

No. 77
STATE OF MICHIGAN
Journal of the Senate
92nd Legislature
REGULAR SESSION OF 2003

Senate Chamber, Lansing, Thursday, September 25, 2003.

10:00 a.m.

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

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

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

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

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

Pastor Scott McKee of Mt. Pleasant Community Church of Mt. Pleasant offered the following invocation:

God of grace, as we open this legislative session, we remember in prayer the people of the state of Michigan who this body represents. We pray for all Michigan residents—for those who work hard and for those whose lives are hard. We pray for those who have received promotions and for those who have received pink slips. We pray for those who dream big dreams and for those whose nightmares are real. We pray for children who this day play in schoolyards, read books, laugh, and learn. And we pray for children who have little to laugh about, who go to bed hungry and who cry themselves to sleep. The needs are many and varied; the people diverse and unique. We ask for Your blessing on each Michigan resident. By Your grace, work in each one immeasurably beyond all they could ask or imagine.

Then, O Lord, we would ask for Your blessing upon these Senators—those who pursue the high and noble calling of public service. For those in the room today who do not feel up to the task, grant them confidence. For those who feel self-sufficient, grant humility. For those who feel distracted by concern over a loved one this day, grant them peace. For those who entered office with a desire to change the world and today are frustrated by the reality of the political process, grant them a renewal of Your call.

Let the discussions of the day be conducted with courtesy, grace, and unity. Let the decisions of the day transcend partisanship or individual ambition. Grant to this body of leaders wisdom to govern with diligence, grace to serve the people and each other, and courage to do what is right, that this state and nation may know Your reign and Your peace. Your will be done on Earth as it is in Heaven.

We dedicate this session now to Your purposes, in the name of Jesus Christ. Amen.

The President pro tempore, Senator Birkholz, led the members of the Senate in recital of the *Pledge of Allegiance*.

Motions and Communications

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

Senators Toy and Johnson entered the Senate Chamber.

The Secretary announced that the following House bill was received in the Senate and filed on Wednesday, September 24:

House Bill No. 4872

The Secretary announced that the following bills were available at the legislative Web site on Wednesday, September 24:

Senate Bill Nos.	713	714	715	716	717	718	719	720	721	722	723	724	725
House Bill Nos.	5050	5051	5052	5053	5054	5055	5056	5057	5058	5059	5060	5061	

Messages from the Governor

The following message from the Governor was received and read:

September 24, 2003

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointments to state office under Section 802 of the Occupational Code, 1980 PA 299, MCL 339.802:

Athletic Board of Control

Rene Muniz of 536 Mill Street, Lincoln Park, Michigan 48146, county of Wayne, succeeding Dennis R. O'Connell, who has resigned, representing professionals, for a term commencing September 24, 2003 and expiring March 31, 2006.

Albert Low of 41381 Beacon, Novi, Michigan 48375, county of Oakland, succeeding Peter J. Wadel, who has resigned, representing professionals, for a term commencing September 24, 2003 and expiring March 31, 2005.

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

The following bill was read a third time:

House Bill No. 4236, 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 16344 and part 187.

The question being on the passage of the bill,

Senator Hammerstrom offered the following amendments:

1. Amend page 11, line 5, after “**The**” by striking out “**board**” and inserting “**department**”.
2. Amend page 11, line 8, after “**the**” by striking out “**board**” and inserting “**department**”.
3. Amend page 12, line 1, by striking out “**registration**” and inserting “**licensure**”.
4. Amend page 13, following line 14, by inserting:

“Enacting section 1. This amendatory act takes effect January 1, 2004.”.

The amendments were 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. 431

Yeas—27

Allen	Garcia	Jelinek	Sikkema
Birkholz	George	Johnson	Stamas
Bishop	Gilbert	Kuipers	Switalski
Brater	Goschka	McManus	Thomas
Brown	Hammerstrom	Patterson	Toy
Cassis	Hardiman	Sanborn	Van Woerkom
Cropsey	Jacobs	Scott	

Nays—11

Barcia	Cherry	Emerson	Prusi
Basham	Clark-Coleman	Leland	Schauer
Bernero	Clarke	Olshove	

Excused—0

Not Voting—0

In The Chair: Birkholz

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

The recommendation was not concurred in, 2/3 of the members serving not 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

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.

By unanimous consent the Senate proceeded to the order of

Resolutions

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

Senate Resolution No. 154

The resolution consent calendar was adopted.

Senators Garcia, Hardiman, Goschka, Thomas, Toy, Stamas, Sanborn, Van Woerkom, Cropsey, Switalski, Birkholz, Basham, Kuipers, Bishop, Clarke, Scott, Cherry, Allen, McManus, Cassis, Brown, Brater, Jelinek, George, Patterson and Johnson offered the following resolution:

Senate Resolution No. 154.

A resolution to recognize September 15, 2003, through October 15, 2003, as Hispanic Heritage Month.

Whereas, Spanish-speaking people have brought to our nation the gifts of law, religion, agriculture, art, music, education, technology, architecture, cuisine, theater, and exploration; and

Whereas, Michigan is fortunate to count among its population a large concentration of citizens of Spanish and Latin American 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, Time and again throughout our nation’s history, Hispanic Americans have faithfully defended the principles of freedom and representative government, and indeed, 41 Hispanic Americans have earned the nation’s highest honor, the Congressional Medal of Honor; and

Whereas, During the month spanning from September 15 - October 15, Michigan’s Hispanic-American community will celebrate Hispanic Heritage Month through a series of special programs featuring Hispanic history, food, dance, and art; now, therefore, be it

Resolved by the Senate, That we hereby recognize September 15, 2003, through October 15, 2003, as Hispanic Heritage Month in the state of Michigan. We encourage all citizens to acknowledge and applaud the many contributions made by these individuals to enhance the quality of life in this state.

Senators Jacobs and Prusi were named co-sponsors of the resolution.

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

By unanimous consent the Senate proceeded to the order of

Statements

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

The motion prevailed.

Senator Birkholz’s statement is as follows:

I have someone very special standing here with me today, a little reluctantly. Michael Campana, unfortunately, is leaving us. We want to congratulate him and thank him for his hard work and all the extra things that he has done for many of us as members of the Senate. We have today a special tribute to Michael:

“LET IT BE KNOWN, That in 1998 Michael Campana accepted a position on the Science and Research Staff in the Science and Technology Division of the Michigan Legislative Service Bureau. He has contributed much to the science research staff during that time and has provided legislators, staff, and drafting attorneys with extensive information and analysis of various issues from the Great Lakes to farmland preservation. As he takes his leave, the Senate is grateful for the knowledge and expertise that he has contributed as a staff member of the Senate Standing Committee on Natural Resources and Environmental Affairs.

Michael left New England to broaden his academic career and experience different areas of the country as he studied. He attended the University of Michigan to earn a Bachelor of Science degree in Botany, and then he was accepted at the Virginia Institute of Marine Science at the College of William and Mary where he earned a Master of Science in Resource Management and Policy. His time in the state of Michigan as a student and as a professional has nurtured a love and respect for the natural resources of our wonderful Great Lakes. Michael is a true friend and an advocate for the protection, conservation, and restoration of our Great Lakes.

Over the years, he has been active in various local chorale groups. With his tremendous voice and his great commitment to music, Michael has preformed as a member of the University of Michigan Men's Glee Club and served as its operations manager. In addition to music, Michael's free spirit soars when he competes with his Ultimate Frisbee team, a sport he enjoyed in his youth in Massachusetts and continues to play here in Michigan. Michael has taken his love for music and the Frisbee and has contributed to a lot of the communities where he has resided.

IN SPECIAL TRIBUTE, Therefore, This document is signed and dedicated to thank Michael for his years of service as a Science Research Analyst in the Science and Technology Division of the Legislative Service Bureau. May he know of our admiration for his talent, our gratitude for his professionalism, and our best wishes for the continuance of a very successful career."

It's signed by all the legislators with whom he has worked and our Governor, Jennifer Granholm. We would like to congratulate and wish him well as he moves on to the University of Rhode Island, where he will be working with the Sea Grant universities. Congratulations, Michael.

By unanimous consent the Senate returned to the order of

Introduction and Referral of Bills

Senators Clarke, Toy, George, Basham, Olshove, Scott, Clark-Coleman, Thomas, Prusi, Barcia, Goschka, Garcia, Leland and Cassis introduced

Senate Bill No. 734, entitled

A bill to amend 1970 PA 91, entitled "Child custody act of 1970," by amending section 7b (MCL 722.27b), as amended by 1996 PA 19.

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

Senators Allen, George and Barcia introduced

Senate Bill No. 735, entitled

A bill to amend 1996 PA 299, entitled "An act to regulate tourist-oriented directional signs on certain rural roads; and to impose certain duties upon the state transportation department," by amending sections 1 and 3 (MCL 247.401 and 247.403).

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

Senators Jelinek and Hardiman introduced

Senate Bill No. 736, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 717 (MCL 257.717), as amended by 2002 PA 552.

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

Senators Jelinek and Hardiman introduced

Senate Bill No. 737, entitled

A bill to protect and promote children's health; to create the MICHild program; to prescribe the powers and duties of the department of community health; and to prescribe certain duties of certain other state departments, officers, and agencies.

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

Senators Jelinek and Hardiman introduced

Senate Bill No. 738, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending sections 108 and 109 (MCL 400.108 and 400.109), section 109 as amended by 2002 PA 673.

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

Senators George, Birkholz, Sanborn, Cropsey, Schauer, Switalski, Garcia, Jelinek, Brown, Hardiman, McManus, Patterson, Goschka, Kuipers, Bishop and Toy introduced

Senate Bill No. 739, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 367d. The bill was read a first and second time by title and referred to the Committee on Judiciary.

House Bill No. 4872, entitled

A bill to amend 1992 PA 147, entitled "Neighborhood enterprise zone act," by amending section 4 (MCL 207.774), as amended by 2002 PA 608.

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 Economic Development, Small Business and Regulatory Reform.

Committee Reports

The Committee on Judiciary reported

House Bill No. 4632, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 394 (MCL 750.394).

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

1. Amend page 2, line 26, by striking out "October 1, 2003" and inserting "January 1, 2004".

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

Alan L. Cropsey
Chairperson

To Report Out:

Yeas: Senators Cropsey, Bishop, Sanborn, Patterson, Schauer, Bernero and Brater

Nays: None

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

The Committee on Judiciary reported

House Bill No. 4633, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 16s of chapter XVII (MCL 777.16s), as amended by 2000 PA 279.

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

1. Amend page 3, line 25, by striking out "October 1, 2003" and inserting "January 1, 2004".

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

Alan L. Cropsey
Chairperson

To Report Out:

Yeas: Senators Cropsey, Bishop, Sanborn, Patterson, Schauer, Bernero and Brater

Nays: None

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

The Committee on Judiciary reported

House Bill No. 4715, entitled

A bill to amend 1966 PA 189, entitled "An act to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts," by amending section 1 (MCL 780.651), as amended by 2002 PA 506.

With the recommendation that the bill pass.

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

Alan L. Cropsey
Chairperson

To Report Out:

Yeas: Senators Cropsey, Bishop, Sanborn, Patterson, Schauer, Bernero and Brater

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submitted the following:

Meeting held on Tuesday, September 23, 2003, at 1:00 p.m., Room 210, Farnum Building

Present: Senators Cropsey (C), Bishop, Sanborn, Patterson, Schauer, Bernero and Brater

COMMITTEE ATTENDANCE REPORT

The Committee on Education submitted the following:

Joint meeting held on Wednesday, September 17, 2003, at 1:00 p.m., House Appropriations Room, 3rd Floor, Capitol Building

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

Excused: Senator Cassis

COMMITTEE ATTENDANCE REPORT

The Committee on Health Policy submitted the following:

Joint meeting held on Wednesday, September 17, 2003, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower)

Present: Senators Hammerstrom (C), Patterson, George, Bernero and Jacobs

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Department of Community Health submitted the following:

Joint meeting held on Wednesday, September 17, 2003, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower)

Present: Senators Stamas (C), George, Johnson, Cherry and Clarke

Excused: Senator Garcia

COMMITTEE ATTENDANCE REPORT

The Subcommittee on K-12, School Aid, Education submitted the following:

Joint meeting held on Wednesday, September 17, 2003, at 1:00 p.m., House Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Jelinek (C), Cropsey, Brown and Switalski

Excused: Senator Scott

COMMITTEE ATTENDANCE REPORT

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

Meeting held on Friday, September 19, 2003, at 9:00 a.m., Bay de Noc Community College Auditorium, 2001 N. Lincoln, Escanaba

Present: Senator Van Woerkom (C)

Excused: Senators Gilbert, Jelinek, Brater and Thomas

COMMITTEE ATTENDANCE REPORT

The Committee on Local, Urban and State Affairs submitted the following:

Public hearing held on Monday, September 22, 2003, at 6:30 p.m., Student Community Center, Room K-137, Center Campus, Macomb County Community College, 44575 Garfield Road, Clinton Township

Present: Senator Toy (C)

Excused: Senators Birkholz, Goschka, Basham and Bernero

COMMITTEE ATTENDANCE REPORT

The Committee on Gaming and Casino Oversight submitted the following:
 Meeting held on Wednesday, September 24, 2003, at 1:00 p.m., Room 210, Farnum Building
 Present: Senators Allen (C), Bishop, Birkholz, Olshove and Emerson

COMMITTEE ATTENDANCE REPORT

The Committee on Senior Citizens and Veterans Affairs submitted the following:
 Meeting held on Wednesday, September 24, 2003, at 1:00 p.m., Room 100, Farnum Building
 Present: Senators Toy (C), Gilbert and Clark-Coleman
 Excused: Senators Stamas and Olshove

COMMITTEE ATTENDANCE REPORT

The Committee on Health Policy submitted the following:
 Joint meeting held on Wednesday, September 24, 2003, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower)
 Present: Senators Hammerstrom (C), Patterson, George, Bernero and Jacobs

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Department of Community Health submitted the following:
 Joint meeting held on Wednesday, September 24, 2003, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower)
 Present: Senators Stamas (C), George, Johnson, Cherry and Clarke
 Excused: Senator Garcia

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

Natural Resources Department - Thursday, October 2, 12:30 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

Commerce and Labor and Commerce, Labor and Economic Development Appropriations Subcommittee - Tuesday, September 30, 3:00 p.m. or immediately following Appropriations Committee meeting, Senate Appropriations Room, 3rd Floor, Capitol Building (373-2413)

Families and Human Services - Thursday, October 2, 8:30 a.m., Room 210, Farnum Building (373-1801)

Gaming and Casino Oversight - Wednesday, October 1, 1:00 p.m., Room 210, Farnum Building (373-2413)

Judiciary - Tuesday, September 30, 1:00 p.m., Room 210, Farnum Building and Friday, October 3, 2:00 p.m., Kalamazoo County Administration Building, 201 W. Kalamazoo Avenue, Kalamazoo (373-3760)

Natural Resources and Environmental Affairs - Tuesday, September 30, 3:00 p.m., Room 110, Farnum Building; recess until 7:00 p.m., St. Clair City Hall, Council Room, 547 N. Carney Drive, St. Clair (373-3447)

Senator Hammerstrom moved that the Senate adjourn.
 The motion prevailed, the time being 10:28 a.m.

The Assistant President pro tempore, Senator Sanborn, declared the Senate adjourned until Tuesday, September 30, 2003, at 10:00 a.m.