

**No. 85**  
**STATE OF MICHIGAN**  
**Journal of the Senate**  
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**REGULAR SESSION OF 2003**

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Senate Chamber, Lansing, Wednesday, October 15, 2003.

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—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 Jeff Whittaker of Michiana Christian Embassy Church of Niles offered the following invocation:

Father, today we come into Your presence with thanksgiving. Lord, we realize that according to Your Word that this is the day that the Lord has made, and we will rejoice and be glad in it. We thank You, Lord, for the honor of being Your servants on the earth, receiving a mantel of responsibility and authority.

Lord, we also pray, as we are reminded of the prayer of King Solomon as he cried out not for riches, not for victory over enemies, but for wisdom.

Lord, we ask You right now, Father, we ask You for Your wisdom to govern justly and clarity of thought, that every distraction will be cast down out of our minds. Lord, we even pray for those in the Gallery this morning—the young people, the children—because, Lord, the actions that are done today plant the seeds of what will be tomorrow. We love You, and we thank You so very much. You paid the ultimate price so we could live.

We pray all of this, and we ask You in Jesus' powerful name. Amen.

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

### Motions and Communications

Senators Brown, Van Woerkom and Garcia entered the Senate Chamber.

Senator Schauer moved that Senators Barcia and Thomas be temporarily excused from today's session. The motion prevailed.

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

Senator Thomas entered the Senate Chamber.

The following communications were received:

Office of the Auditor General

October 14, 2003

Enclosed is a copy of the following audit report:

Performance Audit of Fee Adequacy and Delegated Authority Within the Air Quality Division, released October 14, 2003.

October 14, 2003

Enclosed is a copy of the following audit report:

Financial audit of the Michigan Legislative Retirement System, released October 14, 2003.

Sincerely,

Thomas H. McTavish, C.P.A.

Auditor General

The communications were referred to the Secretary for record.

The Secretary announced that the following bill was available at the legislative Web site on Tuesday, October 14:

**Senate Bill No. 777**

By unanimous consent the Senate proceeded to the order of

### Messages from the House

#### Senate Bill No. 252, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3111 and 3113 (MCL 324.3111 and 324.3113) and by adding sections 3120 and 3121.

The House of Representatives has substituted (H-4) the bill.

The House of Representatives has passed the bill as substituted (H-4), ordered that it be given immediate effect and amended the title to read as follows:

A bill to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the

discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 3103, 3112, 3113, 3115, 3118, and 3119 (MCL 324.3103, 324.3112, 324.3113, 324.3115, 324.3118, and 324.3119), section 3118 as amended by 1999 PA 35 and section 3119 as amended by 1999 PA 106, and by adding sections 3120 and 3121; and to repeal acts and parts of acts.

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

**Third Reading of Bills**

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

- House Bill No. 4360**
- Senate Bill No. 658**
- Senate Bill No. 659**
- Senate Bill No. 718**

The motion prevailed.

Senator Barcia entered the Senate Chamber.

The following bill was read a third time:

**House Bill No. 4360, entitled**

A bill to amend 1978 PA 33, entitled “An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts,” by amending sections 1 and 7 (MCL 722.671 and 722.677), section 7 as amended by 1999 PA 33.

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. 469**

**Yeas—37**

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

**Nays—0**

**Excused—1**

**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 title of the bill.

The following bill was read a third time:

**Senate Bill No. 658, entitled**

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” (MCL 324.101 to 324.90106) by adding section 80134a.

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. 470****Yeas—37**

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

**Nays—0****Excused—1**

Toy

**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

Senator Toy entered the Senate Chamber.

The following bill was read a third time:

**Senate Bill No. 659, entitled**

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” by amending section 13g of chapter XVII (MCL 777.13g), as added by 2002 PA 30.

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. 471****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:

**Senate Bill No. 718, entitled**

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending section 15 (MCL 125.2665), as amended by 2002 PA 727.

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. 472****Yeas—37**

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

**Nays—1**

Brater

**Excused—0**

**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

Senators Allen, Barcia, Basham, Bernero, Birkholz, Bishop, Brown, Clarke, Cropsey, Garcia, George, Gilbert, Goschka, Hammerstrom, Hardiman, Jacobs, Jelinek, Johnson, Kuipers, McManus, Olshove, Patterson, Prusi, Sanborn, Scott, Sikkema, Toy and Van Woerkom moved that they be named co-sponsors of the following bill:

**Senate Bill No. 658**

The motion prevailed.

By unanimous consent the Senate proceeded to the order of

**General Orders**

Senator Hammerstrom moved that the Senate resolve itself into the Committee of the Whole for consideration of the General Orders calendar.

The motion prevailed, and the President, Lieutenant Governor Cherry, designated Senator Kuipers 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:

**Senate Bill No. 490, entitled**

A bill to amend 1851 PA 156, entitled "An act to define the powers and duties of the county boards of commissioners of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the violation of the provisions of this act," by amending section 12a (MCL 46.12a), as amended by 2002 PA 730.

**Senate Bill No. 491, entitled**

A bill to amend 1978 PA 322, entitled "An act to authorize financial institutions to make electronic funds transfer terminals available to their customers; to protect the privacy and security of customers; to prohibit unfair discrimination among financial institutions and monopolistic practices in the use and availability of electronic funds transfer terminals; to prescribe remedies; and to prescribe penalties," by amending sections 2 and 3 (MCL 488.2 and 488.3).

**Senate Bill No. 492, entitled**

A bill to amend 1950 (Ex Sess) PA 27, entitled "Motor vehicle sales finance act," by amending section 36 (MCL 492.136).

**Senate Bill No. 493, entitled**

A bill to amend 1976 PA 331, entitled "Michigan consumer protection act," by amending section 4 (MCL 445.904), as amended by 2000 PA 432.

**Senate Bill No. 494, entitled**

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 315a and 376a (MCL 750.315a and 750.376a), as added by 1982 PA 395.

**Senate Bill No. 495, entitled**

A bill to amend 1973 PA 43, entitled "An act to permit associations, institutions and credit unions to process or handle food stamps; and to prescribe powers and duties," by amending section 1 (MCL 400.171).

**House Bill No. 4211, entitled**

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 30 (MCL 211.30), as amended by 2000 PA 210.

**House Bill No. 4790, entitled**

A bill to amend 1964 PA 283, entitled "Weights and measures act," by amending section 28c (MCL 290.628c), as added by 2002 PA 208.

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. 496, entitled**

A bill to provide for the organization, operation, regulation, and supervision of credit unions; to prescribe the powers and duties of credit unions; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties, civil sanctions, and remedies; and to repeal acts and parts of acts.

Substitute (S-4).

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

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

**House Bill No. 5037, entitled**

A bill to amend 1992 PA 234, entitled "The judges retirement act of 1992," by amending section 512 (MCL 38.2512), as added by 2002 PA 675.

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

1. Amend page 3, line 9, after "**by**" by striking out "**December 30, 2003**" and inserting "**January 30, 2004**".
2. Amend page 5, line 2, after "on" by striking out "**December 30, 2003**" and inserting "**January 30, 2004**".
3. Amend page 6, line 9, after "**until**" by striking out "**December 30, 2003**" and inserting "**January 30, 2004**".

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

### Resolutions

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

**Senate Resolution No. 141**

The motion prevailed.

**Senate Resolution No. 162.**

A resolution to memorialize the President and the Congress of the United States to increase funding available for home heating assistance to cope with the rise in natural gas costs expected this winter.

The question being on the adoption of the following committee substitute:

Substitute (S-2).

The substitute was adopted.

The resolution, as substituted, was adopted.

By unanimous consent the Senate proceeded to the order of

### Statements

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

The motion prevailed.

Senator Schauer's statement is as follows:

It is with a heavy heart that I rise before my colleagues today to express my sincere condolences to the family of U.S. Army Specialist Donald Laverne Wheeler, Jr., of Concord, Michigan.

Army Specialist Wheeler died yesterday as a result of injuries he sustained Monday when his unit came under a rocket-propelled grenade attack from renegade Iraqi forces 90 miles north of Baghdad in Tikrit. He was only 22 years old. He was assigned to A Company, First Battalion, Twenty-Second Infantry Regiment, Fourth Infantry Division stationed at Fort Hood, Texas.

Donald Wheeler graduated from Jackson Lumen Christi High School in 1999, where he was a member of the school's football team that made the regional finals. Known by relatives as "DJ," Army Specialist Wheeler worked for the family business, but enlisted following September 11 because he felt the call to defend our nation against terrorist aggression. His willingness to help protect our country was also echoed by his uncle and namesake, who was killed during the Korean War. His grandfather also served in World War II.

We grieve along with the Wheeler family and the hundreds of other families across this great nation who have lost loved ones during the recent military conflict in the Middle East. All of their sons and daughters have made the ultimate sacrifice to help protect the freedoms we hold so dear.

I respectfully ask the Michigan Senate to offer a moment of silence in honor of U.S. Army Specialist Donald L. Wheeler, Jr., and extend our prayers to the many loved ones he left behind.

A moment of silence was observed in memory of U.S. Army Specialist Donald L. Wheeler, Jr.

By unanimous consent the Senate returned to the order of

### **Introduction and Referral of Bills**

Senator Hammerstrom introduced

#### **Senate Bill No. 778, entitled**

A bill to amend 1978 PA 566, entitled "An act to encourage the faithful performance of official duties by certain public officers and public employees; to prescribe standards of conduct for certain public officers and public employees; to prohibit the holding of incompatible public offices; and to provide certain judicial remedies," by amending section 3 (MCL 15.183), as amended by 2000 PA 455.

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

Senator McManus introduced

#### **Senate Bill No. 779, entitled**

A bill to amend 1994 PA 351, entitled "Equine activity liability act," by amending section 5 (MCL 691.1665).

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

### **Scheduled Meetings**

**Administrative Rules** - Thursday, October 16, 11:00 a.m. or later immediately following House and Senate session, Room 424, Capitol Building (373-6476)

**Agriculture, Forestry and Tourism** - Thursday, October 16, 9:00 a.m., Room 110, Farnum Building (373-1635)

#### **Appropriations -**

##### **Subcommittees -**

**Natural Resources Department** - Thursday, October 16, 12:00 noon, Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

**Banking and Financial Institutions** - Thursday, October 16, 12:00 noon or later immediately following session, Room 100, Farnum Building (373-2417)

**Education** - Thursday, October 16, 2:00 p.m., Room 210, Farnum Building (373-6920)

**Families and Human Services** - Thursday, October 16, 8:30 a.m., Room 210, Farnum Building (373-1801)

**Local, Urban and State Affairs** - Thursday, October 16, 1:00 p.m., Room 110, Farnum Building (373-1707)

**Technology and Energy** - Wednesday, October 22, 3:00 p.m., Room 210, Farnum Building (373-7350)



Senator Hammerstrom moved that the Senate adjourn.  
The motion prevailed, the time being 10:45 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Thursday, October 16, 2003, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate

