

No. 12
STATE OF MICHIGAN
Journal of the Senate
93rd Legislature
REGULAR SESSION OF 2006

Senate Chamber, Lansing, Thursday, February 9, 2006.

10:00 a.m.

The Senate was called to order by the Assistant President pro tempore, Senator Alan Sanborn.

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

Allen—present
Barcia—present
Basham—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

Senator Jim Barcia of the 31st District offered the following invocation:

Dear Lord, as we make our way through life, the challenges You present to us are many. As individuals and as a body, we continually strive to do our very best in addressing these challenges and learning from our mistakes. That is why we beseech You each day to come to our aid to provide us with the vision necessary to ensure the decisions made are in the best interest of ourselves and our communities.

We also ask You, Lord, to bless our troops and the many friends and families who have made the difficult sacrifices to preserve our freedom.

And lastly, Lord, we ask You for Your blessings and love to restore this great state and our people to the prosperity and success needed to once again lead our great country. Amen.

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

Motions and Communications

Senators Johnson and Schauer entered the Senate Chamber.

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

Senate Bill No. 246

Senate Bill No. 318

The motion prevailed.

Senator Hammerstrom moved that Senators Goschka, Garcia and Birkholz be temporarily excused from today's session.

The motion prevailed.

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

Senate Resolution No. 95

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

Senator Schauer moved that Senator Leland be temporarily excused from today's session.

The motion prevailed.

Senators Goschka and Birkholz entered the Senate Chamber.

Senator Hammerstrom moved that rule 3.902 be suspended to allow the guests of Senator Kuipers 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.

10:17 a.m.

The Senate was called to order by the Assistant President pro tempore, Senator Sanborn.

During the recess, Senator Kuipers introduced the Grand Valley State University Football Team, 2005 NCAA Division 2 National Champions, and Head Coach Chuck Martin; and the Grand Valley State University Women's Volleyball Team, 2005 National Champions, and Head Coach Deanne Scanlon; and presented both teams with a Special Tribute.

Senator Hardiman, Coach Martin, and Coach Scanlon responded briefly.
Senator Kuipers also presented a Special Tribute for retiring President Mark Murray.

During the recess, Senator Leland entered the Senate Chamber.

The Secretary announced that the following House bills were received in the Senate and filed on Wednesday, February 8:

House Bill Nos. 4262 4311 4312 5454 5455 5457 5458 5628

The Secretary announced that the following official bills were printed on Wednesday, February 8, and are available at the legislative website:

Senate Bill Nos. 1031 1032 1033 1034 1035 1036 1037

House Bill Nos. 5636 5637 5638 5639 5640 5641 5642 5643 5644 5645 5646

Messages from the Governor

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

Senate Bill No. 272

Senate Bill No. 271

Senate Bill No. 264

Senate Bill No. 274

Senate Bill No. 281

Senate Bill No. 175

Senate Bill No. 236

Senate Bill No. 892

Senate Bill No. 893

Senate Bill No. 956

Senate Bill No. 957

The motion prevailed.

The following message from the Governor was received and read:

February 8, 2006

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointment and reappointments to state office under Section 301 of the Nonprofit Health Care Corporation Reform Act, 1980 PA 350, MCL 550.1301:

Blue Cross Blue Shield of Michigan Board of Directors

Mr. Gary H. Torgow of 14661 Ludlow Street, Oak Park, Michigan 48237, county of Wayne, succeeding Cullan F. Meathe, whose term will expire February 18, 2006, representing the public, for a term commencing February 19, 2006 and expiring February 18, 2008.

Mr. James G. Agee of 9416 Lookout Pointe, Laingsburg, Michigan 48848, county of Shiawassee, reappointed to represent the public and retired individuals 62 years of age or older, for a term expiring February 18, 2008.

Mr. John M. Hamilton of 45 Scenic Oaks Drive, Bloomfield Hills, Michigan 48304, county of Oakland, reappointed to represent the public, for a term expiring February 18, 2008.

Ms. Teola P. Hunter of 8120 East Jefferson, Condo 2M, Detroit, Michigan 48214, county of Wayne, reappointed to represent the public and retired individuals 62 years of age or older, for a term expiring February 18, 2008.

Sincerely,

Jennifer M. Granholm

Governor

The appointments were referred to the Committee on Government Operations.

Senators Garcia and Thomas entered the Senate Chamber.

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

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

Senate Bill No. 880

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 880, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding chapter 41A.

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. 60

Yeas—34

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

Nays—0

Excused—0

Not Voting—3

| | | |
|----------|---------------|-------|
| Birkholz | Clark-Coleman | Scott |
|----------|---------------|-------|

In The Chair: Sanborn

The Senate agreed to the title of the bill.

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 Assistant President pro tempore, Senator Sanborn, designated Senator Bishop as Chairperson.

After some time spent therein, the Committee arose; and, the Assistant President pro tempore, Senator Sanborn, having resumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bills:

Senate Bill No. 973, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 32 (MCL 168.32); and to repeal acts and parts of acts.

Senate Bill No. 974, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 474 (MCL 168.474).

Senate Bill No. 975, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 474a (MCL 168.474a), as amended by 1999 PA 219.

Senate Bill No. 976, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 476 (MCL 168.476), as amended by 2005 PA 71.

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:

House Bill No. 4544, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 508 (MCL 750.508), as amended by 2002 PA 672.

Substitute (S-1).

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

1. Amend page 2, line 19, after "**PURPOSES.**" by striking out the balance of the line through "**IMPRISONMENT.**" on line 21.

2. Amend page 2, line 23, after "(A)" by striking out the balance of the line through the second "**OF**" on line 24 and inserting "**IF THIS SUBSECTION IS VIOLATED IN THE COMMISSION OR ATTEMPTED COMMISSION OF A MISDEMEANOR PUNISHABLE BY A MAXIMUM TERM OF IMPRISONMENT OF AT LEAST 93 DAYS BUT**".

3. Amend page 2, line 27, after "(B)" by striking out the balance of the line and inserting "**IF THIS SUBSECTION IS VIOLATED IN THE COMMISSION OR ATTEMPTED COMMISSION OF A MISDEMEANOR OR FELONY PUNISHABLE BY**".

4. Amend page 3, following line 3, by inserting:

"(3) SUBSECTION (2) DOES NOT APPLY TO A PERSON WHO CARRIES OR HAS IN HIS OR HER POSSESSION A RADIO RECEIVING SET DESCRIBED IN SUBSECTION (2) IN THE COMMISSION OR ATTEMPTED COMMISSION OF A MISDEMEANOR PUNISHABLE BY A MAXIMUM TERM OF IMPRISONMENT OF LESS THAN 93 DAYS." and renumbering the remaining subsection.

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. 4727, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 16x of chapter XVII (MCL 777.16x), as amended by 2003 PA 313.

Substitute (S-1).

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

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

Senate Bill No. 1024, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 540 (MCL 750.540).

Substitute (S-3).

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 a substitute therefor, the following bill:

House Bill No. 5043, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 540 (MCL 750.540).

Substitute (S-1).

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
House Bill No. 5044, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 16z of chapter XVII (MCL 777.16z), as amended by 2004 PA 157.

Substitute (S-1).

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

1. Amend page 4, line 5, by striking out "February" and inserting "June".

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.

Resolutions

Senate Resolution No. 95.

A resolution to memorialize the Congress of the United States to enact legislation reauthorizing the Ryan White CARE Act to provide comprehensive care for the neediest victims of HIV/AIDS.

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

1. Amend page 1, following the second Whereas clause by inserting:

"Whereas, Recent patterns in the United States show that HIV/AIDS increasingly affects African Americans, Latinos, and other racial and ethnic minorities. In 2004, minorities accounted for almost three-fourths of new cases of AIDS in an HIV/AIDS surveillance report by the Centers for Disease Control and Prevention (CDC). Of these newly identified AIDS patients, 48 percent were African Americans and 21 percent were Latinos. The rate also continued to rise among women, who accounted for 27 percent of new AIDS cases in 2004. Of these women newly diagnosed with AIDS, 67 percent were African Americans and 15 percent were Latinas; and"

The amendment was adopted.

The resolution, as amended, was adopted.

Senator Cropsey offered the following concurrent resolution:

Senate Concurrent Resolution No. 39.

A concurrent resolution to request the State Bar of Michigan and the National Legal Aid and Defender Association to issue a joint report to the Legislature on the number and types of cases and the costs resulting from court-appointed attorneys for indigent criminal cases in Michigan.

Whereas, The *Michigan Constitution of 1963*, in Article I, Section 20, provides that an accused person is "...to have the assistance of counsel for his or her defense" and "...to have such reasonable assistance as may be necessary to perfect and prosecute an appeal"; and

Whereas, The people of Michigan expect the government to administer a system of justice that is just, swift, accountable, and frugal; and

Whereas, Michigan has no accounting for the total amount of state and local funding dedicated to ensuring the constitutional right to counsel and the total number of misdemeanor, felony, juvenile, mental health, and appellate cases requiring the appointment of counsel; and

Whereas, The National Legal Aid and Defender Association is a national, nonprofit association that has a research division with a discrete national capacity for public defense data collection, research, standards-based evaluation, and technical assistance to help state and local government policymakers determine the most efficient and effective manner to deliver the constitutional right to counsel; and

Whereas, A mission of the State Bar of Michigan is to "aid in promoting improvements in the administration of justice"; and

Whereas, Both the State Bar of Michigan and the National Legal Aid and Defender Association have independent funding and the capacity to provide data collection services at no cost to the taxpayers of Michigan; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we respectfully request the State Bar of Michigan and the National Legal Aid and Defender Association to collect information and issue a joint report to the Michigan Legislature on the costs of indigent criminal cases, the number of criminal cases assigned to court-appointed attorneys, and the types of criminal cases that receive court appointed attorneys in Michigan. We urge that the report be provided to the chairpersons of the Judiciary Committees of the House and Senate and the chairpersons of the appropriate subcommittees of the House and Senate Appropriations Committees; and be it further

Resolved, That copies of this resolution be transmitted to the State Bar of Michigan and the National Legal Aid and Defender Association.

Pending the order that, under rule 3.204, the concurrent 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 concurrent resolution,

Senator Hammerstrom moved that the concurrent resolution be referred to the Committee on Judiciary.

The motion prevailed.

Senators Birkholz, Goschka, Schauer and Switalski were named co-sponsors of the concurrent resolution.

By unanimous consent the Senate proceeded to the order of

Statements

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

The motion prevailed.

Senator Scott's statement is as follows:

Earlier this morning I was unavoidably detained during Roll Call No. 60. If I was present, I would have voted "yes."

Now for my insurance statements. This one is from Detroit. It says, "I've been paying high insurance for a while. While I've had no tickets, every time I speak to someone, they ask me do I live east or west of 7 Mile Road. That in itself has been a make or break situation. I asked the person what would it have been if I asked differently that would make a lot of difference in my insurance costs? I currently pay over \$3,000 per year for a 2002 Pontiac Grand Am, which is ridiculous.

Another one also from Detroit: "I live in Detroit; have maintained a good credit score for years. No points or tickets. Only two insurance claims from accidents not my fault since I started driving 30 years ago. I'm 48 years old, responsible, don't wear glasses or have any other disabilities. I own three automobiles, a 2006 Toyota Solara, full coverage; a 1999 Pontiac Grand Am, full coverage, paid for; and a 1992 Pontiac Grand Prix, no-fault, paid for; all in excellent condition. I have a garage with a lock on it and all cars have anti-theft devices on them. Why am I paying over \$5,000 a year for car insurance?"

Senator Clark-Coleman stated that had she been present on earlier today when the vote was taken on the passage of the following bill, she would have voted "yea":

Senate Bill No. 880

Senator Bishop's statement is as follows:

Lately, there has been an increase in discussion over the use of territorial rating, which you may not know because of all of the election-year rhetoric, is actually a scientifically-proven way of classifying risks by geographical location in private passenger auto insurance. Despite the claims to the contrary, territorial rating is just one of the many factors—like credit, driving history and claims history—that drive rates.

The committee and Senate bipartisan workgroup have taken substantial testimony to better understand the rate-setting process, and last week, we specifically reviewed Senate Bill No. 26, which would prohibit the use of establishing territories to be used in the rate-setting process. Contrary to the statements that have been made in this chamber, those who testified before the committee and the empirical data they presented were anything but arbitrary. In fact, they consistently came to the same conclusion and their conclusion remains unrefuted.

What did we learn? The facts are the facts; truly, they are not manipulated or manufactured. The bottom line is, that fact is policyholders in urban settings are not only more likely to incur a claim, but their claims are more expensive than other areas of the state. Let's continue to talk facts. Motorists pay higher costs for auto insurance in urban areas because of many contributing factors. For example: More vehicles per square mile, resulting in a greater chance for an accident; more injury claims reported whenever a damage claim is filed; higher amounts of economic losses and average payments due to higher health care costs and skyrocketing health care costs in the urban areas; more uninsured motorists in urban areas. In fact, the uninsured driver population in the state of Michigan is about 17 percent, whereas in some urban areas it's up to 53 percent. Clearly, policyholders in urban settings are exposed to a higher portion of uninsured drivers, and hence, their insurance motorists coverage is higher. It is proportionately higher contributing to higher overall premiums in urban settings. There is also a higher proportion of litigation to settle claims, substantially more vehicle thefts, and higher incidents of fraud and fraudulent claims.

Now, with all this in mind, if we decided to ignore the obvious and move legislation which would eliminate the use of territories in the rate-making process, there is no doubt that the vast majority of ratepayers in this state would see substantial increase in their rates in order to subsidize the shift in costs. There are also many ancillary effects of discontinuing the use of territories that can't be ignored. For example: Companies may find it necessary to discontinue

writing in areas where prices are inadequate, and thus, gravitate to other parts where new premiums exceed their accepted loss cost. That is an obvious business decision that most companies would have to consider. Another result would undoubtedly be the increase in insurance losses and prices so people would not have to worry about affecting their insurance rates anymore.

The bottom line is if we are truly looking for meaningful premium relief for the citizens of this state, we need to pull our heads out of the sand, quit election-year politicking, and do the right thing. I submit to you that standing up every day demanding rate relief is a noble cause and one with which we can all relate with as well. But standing up for rate relief, while at the same time advocating for solutions that only raise rates on a majority of Michigan ratepayers, is neither fair nor is it productive. Moreover, in my opinion, it represents a clear breach of trust to the people we represent in this state.

Senator Birkholz's statement is as follows:

I was absent from the chamber earlier this morning and missed one vote while I was working on negotiating the final water package that we are going to be voting on later today. On Third Reading of Bills, I missed Item No. 20, Senate Bill No. 880. Had I been here, I would have voted "yes."

By unanimous consent the Senate returned to the order of

Introduction and Referral of Bills

Senator Cropsey introduced

Senate Bill No. 1042, entitled

A bill to amend 1984 PA 118, entitled "The prisoner reimbursement to the county act," by amending section 7 (MCL 801.87), as amended by 1996 PA 544.

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

Senators Van Woerkom, Kuipers, Birkholz, Jelinek and Allen introduced

Senate Bill No. 1043, entitled

A bill to amend 1945 PA 72, entitled "An act to prevent the importation from other states, and the spread within this state, of all serious insect pests and contagious plant diseases and to provide for their repression and control, imposing certain powers and duties on the commissioner of agriculture; to prescribe penalties for the violation of the provisions of this act; and to repeal certain acts and parts of acts," by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 9, and 10 (MCL 286.251, 286.252, 286.253, 286.254, 286.255, 286.256, 286.257, 286.259, and 286.260), the title and section 9 as amended and section 10 as added by 2005 PA 52 and section 5 as amended by 2002 PA 175, and by adding section 1a; 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 Agriculture, Forestry and Tourism.

Senators Allen, Cropsey, George, Goschka and Hardiman introduced

Senate Bill No. 1044, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 76702 (MCL 324.76702), as added by 1995 PA 58.

The bill was read a first and second time by title and referred to the Committee on Natural Resources and Environmental Affairs.

House Bill No. 4262, entitled

A bill to amend 1972 PA 230, entitled "Stille-DeRossett-Hale single state construction code act," by amending section 2a (MCL 125.1502a), as added by 1999 PA 245, and by adding section 10a.

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.

House Bill No. 4311, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 303a and 601 (MCL 339.303a and 339.601), section 303a as amended by 1995 PA 183 and section 601 as amended by 2005 PA 278, and by adding article 28; and to repeal acts and parts of acts.

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.

House Bill No. 4312, entitled

A bill to amend 1979 PA 152, entitled "State license fee act," (MCL 338.2201 to 338.2277) by adding section 19.

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.

House Bill No. 5454, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 51105, 51106, 51108, 51113, and 51116 (MCL 324.51105, 324.51106, 324.51108, 324.51113, and 324.51116), section 51105 as amended by 1996 PA 451 and sections 51106, 51108, 51113, and 51116 as added by 1995 PA 57.

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 Agriculture, Forestry and Tourism.

House Bill No. 5455, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 51101, 51103, and 51104 (MCL 324.51101, 324.51103, and 324.51104), as added by 1995 PA 57; and to repeal acts and parts of acts.

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 Agriculture, Forestry and Tourism.

House Bill No. 5457, entitled

A bill to impose a state recapture tax on the change in use of certain qualified forest property; to provide for the administration of the recapture tax; to prescribe the powers and duties of certain state and local officers; to provide for the collection and distribution of the recapture tax; and to prescribe penalties and provide remedies.

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 Agriculture, Forestry and Tourism.

House Bill No. 5458, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1211 (MCL 380.1211), as amended by 2003 PA 126.

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 Agriculture, Forestry and Tourism.

House Bill No. 5628, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 50507 (MCL 324.50507), as amended by 2004 PA 124.

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 Agriculture, Forestry and Tourism.

Recess

Senator Hammerstrom moved that the Senate recess until 3:00 p.m.

The motion prevailed, the time being 10:56 a.m.

The Senate reconvened at the expiration of the recess and was called to order by the Assistant President pro tempore, Senator Sanborn.

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

Senator Schauer moved that Senators Leland and Thomas be temporarily excused from the balance of today's session. The motion prevailed.

Senators Thomas and Leland entered the Senate Chamber.

Senate Bill No. 850, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 30103, 32701, 32702, 32707, and 32713 (MCL 324.30103, 324.32701, 324.32702, 324.32707, and 324.32713), sections 30103, 32702, and 32713 as added by 1995 PA 59 and sections 32701 and 32707 as amended by 2003 PA 148, and by adding sections 32704a, 32721, 32722, 32723, 32724, 32726, 32727, and 32728; and to repeal acts and parts of acts.

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, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 30103, 32701, 32702, 32703, 32707, 32713, and 32714 (MCL 324.30103, 324.32701, 324.32702, 324.32703, 324.32707, 324.32713, and 324.32714), sections 30103, 32702, 32703, and 32713 as added by 1995 PA 59 and sections 32701, 32707, and 32714 as amended by 2003 PA 148, and by adding sections 32703a, 32704a, 32721, 32722, 32723, 32724, 32726, 32727, and 32728; and to repeal acts and parts of acts.

Pending the order that, under rule 3.202, the bill be laid over one day,

Senator Hammerstrom moved that the rule be suspended.

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

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. 61

Yeas—37

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

Nays—0

Excused—0

Not Voting—0

In The Chair: Sanborn

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

Senate Bill No. 851, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending section 32803 (MCL 324.32803), as added by 2003 PA 148.

The House of Representatives has substituted (H-1) the bill.

The House of Representatives has passed the bill as substituted (H-1), ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

Pending the order that, under rule 3.202, the bill be laid over one day,

Senator Hammerstrom moved that the rule be suspended.

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

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. 62

Yeas—37

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

Nays—0

Excused—0

Not Voting—0

In The Chair: Sanborn

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.

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

The motion prevailed.

Senator Patterson’s statement is as follows:

Senate colleagues, the chair of the Senate natural resources committee spoke previously in eloquent fashion. I guess I should ask if I may speak to my bill as well as to the whole array of bills. With that little detail aside, I am honored to serve on the committee, and we have an interesting cross-section of Senators. I think this was something of a labor

of love. I believe in my heart that not only is it a very important package of bills, but the state of Michigan and the people owe Senator Birkholz a great debt of gratitude for all that she did, and certainly her staff, one of whom recently said that I was a stimulant to the final product. I am not sure how to take that as a result of yesterday's Health Policy hearing.

The bill that I was honored to sponsor deals with the groundwater conservation advisory council, and I would appreciate support.

Senate Bill No. 852, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 32705 and 32708 (MCL 324.32705 and 324.32708), as amended by 2003 PA 148, and by adding section 32708a.

The House of Representatives has substituted (H-3) the bill.

The House of Representatives has passed the bill as substituted (H-3), ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

Pending the order that, under rule 3.202, the bill be laid over one day,

Senator Hammerstrom moved that the rule be suspended.

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

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. 63

Yeas—37

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

Nays—0

Excused—0

Not Voting—0

In The Chair: Sanborn

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.

Senate Bill No. 854, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 32725.

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.

Pending the order that, under rule 3.202, the bill be laid over one day,
 Senator Hammerstrom moved that the rule be suspended.
 The motion prevailed, a majority of the members serving voting therefor.
 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. 64

Yeas—37

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

Nays—0

Excused—0

Not Voting—0

In The Chair: Sanborn

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.

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

The motion prevailed.

Senator Basham’s statement is as follows:

Senate Bill No. 854 creates a community-based dispute resolution process where water resources are being harmed by overuse. Under the bill, if the DEQ determines that adverse resource impacts are occurring or are likely to occur, then the department will notify water users and facilitate a voluntary agreement to address the problem. If that process fails and there are clearly adverse resource impacts, then the director can act to restrict those water users that hold permits.

This process reinforces the reasonable use requirement of water users under Michigan’s common law. It also reinforces the public trust doctrine that the waters of Michigan truly belong to the people of the great state of Michigan. By passing this bill and the rest of the bills in the package, we are reaffirming our duty to protect the waters in this state. More importantly, we are giving the people of the state of Michigan the tools to protect their water resources and make reasonable decisions about their use.

Also I would like to publicly commend the chair of the committee, the vice chair of the committee, and the staff on both sides of the aisle for the hard work that they put into this. It is a work in motion, and this truly is a love-in, if you will, today on this package of bills. The legislators in Washington, D.C., could take a few notes out of our playbook.

Senate Bill No. 857, entitled

A bill to amend 1976 PA 399, entitled "Safe drinking water act," by amending section 4 (MCL 325.1004), as amended by 1998 PA 56.

The House of Representatives has substituted (H-3) the bill.

The House of Representatives has passed the bill as substituted (H-3), ordered that it be given immediate effect and amended the title to read as follows:

A bill to amend 1976 PA 399, entitled "An act to protect the public health; to provide for supervision and control over public water supplies; to prescribe the powers and duties of the department of environmental quality; to provide for the submission of plans and specifications for waterworks systems and the issuance of construction permits therefor; to provide for capacity assessments and source water assessments of public water supplies; to provide for the classification of public water supplies and the examination, certification and regulation of persons operating those systems; to provide for continuous, adequate operation of privately owned, public water supplies; to authorize the promulgation of rules to carry out the intent of the act; to create the water supply fund; to provide for the administration of the water supply fund; and to provide penalties," by amending sections 4 and 17 (MCL 325.1004 and 325.1017), section 4 as amended by 1998 PA 56 and section 17 as amended by 1993 PA 165.

Pending the order that, under rule 3.202, the bill be laid over one day,

Senator Hammerstrom moved that the rule be suspended.

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

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. 65**Yeas—37**

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

Nays—0**Excused—0****Not Voting—0**

In The Chair: Sanborn

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 as amended.

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

Committee Reports

The Committee on Families and Human Services reported

Senate Resolution No. 95.

A resolution to memorialize the Congress of the United States to enact legislation reauthorizing the Ryan White CARE Act to provide comprehensive care for the neediest victims of HIV/AIDS.

(For text of resolution, see Senate Journal No. 10, p. 168.)

With the recommendation that the following amendment be adopted and that the resolution then be adopted.

1. Amend page 1, following the second Whereas clause by inserting:

“Whereas, Recent patterns in the United States show that HIV/AIDS increasingly affects African Americans, Latinos, and other racial and ethnic minorities. In 2004, minorities accounted for almost three-fourths of new cases of AIDS in an HIV/AIDS surveillance report by the Centers for Disease Control and Prevention (CDC). Of these newly identified AIDS patients, 48 percent were African Americans and 21 percent were Latinos. The rate also continued to rise among women, who accounted for 27 percent of new AIDS cases in 2004. Of these women newly diagnosed with AIDS, 67 percent were African Americans and 15 percent were Latinas; and”.

Bill Hardiman
Chairperson

To Report Out:

Yeas: Senators Hardiman, Hammerstrom, Sanborn, Jacobs and Clark-Coleman

Nays: None

The resolution and the amendment recommended by the committee were placed on the order of Resolutions.

The Committee on Families and Human Services reported

Senate Bill No. 1026, entitled

A bill to amend 1969 PA 306, entitled “Administrative procedures act of 1969,” by amending section 32 (MCL 24.232).

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.

Bill Hardiman
Chairperson

To Report Out:

Yeas: Senators Hardiman, Hammerstrom and Sanborn

Nays: Senator Clark-Coleman

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

The Committee on Families and Human Services reported

Senate Bill No. 1027, entitled

A bill to amend 1979 PA 218, entitled “Adult foster care facility licensing act,” by amending section 10 (MCL 400.710), as amended by 1986 PA 257.

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.

Bill Hardiman
Chairperson

To Report Out:

Yeas: Senators Hardiman, Hammerstrom and Sanborn

Nays: Senator Clark-Coleman

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

The Committee on Families and Human Services reported

Senate Bill No. 1028, entitled

A bill to amend 1939 PA 280, entitled “The social welfare act,” by amending sections 1 and 6 (MCL 400.1 and 400.6), as amended by 1995 PA 223.

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.

Bill Hardiman
Chairperson

To Report Out:

Yeas: Senators Hardiman, Hammerstrom and Sanborn

Nays: Senator Clark-Coleman

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

The Committee on Families and Human Services reported

Senate Bill No. 1029, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 2233 (MCL 333.2233), as amended by 1996 PA 67.

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.

Bill Hardiman

Chairperson

To Report Out:

Yeas: Senators Hardiman, Hammerstrom and Sanborn

Nays: Senator Clark-Coleman

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

The Committee on Families and Human Services reported

Senate Bill No. 1030, entitled

A bill to amend 1974 PA 258, entitled "Mental health code," by amending sections 114 and 114a (MCL 330.1114 and 330.1114a), section 114 as amended and section 114a as added by 1995 PA 290.

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.

Bill Hardiman

Chairperson

To Report Out:

Yeas: Senators Hardiman, Hammerstrom and Sanborn

Nays: Senator Clark-Coleman

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

COMMITTEE ATTENDANCE REPORT

The Committee on Families and Human Services submitted the following:

Meeting held on Tuesday, February 7, 2006, at 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Hardiman (C), Hammerstrom, Sanborn, Jacobs and Clark-Coleman

COMMITTEE ATTENDANCE REPORT

The Committee on Finance submitted the following:

Meeting held on Wednesday, February 8, 2006, at 1:10 p.m., Room 110, Farnum Building

Present: Senators Cassis (C), Garcia, McManus, Thomas and Brater

COMMITTEE ATTENDANCE REPORT

The Committee on Technology and Energy submitted the following:

Meeting held on Wednesday, February 8, 2006, at 3:00 p.m., Room 210, Farnum Building

Present: Senators Patterson (C), Kuipers, Birkholz, Brown, Cassis, Olshove, Leland and Thomas

Scheduled Meetings

Appropriations -

Subcommittees -

Community Colleges - Wednesday, February 22, 12:30 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

Community Health Department - Tuesdays, February 14, February 21, February 28 and March 14, 2:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-7946)

Environmental Quality Department - Tuesdays, February 21, February 28, March 7 and March 14, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

Higher Education - Fridays, February 17, 10:00 a.m., Michigan State University, Radiology Building Auditorium, Service Drive, East Lansing; February 24, Western Michigan University, Dorothy Upjohn Dalton Fine Arts Center, Room 1006, 1903 W. Michigan, Kalamazoo; March 3, Kettering University, Campus Center, Room A, 1700 W. Third Avenue, Flint; and Monday, March 13, Saginaw Valley State University, Curtiss Hall, Emeriti Room, University Drive, University Center (373-1760)

Judiciary and Corrections - Tuesday, February 21, 3:00 p.m., Room 402, Capitol Building (373-3760)

K-12, School Aid, Education - Thursday, February 16, 12:30 p.m., Rooms 402 and 403, Capitol Building (373-6960)

Natural Resources Department - Wednesdays, February 15, 8:30 a.m., and February 22, March 1, March 8 and March 15, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

Transportation Department - Tuesdays, April 18, April 25, May 2, May 9, May 16 and May 23, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Transportation Department and Transportation - Tuesday, February 14, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Finance - Wednesday, February 15, 1:00 p.m., Room 110, Farnum Building (373-1758)

Michigan Law Revision Commission - Monday, February 27, 1:00 p.m., Legislative Council Administrator's Conference Room, 4th Floor, Boji Tower (373-0212)

Transportation and Transportation Department Appropriations Subcommittee - Tuesday, February 14, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-7708)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 3:30 p.m.

The Assistant President pro tempore, Senator Sanborn, declared the Senate adjourned until Tuesday, February 14, 2006, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

