Forestry and Tourism - Thursday, February 26, 9:00 a.m., Room 110, Farnum Building (373-1635)

Appropriations - Wednesday, February 25, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Subcommittees -

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

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

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

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

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

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

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

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

Education - Thursday, February 26, 2:00 p.m., Room 210, Farnum Building (373-6920)

Finance - Wednesday, February 25, 8:30 a.m. and 1:00 p.m., Room 405, Capitol Building (373-1758)

Health Policy - Wednesday, February 25, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-3543)

Legislative Retirement Board of Trustees - Wednesday, February 25, 3:00 p.m., Room H-252, Capitol Building (373-0575)

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

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

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 10:49 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Wednesday, February 25, 2004, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate