

No. 97
STATE OF MICHIGAN
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Senate Chamber, Lansing, Wednesday, October 6, 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 Assistant Secretary of the Senate, who announced that a quorum was present.

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

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

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

Reverend Dr. Lloyd M. Hall, Jr., of Plymouth Congregational Church of Lansing offered the following invocation:
Creator and Eternal Spirit, hear our prayer. We give You thanks for this crisp fall day and for the opportunities it brings. May the light in this chamber be as bright as the glorious sun that returns daily to bring us hope.

We give You thanks for the men and women of this Senate, who have been called to public service and have devoted themselves to sustaining and improving the lives of the citizens of Michigan. We give You thanks that You have raised up for us these leaders of varying persuasions, who withstand the slings and arrows of outrageous fortune; to pursue truth as they understand it.

Remind us all, O God, that we are stewards of Your world. Help us not to forget that all we control of wealth or power belongs to You, and our charge is to use that power and wealth for the common good. Help us to remember that we are not called as purveyors of policy, but as caretakers of Your children.

Keep always before us the welfare of the state and the needs of the simplest and the weakest among us. Let not the faces of the women, the men, and the children of this state disappear in our haste to apply abstracts to complex changes. Bless this session, source of truth, that it may be compassionate, civil, and wise. Amen.

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

Motions and Communications

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

Senator Hammerstrom moved that the rules be suspended and that the following bill, now on Committee Reports, be placed on the General Orders calendar for consideration today:

House Bill No. 4703

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

Senator Hammerstrom moved that rule 3.902 be suspended to allow the guests of Senator Stamas 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 10:06 a.m.

10:12 a.m.

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

During the recess, Senator Stamas introduced Gail and Skip Madsen of Grayling and presented them with the White Pine Award and a Special Tribute for their dedication to environmental excellence in Grayling.

Ms. Madsen responded briefly.

During the recess, Senators Thomas, Emerson, Olshove, Switalski, Brown, Goschka and Cherry entered the Senate Chamber.

Messages from the Governor

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. 474
Senate Bill No. 840
Senate Bill No. 785
Senate Bill No. 788
Senate Bill No. 829
Senate Bill No. 841
Senate Bill No. 1093
Senate Bill No. 863
Senate Bill No. 865
Senate Bill No. 867
Senate Bill No. 869
Senate Bill No. 872
Senate Bill No. 875
Senate Bill No. 647
Senate Bill No. 320
Senate Bill No. 267
Senate Bill No. 1063
Senate Bill No. 1066
 The motion prevailed.

Messages from the House

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

Senate Bill No. 757
House Bill No. 4206
Senate Bill No. 220
Senate Bill No. 657
Senate Bill No. 792
Senate Bill No. 793
Senate Bill No. 795
Senate Bill No. 797
Senate Bill No. 798
Senate Bill No. 803
Senate Bill No. 953
Senate Bill No. 955
 The motion prevailed.

Senate Bill No. 1206, entitled

A bill to amend 1992 PA 147, entitled "Neighborhood enterprise zone act," by amending sections 2, 3, 4, and 12 (MCL 207.772, 207.773, 207.774, and 207.782), sections 2, 3, and 12 as amended by 2001 PA 217 and section 4 as amended by 2004 PA 60.

(For text of amendment, see Senate Journal No. 95, p. 2041.)

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

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

Roll Call No. 727

Yeas—37

Allen
Barcia

Clark-Coleman
Clarke

Jacobs
Jelinek

Sanborn
Schauer

Basham	Cropsey	Johnson	Scott
Bernero	Emerson	Kuipers	Sikkema
Birkholz	George	Leland	Stamas
Bishop	Gilbert	McManus	Switalski
Brater	Goschka	Olshove	Thomas
Brown	Hammerstrom	Patterson	Toy
Cassis	Hardiman	Prusi	Van Woerkom
Cherry			

Nays—0

Excused—1

Garcia

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.

House Bill No. 4766, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding sections 21335 and 21735.

(For text of amendments, see Senate Journal No. 95, p. 2044.)

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

The amendments were concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 728

Yeas—36

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

Nays—0

Excused—1

Garcia

Not Voting—1

Emerson

In The Chair: President

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 Thomas 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 bills:

House Bill No. 6230, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending section 1704a (MCL 388.1704a), as amended by 2003 PA 158.

House Bill No. 6231, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1279 and 1279d (MCL 380.1279 and 380.1279d), section 1279 as amended by 1997 PA 175 and section 1279d as added by 2002 PA 640.

House Bill No. 5874, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 16648 (MCL 333.16648), as amended by 1998 PA 496.

House Bill No. 4703, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 12501, 12505, 12506, 12507, 12508, 12509, 12512, 12513, 12514, 12516, 12521, 12527, 12527a, 12528, 12529, and 12532 (MCL 333.12501, 333.12505, 333.12506, 333.12507, 333.12508, 333.12509, 333.12512, 333.12513, 333.12514, 333.12516, 333.12521, 333.12527, 333.12527a, 333.12528, 333.12529, and 333.12532), section 12501 as amended by 1982 PA 525, section 12527 as amended by 1980 PA 522, and sections 12527a and 12532 as amended by 1985 PA 19, and by adding sections 12506a, 12506b, 12510, and 12527b.

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. 1150, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 3501, 3515, and 3519 (MCL 500.3501, 500.3515, and 500.3519), section 3501 as added by 2000 PA 252 and sections 3515 and 3519 as amended by 2002 PA 621.

Substitute (S-3).

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

1. Amend page 3, line 14, after "a" by striking out the balance of the subdivision and inserting "**health maintenance organization, nonprofit health care corporation, or commercial insurer regulated by the insurance laws of this state and providing any form of health insurance or coverage.**".

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

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

House Bill No. 6047, entitled

A bill to amend 2003 PA 226, entitled "Joint municipal planning act," by amending section 5 (MCL 125.135).

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.

During the Committee of the Whole, Senator Garcia entered the Senate Chamber.

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 bills, now on the order of Third Reading of Bills, be placed on their immediate passage:

Senate Bill No. 1150

House Bill No. 6047

House Bill No. 6230

House Bill No. 6231

House Bill No. 5874

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:

Senate Bill No. 1081

Senate Bill No. 1383

House Bill No. 4600

House Bill No. 6047

House Bill No. 6230

House Bill No. 6231

House Bill No. 5874

Senate Bill No. 1150

The motion prevailed.

The following bill was announced:

Senate Bill No. 1081, 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 2 (MCL 225.2).

(This bill was read a third time on September 29 and consideration postponed. See Senate Journal No. 94, p. 2020.)

The question being on the passage of the bill,

Senator Prusi offered the following substitute:

Substitute (S-2).

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

Senator Johnson offered the following amendment:

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

"(b) Provide technical assistance to local transportation and planning agencies." and relettering the remaining subdivisions.

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. 729

Yeas—22

Allen
Barcia
Birkholz
Bishop

Cropsey
Garcia
George
Gilbert

Jelinek
Johnson
Kuipers
McManus

Sanborn
Sikkema
Stamas
Toy

Brown	Hammerstrom	Patterson	Van Woerkom
Cassis	Hardiman		

Nays—16

Basham	Clark-Coleman	Jacobs	Schauer
Bernero	Clarke	Leland	Scott
Brater	Emerson	Olshove	Switalski
Cherry	Goschka	Prusi	Thomas

Excused—0**Not Voting—0**

In The Chair: President

Senator Hammerstrom moved to reconsider the vote by which the bill was passed.
The question being on the motion to reconsider,
Senator Hammerstrom moved that further consideration of the bill be postponed for today.
The motion prevailed.

The following bill was read a third time:

Senate Bill No. 1383, 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 10 (MCL 224.10), as amended by 2003 PA 137.

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. 730**Yeas—38**

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

Nays—0**Excused—0**

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

House Bill No. 4600, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 310e (MCL 257.310e), as amended by 2003 PA 61.

The question being on the passage of the bill,
Senator Gilbert offered the following substitute:
Substitute (S-4).

The question being on the adoption of the substitute,
Senator Garcia offered the following amendment to the substitute:

1. Amend page 4, line 1, after "**members.**" by inserting "**This subsection does not apply if the passenger is 18 years of age and has graduated from high school or has passed the general education development (GED) test.**".

The amendment to the substitute was adopted.

Senator Leland offered the following amendment to the substitute:

1. Amend page 3, line 24, after "**employment.**" by inserting "**A person issued a level 2 graduated license shall not engage in any activity that distracts him or her while he or she is operating a motor vehicle, including any of the following:**

- (a) **Eating or drinking.**
- (b) **Grooming himself or herself or another person.**
- (c) **Listening to the radio, CD player, or other electronic device.**
- (d) **Watching television or viewing any other electronically produced image.**
- (e) **Using a telephone.**".

The amendment to the substitute was not adopted.

Senator Jacobs offered the following amendment to the substitute:

1. Amend page 4, line 1, after "**members**" by inserting "**unless the operator of the vehicle has in his or her possession the written authorization of his or her parent or legal guardian**".

The amendment to the substitute was adopted.

Senator Jacobs offered the following amendment to the substitute:

1. Amend page 3, line 24, after "**employment.**" by inserting "**A person issued a level 2 graduated license shall not use a telephone while he or she is operating a motor vehicle.**".

The amendment to the substitute was not adopted.

The substitute, as amended, was not adopted, a majority of the members serving not voting therefor.

The question being on the passage of the bill,

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

The motion prevailed.

The following bill was read a third time:

House Bill No. 6047, entitled

A bill to amend 2003 PA 226, entitled "Joint municipal planning act," (MCL 125.131 to 125.141) by adding section 13.

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. 731**Yeas—38**

Allen	Clark-Coleman	Jacobs	Sanborn
Barcia	Clarke	Jelinek	Schauer
Basham	Cropsey	Johnson	Scott

Bernero	Emerson	Kuipers	Sikkema
Birkholz	Garcia	Leland	Stamas
Bishop	George	McManus	Switalski
Brater	Gilbert	Olshove	Thomas
Brown	Goschka	Patterson	Toy
Cassis	Hammerstrom	Prusi	Van Woerkom
Cherry	Hardiman		

Nays—0

Excused—0

Not Voting—0

In The Chair: President

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

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

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

“An act to provide for joint land use planning and the joint exercise of certain zoning powers and duties by local units of government; and to provide for the establishment, powers, and duties of joint planning commissions.”.

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 6230, entitled

A bill to amend 1979 PA 94, entitled “The state school aid act of 1979,” by amending section 1704a (MCL 388.1704a), as amended by 2003 PA 158.

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. 732

Yeas—38

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

Nays—0

Excused—0

Not Voting—0

In The Chair: President

Senator Hammerstrom moved that the bill be given immediate effect.

The motion prevailed, 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 make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts.”.

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 6231, entitled

A bill to amend 1976 PA 451, entitled “The revised school code,” by amending sections 1279 and 1279d (MCL 380.1279 and 380.1279d), section 1279 as amended by 1997 PA 175 and section 1279d as added by 2002 PA 640.

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. 733

Yeas—38

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

Nays—0

Excused—0

Not Voting—0

In The Chair: President

Senator Hammerstrom moved that the bill be given immediate effect.

The motion prevailed, 2/3 of the members serving voting therefor.

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

“An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe

the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts.”

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5874, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending section 16648 (MCL 333.16648), as amended by 1998 PA 496.

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. 734

Yeas—38

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

Nays—0

Excused—0

Not Voting—0

In The Chair: President

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

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

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

“An act to 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. 1150, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 3515, 3519, 3523, 3529, 3533, 3569, and 3571 (MCL 500.3515, 500.3519, 500.3523, 500.3529, 500.3533, 500.3569, and 500.3571), sections 3515 and 3519 as amended by 2002 PA 621, sections 3523 and 3529 as amended by 2002 PA 304, and sections 3533, 3569, and 3571 as added by 2000 PA 252.

The question being on the passage of the bill,

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

The motion prevailed.

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

House Bill No. 4600, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 310e (MCL 257.310e), as amended by 2003 PA 61.

(This bill was read a third time earlier today, substitute not adopted and consideration postponed. See p. 2092.)

The question being on the passage of the bill,

Senator Garcia offered the following amendment:

1. Amend page 4, line 2, after "**members.**" by inserting "**This subsection does not apply if the passenger is 18 years of age and has graduated from high school or has passed the general education development (GED) test.**".

The amendment was adopted, a majority of the members serving voting therefor.

Senator Jacobs offered the following amendment:

1. Amend page 4, line 2, after "**members**" by inserting "**unless the operator of the vehicle has in his or her possession the written authorization of his or her parent or legal guardian**".

The amendment was adopted, a majority of the members serving voting therefor.

Senator Bernero offered the following amendment:

1. Amend page 4, line 2, after "**members**" by inserting "**after 9:00 p.m. in the evening**".

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 defeated, a majority of the members serving not voting therefor, as follows:

Roll Call No. 735

Yeas—17

Allen	Cassis	Gilbert	Kuipers
Basham	Cherry	Hammerstrom	McManus
Birkholz	Garcia	Hardiman	Sikkema
Bishop	George	Jelinek	Van Woerkom
Brater			

Nays—21

Barcia	Emerson	Olshove	Scott
Bernero	Goschka	Patterson	Stamas
Brown	Jacobs	Prusi	Switalski
Clark-Coleman	Johnson	Sanborn	Thomas
Clarke	Leland	Schauer	Toy
Cropsey			

Excused—0

Not Voting—0

Senator Hammerstrom moved to reconsider the vote by which the bill was defeated.
The question being on the motion to reconsider,
Senator Hammerstrom moved that further consideration of the bill be postponed for today.
The motion did not prevail.
The question being on the motion to reconsider,
Senator Hammerstrom withdrew the motion.

Senators Switalski, Jacobs and Garcia asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Switalski's statement is as follows:

Mr. President, I rise in opposition to House Bill No. 4600. This bill would limit first-year drivers to one unrelated passenger in the car with them. Proponents believe this bill will reduce accidents among young drivers, but we already have addressed this problem with a highly successful graduated driver's license system. This bill, while well-intentioned, violates the law of diminishing returns. We are greatly restricting the pursuit of happiness for a huge number of people for a theoretical improvement in safety. Are we willing to trade one of our God-given, inalienable rights so cheaply? How can we be so willing to punish all kids and all families so quickly because of a tiny fraction of drivers who behave irresponsibly?

We don't take that approach with gun laws in this state, and we are right not to. We don't take everyone's gun rights away because of the criminal activities of a few. Why would we restrict this privilege which is far more widely exercised and cherished? Are we willing to so callously ban the widespread practice of kids carpooling to school? This bill is so clumsy it would keep two kids from giving a stranded friend a ride home. Any decent person will give that ride anyway, and then we will have made them lawbreakers.

Have we forgotten the experiences of our own youth? Didn't you ever borrow your dad's car to go out for a concert, a game, or a hamburger with your friends? Isn't there a value to the exhilarating thrill of freedom you felt in doing that? Do you want to be responsible for banning that?

Mr. President, I'll never forget a steamy August night in the back seat of a car with Patty Otto on a double date. This bill will make the double date against the law. I refuse to believe this Senate could be that callous and cruel.

Please defeat House Bill No. 4600.

Senator Jacobs' statement is as follows:

Sometimes it's hard to come behind my esteemed colleague, but I would like to make a point that hasn't been brought out in today's debate. While I feel that this bill, although improved with the Jacobs amendment, is still really an overreach. There is really a greater issue that we really need to be talking about, and that has to do with transportation in general, in terms of what we are able to provide the residents in Michigan.

We have to make a commitment to funding public transportation. We have to make a commitment to funding mass transportation in this state. We have to find, if we don't want kids to be driving at that age, then we need to be putting more money into our schools to be providing school busses to take kids to and from school. This Legislature has been lax in coming up and ponying up the money to do these things. What we are doing in effect is reducing options for parents, reducing options for youngsters, and not providing other solutions that really need to be addressed.

For that reason, I am voting against House Bill No. 4600.

Senator Garcia's statement is as follows:

Normally, I would not be voting for a bill like this. There have been many great points made on both sides of the aisle, but the primary reason I will be voting for this bill today is because in the last 15 months six young people in my district have lost their lives because they made poor decisions while driving with other drivers of the same age. Now we can't prevent everyone from making a poor decision, and that's not what I advocate, but for six young people just starting out life to lose their lives because they were distracted by other friends and made wrong decisions. If I can do something to help prevent further loss of life, I will do so.

The other point you have to consider is this actually only covers a period of six to nine months in a young person's life. When they get their class 2 driver's license, this bill would be in effect for that period until they get their class 3 driver's license which is, again, a period of six to nine months. It's a very short time period of which to do everything we can to protect young people in this time of life.

Once again, I refer back to the fact that I talked to a number of classes, government classes, in which the students themselves admitted that the more young people there were in the car, the more likely they are to be distracted. So even though I would normally vote against a bill like this, it is because of the young people who lost their lives in my district. Again, six in the last 15 months and because it is a very short time period, I will be voting for this bill.

By unanimous consent the Senate proceeded to the order of
Resolutions

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

Senate Resolution No. 175

Senate Resolution No. 139

Senate Resolution No. 241

Senate Concurrent Resolution No. 40

The motion prevailed.

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

Senate Resolution No. 300

The resolution consent calendar was adopted.

Senator Switalski offered the following resolution:

Senate Resolution No. 300.

A resolution to recognize the month of October as Filipino American History Month in Michigan, as declared by the Filipino American National Historical Society.

Whereas, The study of Filipino American history and culture must be promoted because of the role of Filipino Americans and those of other people of color which has been overlooked in writings, teachings, and learning of the history of the United States of America; and

Whereas, Michigan is fortunate to count among its population a large concentration of citizens of Filipino descent, including those who have lived in Michigan for generations and those who are new to the Great Lakes State, who contribute to Michigan's economy and society through their commitment to professions, commerce, family, and the arts; and

Whereas, Positive role models will be able to instill and teach the Filipino American youth the importance of education, ethnicity, and values of their legacy; now, therefore, be it

Resolved by the Senate, That we hereby recognize the month of October as Filipino American History Month as established by the trustees of the Filipino American National Historical Society; and be it further

Resolved, That Filipino American History Month be observed annually throughout the United States and its territories, which began in 1992 to mark the 405th anniversary of the presence of Filipinos in the continental United States; and be it further

Resolved, That a copy of this resolution be transmitted to the National Federation of Filipino American Association as a symbol of our esteem.

Senators Bernero, Brater, Clarke, Cropsey, Garcia, Goschka, Jacobs, Scott, Thomas and Van Woerkom were named co-sponsors of the resolution.

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

Introduction and Referral of Bills

Senator Jacobs introduced

Senate Bill No. 1445, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," (MCL 436.1101 to 436.2303) by adding section 521a.

The bill was read a first and second time by title and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

Senator Allen introduced

Senate Bill No. 1446, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 521 (MCL 436.1521), as amended by 1998 PA 282.

The bill was read a first and second time by title and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

Senator Hammerstrom introduced

Senate Bill No. 1447, entitled

A bill to amend 1982 PA 295, entitled "Support and parenting time enforcement act," by amending sections 25a, 25b, 25c, 25d, 25e, 25f, 25g, 25h, and 25i (MCL 552.625a, 552.625b, 552.625c, 552.625d, 552.625e, 552.625f, 552.625g, 552.625h, and 552.625i), sections 25a and 25b as amended and sections 25c, 25d, 25e, 25f, 25g, 25h, and 25i as added by 2002 PA 565.

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

Senator Patterson introduced

Senate Bill No. 1448, entitled

A bill to amend 1982 PA 295, entitled "Support and parenting time enforcement act," (MCL 552.601 to 552.650) by adding section 24b.

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

Senator Stamas introduced

Senate Bill No. 1449, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding section 418. The bill was read a first and second time by title and referred to the Committee on Families and Human Services.

Senator Van Woerkom introduced

Senate Bill No. 1450, entitled

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending section 3705 (MCL 700.3705).

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

Senator Hammerstrom introduced

Senate Bill No. 1451, entitled

A bill to amend 1969 PA 317, entitled "Worker's disability compensation act of 1969," by amending section 230 (MCL 418.230), as amended by 2002 PA 566.

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

Senator Gilbert introduced

Senate Bill No. 1452, entitled

A bill to amend 1933 PA 254, entitled "The motor carrier act," by amending the title and sections 1, 2, and 3 of article I, sections 1, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, and 14 of article II, sections 1, 2, 4, 5, 5a, 8, 9, 10, 11, and 12 of article III, and sections 1, 2, 7, and 8 of article IV (MCL 475.1, 475.2, 475.3, 476.1, 476.4, 476.5, 476.6, 476.7, 476.7a, 476.8, 476.9, 476.10, 476.11, 476.12, 476.13, 476.14, 477.1, 477.2, 477.4, 477.5, 477.5a, 477.8, 477.9, 477.10, 477.11, 477.12, 478.1, 478.2, 478.7, and 478.8), the title and sections 1, 4, 6, 8, 9, 10, 11, 13, and 14 of article II, sections 1, 5, 8, 9, 11, and 12 of article III, and section 1 of article IV as amended by 1982 PA 399, sections 1, 2, and 3 of article I, sections 5, 7, and 7a of article II, sections 2, 4, and 5a of article III, and section 2 of article IV as amended by 1993 PA 352, section 7 of article IV as amended by 1989 PA 221, and section 8 of article IV as added by 1988 PA 369; and to repeal acts and parts of acts.

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

Senator Cropsey introduced

Senate Bill No. 1453, entitled

A bill to amend 1996 PA 376, entitled "Michigan renaissance zone act," by amending sections 8a and 9 (MCL 125.2688a and 125.2689), section 8a as amended by 2002 PA 587.

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

Senator Birkholz introduced

Senate Bill No. 1454, entitled

A bill to amend 1970 PA 169, entitled “Local historic districts act,” by amending sections 5, 9, and 11 (MCL 399.205, 399.209, and 399.211), section 5 as amended by 2004 PA 67, section 9 as amended by 2001 PA 67, and section 11 as amended by 1992 PA 96.

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

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

The motion prevailed.

Senator Garcia’s statement is as follows:

Earlier this morning, this chamber voted on two calendar items, Item Nos. 41 and 42, Senate Bill No. 1206 and House Bill No. 4766. At that time, I was over at the headquarters for the National Guard taking care of some military responsibilities, so I could not be here at that time. I just want the chamber to know that I would have voted “yes” on both of them.

Senator Birkholz’s statement is as follows:

I would like to announce my voting intentions from yesterday. I was representing the state of Michigan at the Great Lakes Commission in Canada over the weekend. So had I been here on House Bill No. 6227, I would have voted “yes”; on calendar Item No. 41, Senate Bill No. 1396, I would have voted “yes”; calendar Item No. 43, House Bill No. 5118, I would have voted “yes”; calendar Item No. 49, Senate Bill No. 1175, I would have voted “yes”; calendar Item No. 50, Senate Bill No. 1176, I would have voted “yes”; and calendar Item No. 51, House Bill No. 5763, I would have voted “yes.”

Statements

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

The motion prevailed.

Senator Toy’s statement is as follows:

Good afternoon and buon giorno miei amici! As we anticipate pausing next Monday, October 11, to honor that great Italian explorer Christopher Columbus, I feel compelled to stand before you today to pay tribute to all of my fellow Italian Americans. I am reminded of my Italian heritage every day that I have the privilege to grace the floors of our beautiful, historical Capitol Building and witness the awesome, inspiring grace, and beauty of the “Ladies in the Dome.” These breathtaking portraits were painted by Italian painter Tommaso Jugarlis who, as you know, we will honor with a gala celebration next week.

I hope we all seize the opportunity to remember the countless contributions that the Italian American community has made to the culture, to the arts, to the economy, and to the national spirit of these United States. Famous examples include: former New York City Mayor Rudolph Giuliani and Supreme Court Justice Scalia, who have chosen to serve our country in a civic capacity; sports stars like baseball great Joe DiMaggio and Olympic Gold Medalist Mary Lou Retton; and entertainers Frank Sinatra and Dean Martin.

Within this legislative body we recognize famous—or should I say infamous—Italian Americans: Senator Virg Bernero, Representatives Frank Accavitti Jr., Stephen Adamini, Steven Bieda, Paul Condino, Sal Rocca, Aldo Vagnozzi, Senator Dennis Olshove, and of course, yours truly; my chief of staff, Heather Lombardini; the famous queen of policy, the famous Melissa Samuel; and of course, the godmother of them all, Sally Durfee from the 24th District.

And let us never forget the Italian American citizens who constitute a vibrant component of this great melting pot. They may not be celebrated or well-known, but on a daily basis they live the American Dream and play their role in making this country the best place in the world to live, work, raise a family, and pursue even the loftiest of goals.

I wish you a Happy Columbus Day! God Bless America!

Senator Scott’s statement is as follows:

We sat here and debated House Bill No. 4600 for some time. Well, the majority of my kids in my areas can’t even afford the insurance to get the cars to drive. So my underlying hope is that as each of you leave Lansing today and head back to your respective districts until after the elections, you will seriously contemplate the reason why State Senator Martha G. Scott rises each day under “Statements” and speaks about high insurance rates.

For some of you, this issue doesn't impact you directly, in that your constituents are not experiencing shock and outrage when they open that statement every six months from their insurance agent. However, if your constituents were being forced to pay two or three times more than a person living just a short distance away, believe me, you would hear from them. And, I am most certain, that you would be doing everything within your power to address this issue.

As a state elected official, all I am asking is that you think about the many, many citizens in this state who are paying insurance premiums that, quite frankly, are just simply outrageous. As you all know, this issue is of utmost importance to me as a public official who has made it her mission to answer the call for help from so many of her constituents who simply want to pay a fair and equitable insurance premium. I don't think that what I'm asking for is unreasonable. In fact, I'm quite certain that it is attainable. I will continue to work and speak out until I find the solution to this appalling discrepancy.

Senator Cropsey's statement is as follows:

I just wanted to draw the body's attention today. We did have one Senator who was late today, the Senator from the 22nd District. He is in uniform today with his Army National Guard uniform on. I think it is important to note the reason why he was late. They did have a ceremony, and he was promoted to colonel in the Army National Guard. I just wanted to congratulate him on that.

Committee Reports

The Committee on Agriculture, Forestry and Tourism reported

Senate Resolution No. 279.

A resolution to memorialize the Congress of the United States to enact the Specialty Crop Competitiveness Act.

(For text of resolution, see Senate Journal No. 66, p. 1281.)

With the recommendation that the resolution be adopted.

Gerald Van Woerkom
Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Gilbert, Jelinek, Brater and Thomas

Nays: None

The resolution was placed on the order of Resolutions.

The Committee on Agriculture, Forestry and Tourism reported

House Bill No. 5030, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by amending the part heading of part 361 and by adding part 363.

With the recommendation that the substitute (S-2) be adopted and that the bill then pass.

Gerald Van Woerkom
Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Gilbert and Jelinek

Nays: Senator Thomas

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, September 30, 2004, at 9:00 a.m., Room 110, Farnum Building

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

The Committee on Commerce and Labor reported

House Bill No. 6127, entitled

A bill to provide for the establishment of a historical neighborhood tax increment finance authority; to prescribe the powers and duties of the authority; to correct and prevent deterioration in neighborhoods and certain other areas; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and

implementation of development plans and development areas; to promote residential and economic growth; to create a board; to prescribe the powers and duties of the board; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to prescribe powers and duties of certain state officials; to provide for rule promulgation; and to provide for enforcement of the act.

With the recommendation that the bill pass.

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

Jason E. Allen
Chairperson

To Report Out:

Yeas: Senators Allen, Kuipers, McManus, Schauer and Olshove

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Commerce and Labor submitted the following:

Meeting held on Tuesday, October 5, 2004, at 3:00 p.m., Room 100, Farnum Building

Present: Senators Allen (C), Kuipers, McManus, Schauer and Olshove

The Committee on Appropriations reported

House Bill No. 5529, entitled

A bill to authorize the state administrative board to convey certain state owned property in Ingham county; to prescribe conditions for the conveyance; and to provide for disposition of the revenue from the conveyance.

With the recommendation that the bill pass.

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

Shirley Johnson
Chairperson

To Report Out:

Yeas: Senators Stamas, Brown, Goschka, Garcia, Cropsey, Jelinek, McManus, Hardiman, George, Prusi, Barcia, Scott, Cherry, Clarke and Switalski

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Appropriations reported

House Bill No. 4703, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 12501, 12505, 12506, 12507, 12508, 12509, 12512, 12513, 12514, 12516, 12521, 12527, 12527a, 12528, 12529, and 12532 (MCL 333.12501, 333.12505, 333.12506, 333.12507, 333.12508, 333.12509, 333.12512, 333.12513, 333.12514, 333.12516, 333.12521, 333.12527, 333.12527a, 333.12528, 333.12529, and 333.12532), section 12501 as amended by 1982 PA 525, section 12527 as amended by 1980 PA 522, and sections 12527a and 12532 as amended by 1985 PA 19, and by adding sections 12506a, 12506b, 12510, and 12527b.

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.

Shirley Johnson
Chairperson

To Report Out:

Yeas: Senators Stamas, Brown, Goschka, Cropsey, Jelinek, McManus, Hardiman, George, Prusi, Barcia, Scott, Cherry, Clarke and Switalski

Nays: Senator Garcia

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

COMMITTEE ATTENDANCE REPORT

The Committee on Appropriations submitted the following:

Meeting held on Tuesday, October 5, 2004, at 12:00 noon, Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Stamas, Brown, Goschka, Garcia, Cropsey, Jelinek, McManus, Hardiman, George, Prusi, Barcia, Scott, Cherry, Clarke and Switalski

Excused: Senator Johnson (C)

Scheduled Meetings

Agriculture, Forestry and Tourism - Thursday, October 7, 9:00 a.m., Room 110, Farnum Building (373-1635)
(CANCELED)

Local, Urban and State Affairs - Thursday, October 7, 1:00 p.m., Room 110, Farnum Building (373-1707)
(CANCELED)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 12:19 p.m.

The Assistant President pro tempore, Senator Sanborn, declared the Senate adjourned until Thursday, October 7, 2004, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

