

No. 53
STATE OF MICHIGAN
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Senate Chamber, Lansing, Thursday, May 27, 2004.

10:00 a.m.

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

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

Allen—present
Barcia—present
Basham—present
Bernero—present
Birkholz—present
Bishop—present
Brater—excused
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—excused

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

Father John Klein of St. Gerard Parish of Lansing offered the following invocation:

God and Father, Creator of all and Giver of all good gifts, we thank You for the blessings, opportunities, and freedoms we enjoy as citizens of this great nation and state. No words could ever capture our gratitude for the privileges that are ours. As we thank You for the many blessings and freedoms that are ours, we also give thanks for the many men and women of generous heart who have sacrificed so much to protect and nurture the gifts and opportunities we so easily take for granted.

As we approach Memorial Day weekend, we are especially mindful of and grateful for the countless men and women who, in every age, including our own, have been willing to lay their lives on the line in defense of our nation and its freedoms. Clearly, their love and sacrifice continue to inspire us to work daily to nurture and protect what we have been given as a gift.

We are also grateful for civic and government officials, leaders of business and industry, factory workers, farmers, service workers, and professionals whose honesty, integrity, and concern for the common good have enabled so many to share in the bounty of our nation and state.

As we begin a new day, we ask Your blessing on these state Senators, their staffs, and all who work with them. They have been chosen to serve the people of our great state as leaders in the pursuit of the common good of all the citizens of Michigan. Theirs is a sacred trust and an awesome responsibility. May their service be inspired by the selfless love and sacrifice of the many men and women who have preceded them. May their deliberations and actions take to heart the concerns of all, including the poorest and most vulnerable. May they be guided by a quest for justice for all and the protection of the rights and dignities of all.

Lord God, we give You thanks for the willingness of these public servants to offer their talents and gifts in the service of the people of Michigan. Give them wisdom, fill their hearts with compassion, dedicate them to honesty and integrity, and lead them by Your truth.

May Your Spirit be their helper and guide this day and always. Amen.

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

Motions and Communications

Senator Clark-Coleman entered the Senate Chamber.

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

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

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

Senator Hammerstrom moved that rule 3.902 be suspended to allow the guests of Senator Garcia 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 10:11 a.m.

11:03 a.m.

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

During the recess, Senator Garcia presented the 10th Annual Memorial Day Ceremony in honor of the military personnel who served during wartime. The ceremony was accompanied by the Kalamazoo Pipe Band, Veteran Post Commanders, and the Brighton VFW Post 4357 Honor Guard, Army National Guard.

Senator Brown introduced soloist James M. McDuffy, Jr., of Three Rivers, who sang the "National Anthem."

Senator Garcia introduced Colonel Galen H. Meyer, United States Army Reserve Chaplain (Ret.), with 32 years of commissioned service in both the active and reserve components of the Navy, Marine Corps, and Army.

Colonel Meyer addressed the Senate concerning his experiences during war.

Senator Toy presented a special tribute in support of our troops.

Senator Garcia read the poem "A Widow's Tear" by Katie Morris.

Senators Basham, Bernero, Birkholz, Cassis, Cherry, Emerson, Cropsey, Gilbert, Goschka, Hammerstrom, Patterson, Prusi, Schauer, Stamas, Van Woerkom and Brown acknowledged our fallen soldiers during a roll call of the number of casualties during the current war in Iraq.

A moment of silence was observed in memory of those who lost their lives serving their country.

Dale Sprosty of the Kalamazoo Pipe Band performed "Taps."

Senator Garcia acknowledged Senators and guests who serve and have served in the military, including himself and Senators Allen, Hardiman, Basham, and former Senator Harmon Cropsey.

Senator Garcia introduced Dr. Dean Sienko, Ingham County Medical Examiner, who volunteered his expertise in Iraq.

During the recess, Senators Barcia and Thomas entered the Senate Chamber.

The Secretary announced that the following House bills were received in the Senate and filed on Wednesday, May 26:

House Bill Nos. 5008 5230 5669 5798 5820

The Secretary announced that the following House bill was received in the Senate and filed on Thursday, May 27:

House Bill No. 5632

The Secretary announced that the following official bills were printed on Wednesday, May 26, and are available at the legislative Web site:

Senate Bill Nos. 1253 1254 1255 1256 1257 1258 1259 1260 1261 1262 1263

House Bill Nos. 5933 5934 5935 5936 5937 5938 5939 5940 5941 5942 5943

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senator Emerson introduced

Senate Bill No. 1268, entitled

A bill to amend 1993 PA 327, entitled "Tobacco products tax act," by amending sections 7 and 12 (MCL 205.427 and 205.432), as amended by 2002 PA 503.

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

Senators Garcia, Hardiman, Allen, Brown, Cassis, Birkholz, Bishop, Sanborn, Van Woerkom, Gilbert, Toy, McManus, Jelinek, Stamas, Johnson, Kuipers, Sikkema, Hammerstrom, Cropsey, George, Goschka, Patterson and Prusi introduced

Senate Bill No. 1269, entitled

A bill to establish the military family relief fund in the department of military and veterans affairs to provide assistance to families of certain members of the Michigan national guard or United States armed forces reserve component or United States armed forces reserve on active duty; to provide for the distribution of money from the fund; to prescribe the duties and powers of certain agencies and officials; and to provide for appropriations.

The bill was read a first and second time by title and referred to the Committee on Senior Citizens and Veterans Affairs.

Senators Garcia, Hardiman, Allen, Sanborn, Brown, Cassis, Bishop, Van Woerkom, Gilbert, Toy, Birkholz, McManus, Jelinek, Stamas, Johnson, Kuipers, Sikkema, Hammerstrom, Cropsey, George, Goschka, Patterson and Prusi introduced

Senate Bill No. 1270, entitled

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

The bill was read a first and second time by title and referred to the Committee on Senior Citizens and Veterans Affairs.

Senators Van Woerkom, Goschka, Birkholz and Garcia introduced

Senate Bill No. 1271, entitled

A bill to amend 1964 PA 283, entitled "Weights and measures act," by amending section 31 (MCL 290.631), as amended by 2002 PA 208.

The bill was read a first and second time by title and referred to the Committee on Agriculture, Forestry and Tourism.

Senators Van Woerkom, Goschka, Birkholz and Garcia introduced

Senate Bill No. 1272, entitled

A bill to amend 1984 PA 44, entitled "Motor fuels quality act," by amending section 10a (MCL 290.650a), as amended by 2002 PA 13.

The bill was read a first and second time by title and referred to the Committee on Agriculture, Forestry and Tourism.

House Bill No. 5008, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 226 and 802 (MCL 257.226 and 257.802), as amended by 2003 PA 152.

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 Transportation.

House Bill No. 5230, entitled

A bill to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending section 20a (MCL 247.670a), as amended by 2002 PA 498.

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 Transportation.

House Bill No. 5632, entitled

A bill to amend 1993 PA 327, entitled "Tobacco products tax act," by amending sections 7 and 12 (MCL 205.427 and 205.432), as amended by 2002 PA 503.

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.

Senator Hammerstrom moved that rule 3.203 be suspended and that the bill be referred to the Committee of the Whole and placed on the order of General Orders.

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

House Bill No. 5669, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 260 (MCL 206.260), as amended by 1996 PA 484.

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 Finance.

House Bill No. 5798, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 527a (MCL 206.527a), as amended by 2001 PA 169.

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 Technology and Energy.

House Bill No. 5820, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 626 (MCL 257.626).

The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

Statements

Senators Scott, Clarke, Emerson and Sanborn 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:

First, I would like to thank my colleagues for a beautiful Memorial Day service. It was just fantastic, and you did a fantastic job.

As you know, the Office of Financial and Insurance Services has received well over 2,000 forms from residents across this state with complaints of rate disparity. Data received in my office just yesterday from the OFIS commissioner provided information on some of the forms that have come in over the last several months.

Information from these 1,289 forms has been entered into a database. The data shows complaints coming from 113 cities from around the state. And it should come to no surprise to anyone here that the majority of complaint forms came from the city of Detroit. In fact, 994 Detroit residents made their concerns known by completing and mailing in a rate disparity complaint form to the OFIS commissioner. Other notable cities with insurance concerns and complaints came from Dearborn, Flint, Pontiac, and Saginaw. The important fact is residents from 113 cities from across the state contacted the OFIS commissioner with concerns. And remember that not all of the forms received by OFIS have been entered into the database.

I intend to take action and work to correct our faulty insurance system, as has been expressed by those who took the time to complete and submit a complaint form. But, make no mistake, there are thousands of other Michigan citizens who share the concerns raised by these residents, and as elected officials, it is our duty to listen to their cries for help.

Senator Clarke's statement is as follows:

You know, session day after session day, week after week, the Senator from Highland Park stands to protect the interest of many of us in Southeastern Michigan from discriminatorily high insurance rates, and I wanted to acknowledge her for that and praise her for her conviction.

I would also like to call attention to a letter I sent out to all of the Senators a few weeks ago regarding an event on June 17th to support the Charles H. Wright Museum of African American History. This event will help to support that museum, along with the partnerships for preserving our heritage, which is a project that will send over 2,800 computers to help train teachers in Ghana to instruct their students on how to use the Internet. Your support for this project is appreciated. I would like to acknowledge the support we have received from the great Senator of Taylor and the Senator from Highland Park.

Senator Emerson's statement is as follows:

I rise, first of all, to thank Senator Garcia for this moving memorial that we had here today. I appreciate those efforts.

When I walked in today and found five folded flags on my desk, it brought back memories of 37 years ago last week when my family was presented with one of those flags for my brother Lance Corporal Philip Emerson. I wanted to take this moment to at least remember the sacrifices of all of us who have been touched by personal loss and know the devastation that that creates for families, especially of those recently lost in the most recent conflict. They have sacrificed, their families have sacrificed, and we all owe them a tremendous debt of gratitude.

But I personally had to get up and remember my brother, who was one year older than I was, six months short of his 21st birthday. What a loss that was for our family.

Senator Sanborn's statement is as follows:

I'm sure all of us this Memorial Day weekend will have our hearts and our minds with our veterans. I personally would like to, as I see Senator Cropsey here with his father who was here earlier, acknowledge my father, who is a veteran of World War II and a former legislator. I apologize for not inviting him up here today, but it comes to mind as eight weeks ago his brother, a veteran of Korea and a Marine, passed away. My thoughts are with my uncle today as well.

Committee Reports

The Committee on Natural Resources and Environmental Affairs reported

Senate Bill No. 926, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 40111a (MCL 324.40111a), as added by 1999 PA 66; and to repeal acts and parts of acts.

With the recommendation that the bill pass.

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

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Patterson, Van Woerkom, Brater and Basham

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Natural Resources and Environmental Affairs reported

Senate Bill No. 1132, entitled

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

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

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

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Patterson and Van Woerkom

Nays: None

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

The Committee on Natural Resources and Environmental Affairs reported

Senate Bill No. 1133, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 20510, 20511, 20512, and 20513.

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

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

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Patterson and Van Woerkom

Nays: None

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

The Committee on Natural Resources and Environmental Affairs reported

Senate Bill No. 1135, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding part 205.

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

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

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Patterson and Van Woerkom

Nays: None

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

The Committee on Natural Resources and Environmental Affairs reported

House Bill No. 4729, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 8313, 8314, 8327, 8329, and 8333 (MCL 324.8313, 324.8314, 324.8327, 324.8329, and 324.8333), as amended by 2002 PA 418.

With the recommendation that the bill pass.

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

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Patterson and Van Woerkom

Nays: Senators Brater and Basham

The bill was referred to the Committee of the Whole.

The Committee on Natural Resources and Environmental Affairs reported

House Bill No. 4730, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 30113 (MCL 324.30113), as amended by 1995 PA 171, and by adding part 33; and to repeal acts and parts of acts.

With the recommendation that the substitute (S-3) be adopted and that the bill then pass.

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

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Patterson and Van Woerkom

Nays: Senators Brater and Basham

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

COMMITTEE ATTENDANCE REPORT

The Committee on Natural Resources and Environmental Affairs submitted the following:

Meeting held on Tuesday, May 25, 2004, at 3:00 p.m., Room 110, Farnum Building

Present: Senators Birkholz (C), Patterson, Van Woerkom, Brater and Basham

The Committee on Health Policy reported

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.

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.

Beverly S. Hammerstrom
Chairperson

To Report Out:

Yeas: Senators Hammerstrom, Patterson and George

Nays: Senator Bernero

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

COMMITTEE ATTENDANCE REPORT

The Committee on Health Policy submitted the following:

Meeting held on Wednesday, May 26, 2004, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower

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

COMMITTEE ATTENDANCE REPORT

The Committee on Commerce and Labor submitted the following:

Meeting held on Wednesday, May 26, 2004, at 1:00 p.m., Room 210, Farnum Building

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

Excused: Senator McManus

COMMITTEE ATTENDANCE REPORT

The Committee on Finance submitted the following:

Meeting held on Wednesday, May 26, 2004, at 1:12 p.m., Room 110, Farnum Building

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

Excused: Senator McManus

COMMITTEE ATTENDANCE REPORT

The Committee on Technology and Energy submitted the following:

Meeting held on Wednesday, May 26, 2004, at 3:00 p.m., Room 210, Farnum Building

Present: Senators Patterson (C), Toy, Birkholz, Cassis, Olshove and Bernero

Excused: Senators Brown and Leland

Scheduled Meetings

Commerce and Labor - Tuesday, June 1, 3:00 p.m., Room 100, Farnum Building (373-2413)

Finance - Tuesday, June 1, 1:00 p.m., Room 100 and Wednesday, June 2, 1:00 p.m., Room 110, Farnum Building (373-1758)

Health Policy - Wednesday, June 2, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-3543)

Judiciary - Tuesday, June 1, 1:00 p.m., Room 210, Farnum Building (373-3760)

Natural Resources and Environmental Affairs - Tuesday, June 1, 3:00 p.m., Room 110, Farnum Building (373-3447)

Transportation - Tuesday, June 1, 1:00 p.m., Room 110, Farnum Building (373-7708)

Senator Hammerstrom moved that the Senate adjourn.

The motion prevailed, the time being 11:15 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Tuesday, June 1, 2004, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate