

**No. 33**  
**STATE OF MICHIGAN**  
**Journal of the Senate**  
**92nd Legislature**  
**REGULAR SESSION OF 2004**

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Senate Chamber, Lansing, Tuesday, March 30, 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 not 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 Dennis McMurray of Renaissance Church in God in Christ of Grand Rapids offered the following invocation: Father God, we are thankful today for the gift of life that You have once again granted each of us. I ask Your divine blessing, insight, and wisdom upon this college of state Senators today. Bless them as they provide leadership and decisionmaking on the behalf of the citizens of the state of Michigan. And, God, as they give of their time and energy, I ask a special blessing upon their families for sharing them with us.

Bless our nation, our President, our Governor, and all of the elected officials of the state of Michigan. Grant us Your favor, and provide resources for government, commerce, and industry to make Michigan a great place for life. May Your peace keep us and Your presence lead and comfort us. In Christ's name. Amen.

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

## Motions and Communications

### Recess

Senator Schauer moved that the Senate recess subject to the call of the Chair. The motion prevailed, the time being 10:04 a.m.

10:32 a.m.

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

During the recess, Senators Gilbert, Van Woerkom, Patterson, Jelinek, McManus, Stamas, Allen, Johnson, Kuipers, Toy, Cassis, George, Cropsey, Brown, Bishop, Garcia, Birkholz, Hammerstrom, Sikkema and Goschka entered the Senate Chamber.

A quorum of the Senate was present.

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

**Senate Bill No. 1066**

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

The Secretary announced that the following House bills were received in the Senate and filed on Thursday, March 25:  
**House Bill Nos. 5648 5666**

The Secretary announced that the following official bills were printed on Thursday, March 25, and are available at the legislative Web site:

**Senate Bill No. 1122**

**House Bill Nos. 5695 5696 5697 5698 5699 5700 5701 5702 5703 5704 5705**

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

**Senate Bill Nos. 1123 1124 1125 1126 1127 1128**

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 rejected the report of the Committee of Conference and has appointed Reps. Koetje, Howell and Tobocman as second conferees.

The message was referred to the Secretary for record.

By unanimous consent the Senate returned to the order of  
**Motions and Communications**

The following communication was received and read:  
 Office of the Senate Majority Leader

March 25, 2004

Pursuant to Joint Rule 5, I have made the following appointments to the second Conference Committee on Senate Bill 252:

Senator Michelle McManus  
 Senator Patricia Birkholz  
 Senator Liz Brater

Respectfully yours,  
 Ken Sikkema  
 Senate Majority Leader

The communication was referred to the Secretary for record.  
 The bill was referred to the second Conference Committee on March 26, 2004.

By unanimous consent the Senate proceeded to the order of  
**Conference Reports**

Senator Hammerstrom moved that joint rule 9 be suspended to permit immediate consideration of the conference report relative to the following bill:

**Senate Bill No. 252**

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

Senator McManus submitted the following:

**SECOND CONFERENCE REPORT**

The Committee of Conference on the matters of difference between the two Houses concerning  
**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.

Recommends:

First: That the Senate and House agree to the Substitute of the House as passed by the House, amended to read as follows:

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," 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.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

Sec. 3103. (1) The department shall protect and conserve the water resources of the state and shall have control of the pollution of surface or underground waters of the state and the Great Lakes, which are or may be affected by waste disposal of any person. The department may make or cause to be made surveys, studies, and investigations of the uses of waters of the state, both surface and underground, and cooperate with other governments and governmental units and agencies in making the surveys, studies, and investigations. The department shall assist in an advisory capacity a flood control district that may be authorized by the legislature. The department, in the public interest, shall appear and present evidence, reports, and other testimony during the hearings involving the creation and organization of flood control districts. The department shall advise and consult with the legislature on the obligation of the state to participate in the costs of construction and maintenance as provided for in the official plans of a flood control district or intercounty drainage district.

(2) The department shall enforce this part and ~~shall~~ may promulgate rules as it considers necessary to carry out its duties under this part. **However, notwithstanding any rule-promulgation authority that is provided in this part, the department shall not promulgate any additional rules under this part after December 31, 2006.**

(3) ~~(2)~~ The department may promulgate rules and take other actions as may be necessary to comply with the federal water pollution control act, chapter 758, 86 Stat. 816, 33 ~~U.S.C.~~ **USC** 1251 to 1252, 1253 to 1254, 1255 to 1257, 1258 to 1270, 1281, 1282 to 1293, 1294 to 1299, 1311 to 1313, 1314 to 1330, 1341 to 1345, 1361 to 1377, and 1381 to 1387,

and to expend funds available under such law for extension or improvement of the state or interstate program for prevention and control of water pollution. This part shall not be construed as authorizing the department to expend or to incur any obligation to expend any state funds for such purpose in excess of any amount that is appropriated by the legislature.

**(4) Notwithstanding the limitations on rule promulgation under subsection (2), rules promulgated under this part before January 1, 2007 shall remain in effect unless rescinded.**

Sec. 3112. (1) A person shall not discharge any waste or waste effluent into the waters of this state unless the person is in possession of a valid permit from the department. ~~Compliance with the terms of an outstanding order of determination or final order of determination or stipulation with the former water resources commission that is in effect on April 15, 1973, shall be considered to meet the requirements of this section until the department issues its permit.~~

**(2) An application for a permit under subsection (1) shall be submitted to the department. Within 30 days after an application for a new or increased use is received, the department shall determine whether the application is administratively complete. Within 90 days after an application for reissuance of a permit is received, the department shall determine whether the application is administratively complete. If the department determines that an application is not complete, the department shall notify the applicant in writing within the applicable time period. If the department does not make a determination as to whether the application is complete within the applicable time period, the application shall be considered to be complete.**

(3) The department shall condition the continued validity of a permit upon the permittee's meeting the effluent requirements that the department considers necessary to prevent unlawful pollution by the dates that the department considers to be reasonable and necessary and to assure compliance with applicable federal law and regulations. If the department finds that the terms of a permit have been, are being, or may be violated, it may modify, suspend, or revoke the permit or grant the permittee a reasonable period of time in which to comply with the permit. The department may reissue a revoked permit upon a showing satisfactory to the department that the permittee has corrected the violation. A person who has had a permit revoked may apply for a new permit.

**(4) (2)** If the department determines that a person is causing or is about to cause unlawful pollution of the waters of this state, the department may notify the alleged offender of its determination and enter an order requiring the person to abate the pollution or refer the matter to the attorney general for legal action, or both.

**(5) (3)** A person who is aggrieved by an order of abatement of the department or by the reissuance, modification, suspension, or revocation of an existing permit of the department executed pursuant to this section may file a sworn petition with the ~~commission~~ **department** setting forth the grounds and reasons for the complaint and asking for a contested case hearing on the matter pursuant to the administrative procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws~~ **1969 PA 306, MCL 24.201 to 24.328**. A petition filed more than 60 days after action on the order or permit may be rejected by the ~~commission~~ **department** as being untimely.

Sec. 3113. (1) A person who seeks a new or increased use of the waters of the state for sewage or other waste disposal purposes shall file with the department an application setting forth the information required by the department, including the nature of the enterprise or development contemplated, the amount of water required to be used, its source, the proposed point of discharge of the wastes into the waters of the state, the estimated amount to be discharged, and a statement setting forth the expected bacterial, physical, chemical, and other known characteristics of the wastes.

~~(2) Within 180 days after receipt of a complete application, the department shall either grant or deny a permit, unless the applicant and the department agree to extend this time period.~~ If a permit is granted, the department shall condition the permit upon such restrictions that the department considers necessary to adequately guard against unlawful uses of the waters of the state as are set forth in section 3109.

(3) If the permit or denial of a new or increased use is not acceptable to the permittee, the applicant, or any other person, the permittee, the applicant, or other person may file a sworn petition with the department setting forth the grounds and reasons for the complaint and asking for a contested case hearing on the matter pursuant to the administrative procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws~~ **1969 PA 306, MCL 24.201 to 24.328**. A petition filed more than 60 days after action on the permit application may be rejected by the ~~commission~~ **department** as being untimely.

Sec. 3115. (1) The department may request the attorney general to commence a civil action for appropriate relief, including a permanent or temporary injunction, for a violation of this part or a provision of a permit, order, rule, or stipulation of the department. An action under this subsection may be brought in the circuit court for the county of Ingham or for the county in which the defendant is located, resides, or is doing business. **If requested by the defendant within 21 days after service of process, the court shall grant a change of venue to the circuit court for the county of Ingham or for the county in which the alleged violation occurred, is occurring, or, in the event of a threat of violation, will occur.** The court has jurisdiction to restrain the violation and to require compliance. In addition to any other relief granted under this subsection, the court shall impose a civil fine of not less than \$2,500.00 and may award reasonable attorney fees and costs to the prevailing party. However, the maximum fine imposed by the court shall be not more than \$25,000.00 per day of violation.

(2) A person who at the time of the violation knew or should have known that he or she discharged a substance contrary to this part, or contrary to a permit, order, rule, or stipulation of the department, or who intentionally makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, or who intentionally renders inaccurate a monitoring device or record required to be maintained by the department, is guilty of a felony and shall be fined not less than \$2,500.00 or more than \$25,000.00 for each violation. The court may impose an additional fine of not more than \$25,000.00 for each day during which the unlawful discharge occurred. If the conviction is for a violation committed after a first conviction of the person under this subsection, the court shall impose a fine of not less than \$25,000.00 per day and not more than \$50,000.00 per day of violation. Upon conviction, in addition to a fine, the court in its discretion may sentence the defendant to imprisonment for not more than 2 years or impose probation upon a person for a violation of this part. With the exception of the issuance of criminal complaints, issuance of warrants, and the holding of an arraignment, the circuit court for the county in which the violation occurred has exclusive jurisdiction. However, the person shall not be subject to the penalties of this subsection if the discharge of the effluent is in conformance with and obedient to a rule, order, or permit of the department. In addition to a fine, the attorney general may file a civil suit in a court of competent jurisdiction to recover the full value of the injuries done to the natural resources of the state and the costs of surveillance and enforcement by the state resulting from the violation.

(3) Upon a finding by the court that the actions of a civil defendant pose or posed a substantial endangerment to the public health, safety, or welfare, the court shall impose, in addition to the penalties set forth in subsection (1), a fine of not less than \$500,000.00 and not more than \$5,000,000.00.

(4) Upon a finding by the court that the actions of a criminal defendant pose or posed a substantial endangerment to the public health, safety, or welfare, the court shall impose, in addition to the penalties set forth in subsection (2), a fine of not less than \$1,000,000.00 and, in addition to a fine, a sentence of 5 years' imprisonment.

(5) To find a defendant civilly or criminally liable for substantial endangerment under subsections (3) and (4), the court shall determine that the defendant knowingly or recklessly acted in such a manner as to cause a danger of death or serious bodily injury and that either of the following occurred:

(a) The defendant had an actual awareness, belief, or understanding that his or her conduct would cause a substantial danger of death or serious bodily injury.

(b) The defendant acted in gross disregard of the standard of care that any reasonable person should observe in similar circumstances.

(6) Knowledge possessed by a person other than the defendant under subsection (5) may be attributable to the defendant if the defendant took affirmative steps to shield himself or herself from the relevant information.

(7) ~~Any~~ **A civil** fine or other award ordered paid pursuant to this section shall do both of the following:

(a) Be payable to the state of Michigan and credited to the general fund.

(b) Constitute a lien on any property, of any nature or kind, owned by the defendant.

(8) A lien under subsection (7)(b) shall take effect and have priority over all other liens and encumbrances except those filed or recorded prior to the date of judgment only if notice of the lien is filed or recorded as required by state or federal law.

(9) A lien filed or recorded pursuant to subsection (8) shall be terminated according to the procedures required by state or federal law within 14 days after the fine or other award ordered to be paid is paid.

(10) In addition to any other method of collection, any fine or other award ordered paid may be recovered by right of setoff to any debt owed to the defendant by the state of Michigan, including the right to a refund of income taxes paid.

Sec. 3118. (1) Until October 1, ~~2003~~ **2009**, the department shall collect storm water discharge fees from persons who apply for or have been issued storm water discharge permits as follows:

(a) ~~The A 1-time fee of \$400.00 is required for a permit related solely to a site of construction activity is a 1-time fee of \$125.00 per for each permitted site. The fee shall be submitted by the permit applicant with his or her application for a general or an individual permit or for a certificate of coverage under a general permit. If rules promulgated under this part provide for~~ **For** a permit by rule, the fee shall be submitted by the construction site permittee along with his or her notice of coverage. A person needing more than 1 permit may submit a single payment for more than 1 permit and receive appropriate credit. Payment of the fee under this subdivision or verification of prepayment is a necessary part of a valid permit application or notice of coverage under a permit by rule.

(b) ~~The fee for a permit not related solely to a site of construction activity is \$200.00. For each fiscal year, a person possessing a permit not related solely to a site of construction activity as of January 1 of that fiscal year shall be assessed the fee. The department shall notify those persons of their fee assessments by February 1 of that fiscal year. Payment shall be postmarked no later than March 15 of that fiscal year. An annual fee of \$260.00 is required for a permit related solely to a storm water discharge associated with industrial activity or from a commercial site for which the department determines a permit is needed.~~

(c) **An annual fee of \$500.00 is required for a permit for a municipal separate storm sewer system, unless the permit is issued to a city, a village, a township, or a county or is a single permit authorization for municipal separate storm sewer systems in multiple locations statewide.**

(d) An annual fee for a permit for a municipal separate storm sewer system issued to a city, village, or township shall be determined by its population in an urbanized area as defined by the United States bureau of the census. The fee shall be based on the latest available decennial census as follows:

(i) For a population of 1,000 people or fewer, the annual fee is \$500.00.

(ii) For a population of more than 1,000 people, but fewer than 3,001 people, the annual fee is \$1,000.00.

(iii) For a population of more than 3,000 people, but fewer than 10,001 people, the annual fee is \$2,000.00.

(iv) For a population of more than 10,000 people, but fewer than 30,001 people, the annual fee is \$3,000.00.

(v) For a population of more than 30,000 people, but fewer than 50,001 people, the annual fee is \$4,000.00.

(vi) For a population of more than 50,000 people, but fewer than 75,001 people, the annual fee is \$5,000.00.

(vii) For a population of more than 75,000 people, but fewer than 100,001 people, the annual fee is \$6,000.00.

(viii) For a population of more than 100,000 people, the annual fee is \$7,000.00.

(e) An annual fee of \$3,000.00 is required for a permit for a municipal separate storm sewer system issued to a county.

(f) An annual fee for a single municipal separate storm sewer systems permit authorizing a state or federal agency to operate municipal separate storm sewer systems in multiple locations statewide shall be determined in accordance with a memorandum of understanding between that state or federal agency and the department and shall be based on the projected needs by the department to administer the permit.

(2) The permit fees identified in subsection (1) are nonrefundable.

(3) A person possessing a permit not related solely to a site of construction activity as of January 1 shall be assessed a fee. The department shall notify those persons of their fee assessments by February 1. Payment shall be postmarked no later than March 15. Failure by the department to send a fee assessment notification by the deadline, or failure of a person to receive a fee assessment notification, does not relieve that person of his or her obligation to pay the fee. If the department does not meet the February deadline for sending the fee assessment, the fee assessment is due not later than 45 days after receiving a fee notification.

(4) If a storm water permit is issued for a drainage district, the drainage district is responsible for the applicable fee under this section.

(5) ~~(2)~~ The department shall assess interest on all fee payments submitted under this section after the due date. The permittee shall pay an additional amount equal to 0.75% of the payment due for each month or portion of a month the payment remains past due.

(6) ~~(3)~~ The department shall forward all fees and interest payments collected under this section to the state treasurer for deposit into the fund.

(7) ~~(4)~~ The department shall make payment of the required fee assessed under this section a condition of issuance or reissuance of a permit not related solely to a site of construction activity. ~~at the time of permit issuance or reissuance.~~

~~(5) If a person fails to pay the fee required under this section in full, plus any interest accrued, by October 1 of the year following the date of notification of the fee assessment, the department may revoke the permit held by that person. The failure by a person to pay a fee imposed by this section is a violation of this part and subjects that person to the penalty provisions in section 3115.~~

~~(6) Within 1 year after the reauthorization of the clean water act, the department shall convene a committee to review the storm water discharge fee system provided in this section. The committee shall be composed of a member of the department and representatives of groups affected by the storm water discharge fee. The committee shall make recommendations for changes in the fee system to the department and to the chairpersons of the house and senate appropriations committees.~~

(8) In addition to any other penalty provided in this part, if a person fails to pay the fee required under this section by its due date, the person is in violation of this part and the department may undertake enforcement actions as authorized under this part.

(9) The attorney general may bring an action to collect overdue fees and interest payments imposed under this section.

(10) If the permit is for a municipal separate storm sewer system and the population served by that system is different than the latest decennial census, the permittee may appeal the annual fee determination and submit written verification of actual population served by the municipal separate storm sewer system.

(11) A person who wishes to appeal either a fee or a penalty assessed under this section is limited to an administrative appeal, in accordance with section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631. The appeal shall be filed within 30 days of the department's fee notification under subsection (3).

(12) ~~(7)~~ As used in this section and section 3119:

(a) "Certificate of coverage" means a document issued by the department that authorizes a discharge under a general permit.

(b) ~~(a)~~ "Clean water act" means the federal water pollution control act, chapter 758, 86 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to 1257, 1258 to 1263, 1265 to 1270, **1273 to 1274**, 1281, 1282 to 1293, 1294 to ~~1299~~ **1301**, 1311 to 1313, 1314 to 1330, 1341 to ~~1345~~ **1346**, 1361 to **1375, 1376 to 1377**, and 1381 to 1387.

(c) ~~(b)~~ “Construction activity” means a human-made earth change or disturbance in the existing cover or topography of land that is 5 acres or more in size, for which a national permit is required pursuant to 40 C.F.R. 122.26(a), and which is described as a construction activity in 40 C.F.R. 122.26(b)(14)(x). Construction activity includes clearing, grading, and excavating activities. Construction activity does not include the practice of clearing, plowing, tilling soil, and harvesting for the purpose of crop production.

(d) ~~(c)~~ “Fee” means a storm water discharge fee authorized under this section.

~~(d) “Fiscal year” means the state fiscal year beginning October 1 and ending September 30.~~

(e) “Fund” means the storm water fund created in section 3119.

(f) **“General permit” means a permit issued authorizing a category of similar discharges.**

(g) **“Individual permit” means a site-specific permit.**

(h) **“Municipal separate storm sewer system” means all separate storm sewers that are owned or operated by the United States or a state, city, village, township, county, district, association, or other public body created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law, such as a sewer district, flood control district, or drainage district or similar entity, or a designated or approved management agency under section 208 of the clean water act, 33 U.S.C. 1288, that discharges to waters of the state. Municipal separate storm sewer system includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. Municipal separate storm sewer system does not include separate storm sewers in very discrete areas, such as individual buildings.**

(i) **“Notice of coverage” means a notice that a person engaging in construction activity agrees to comply with a permit by rule for that activity.**

(j) ~~(h)~~ “Permit” or “storm water discharge permit” means a permit authorizing the discharge of wastewater or any other substance to surface waters of the state under the national pollutant discharge elimination system, pursuant to the clean water act or this part and the rules and regulations promulgated under that act or this part.

(k) **“Public body” means the United States, the state of Michigan, a city, village, township, county, school district, public college or university, or single purpose governmental agency, or any other body which is created by federal or state statute or law.**

(l) **“Separate storm sewer system” means a system of drainage, including, but not limited to, roads, catch basins, curbs, gutters, parking lots, ditches, conduits, pumping devices, or man-made channels, which has the following characteristics:**

(i) **The system is not a combined sewer where storm water mixes with sanitary wastes.**

(ii) **The system is not part of a publicly owned treatment works.**

(m) ~~(g)~~ “Storm water” means storm water runoff, snowmelt runoff, and surface runoff and drainage.

(n) **“Storm water discharge associated with industrial activity” means a point source discharge of storm water from a facility which is defined as an industrial activity under 40 C.F.R. 122.26(b)(14)(i-ix and xi).**

Sec. 3119. (1) The storm water fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

(a) Review of storm water permit applications.

(b) Storm water permit development, issuance, reissuance, modification, and termination.

(c) Surface water monitoring to support the storm water permitting process.

(d) Assessment of compliance with storm water permit conditions.

(e) Enforcement against storm water permit violations.

(f) Classification of storm water control facilities.

(g) Not more than 10% of the money in the fund for training for certification of storm water operators and educational material to assist persons regulated under this part.

(h) **Regional or statewide public education to enhance the effectiveness of storm water permits.**

(5) Money in the fund shall not be used to support the direct costs of litigation undertaken to enforce this part.

(6) Upon the expenditure or appropriation of money raised in section 3118 for any other purpose than those specifically listed in this section, authorization to collect fees under section 3118 shall be suspended until such time as the money expended or appropriated for purposes other than those listed in this section is returned to the fund.

(7) **By January 1, 2006 and by January 1 of each year thereafter, the department shall prepare and submit to the governor, the legislature, the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations**

to the department a report that details the departmental activities of the previous fiscal year in administering the department's storm water program that were funded by the fund. This report shall include, at a minimum, all of the following:

- (a) The number of full-time equated positions performing each of the following functions:
  - (i) Permit issuance and development.
  - (ii) Compliance.
  - (iii) Enforcement.
- (b) The number of new permit applications received by the department in the preceding year.
- (c) The number of renewal permits in the preceding year.
- (d) The number of permit modifications requested in the preceding year.
- (e) The number of staff hours dedicated to each of the fee categories listed in section 3118.
- (f) The number of permits issued for fee categories listed in section 3118.
- (g) The average number of days required for review of a permit from the date the permit application is determined to be administratively complete.
- (h) The number of permit applications denied.
- (i) The number of permit applications withdrawn by the applicant.
- (j) The percentage and number of permit applications that were reviewed for administrative completeness within 10 days of receipt by the department.
- (k) The percentage and number of permit applications submitted to the department that were administratively complete as received.
- (l) The percentage and number of new permit applications for which a final action was taken by the department within 180 days.
- (m) The percentage and number of permit renewals and modifications processed within the required time.
- (n) The number of permits reopened by the department.
- (o) The number of unfilled positions dedicated to the department's storm water program.
- (p) The amount of revenue in the fund at the end of the fiscal year.

Sec. 3120. (1) Until October 1, 2009, an application for a new permit, a reissuance of a permit, or a modification of an existing permit under this part authorizing a discharge into surface water, other than a storm water discharge, shall be accompanied by an application fee as follows:

- (a) For an EPA major facility permit, \$750.00.
  - (b) For an EPA minor facility individual permit, a CSO permit, or a wastewater stabilization lagoon individual permit, \$400.00.
  - (c) For an EPA minor facility general permit, \$75.00.
- (2) Within 180 days after receipt of a complete application for a new or increased use permit, the department shall either grant or deny the permit, unless the applicant and the department agree to extend this time period.
- (3) By September 30 of the year following the submittal of a complete application for reissuance of a permit, the department shall either grant or deny the permit, unless the applicant and the department agree to extend this time period.
- (4) If the department fails to make a decision on an application within the applicable time period under subsection (2) or (3), the department shall return to the applicant the application fee submitted under subsection (1) and the applicant shall not be subject to an application fee and shall receive a 15% annual discount on an annual permit fee required for a permit issued based upon that application.
- (5) Until October 1, 2009, a person who receives a permit under this part authorizing a discharge into surface water, other than a stormwater discharge, is subject to an annual permit fee as follows:
- (a) For an industrial or commercial facility that is an EPA major facility, \$8,700.00.
  - (b) For an industrial or commercial facility that is an EPA minor facility, the following amounts:
    - (i) For a general permit for a low-flow facility, \$150.00.
    - (ii) For a general permit for a high-flow facility, \$400.00.
    - (iii) For an individual permit for a low-flow facility, \$1,650.00.
    - (iv) For an individual permit for a high-flow facility, \$3,650.00.
  - (c) For a municipal facility that is an EPA major facility, the following amounts:
    - (i) For an individual permit for a facility discharging 500 MGD or more, \$213,000.00.
    - (ii) For an individual permit for a facility discharging 50 MGD or more but less than 500 MGD, \$20,000.00.
    - (iii) For an individual permit for a facility discharging 10 MGD or more but less than 50 MGD, \$13,000.00.
    - (iv) For an individual permit for a facility discharging less than 10 MGD, \$5,500.00.
  - (d) For a municipal facility that is an EPA minor facility, the following amounts:
    - (i) For an individual permit for a facility discharging 10 MGD or more, \$3,775.00.
    - (ii) For an individual permit for a facility discharging 1 MGD or more but less than 10 MGD, \$3,000.00.
    - (iii) For an individual permit for a facility discharging less than 1 MGD, \$1,950.00.



- (iv) For a general permit for a high-flow facility, \$600.00.
- (v) For a general permit for a low-flow facility, \$400.00.
- (e) For a municipal facility that is a CSO facility, \$6,000.00.
- (f) For an individual permit for a wastewater stabilization lagoon, \$1,525.00.
- (g) For an individual or general permit for an agricultural purpose, \$600.00, unless either of the following applies:
  - (i) The facility is an EPA minor facility and would qualify for a general permit for a low-flow facility, in which case the fee would be \$150.00.
  - (ii) The facility is an EPA major facility that is not a farmers' cooperative corporation, in which case the fee would be \$8,700.00.
- (h) For a facility that holds a permit issued under this part but has no discharge and the facility is connected to and is authorized to discharge only to a municipal wastewater treatment system, an annual permit maintenance fee of \$100.00. However, if a facility does have a discharge or at some point is no longer connected to a municipal wastewater treatment system, the annual permit fee shall be the appropriate fee as otherwise provided in this subsection.
- (6) If the person required to pay an application fee under subsection (1) or an annual permit fee under subsection (5) is a municipality, the municipality may pass on the application fee or the annual permit fee, or both, to each user of the municipal facility.
- (7) The department shall send invoices for annual permit fees under subsection (5) to all permit holders by December 1 of each year. The fee shall be based on the status of the facility as of October 1 of that year. A person subject to an annual permit fee shall pay the fee not later than January 15 of each year. Failure by the department to send an invoice by the deadline, or failure of a person to receive an invoice, does not relieve that person of his or her obligation to pay the annual permit fee. If the department does not meet the December 1 deadline for sending invoices, the annual permit fee is due not later than 45 days after receiving an invoice. The department shall forward annual permit fees received under this section to the state treasurer for deposit into the national pollutant discharge elimination system fund created in section 3121.
- (8) The department shall assess a penalty on all annual permit fee payments submitted under this section after the due date. The penalty shall be an amount equal to 0.75% of the payment due for each month or portion of a month the payment remains past due.
- (9) Following payment of an annual permit fee, if a permittee wishes to challenge its annual permit fee under this section, the owner or operator shall submit the challenge in writing to the department. The department shall not process the challenge unless it is received by the department by March 1 of the year the payment is due. A challenge shall identify the facility and state the grounds upon which the challenge is based. Within 30 calendar days after receipt of the challenge, the department shall determine the validity of the challenge and provide the permittee with notification of a revised annual permit fee and a refund, if appropriate, or a statement setting forth the reason or reasons why the annual permit fee was not revised. If the owner or operator of a facility desires to further challenge its annual permit fee, the owner or operator of the facility has an opportunity for a contested case hearing as provided for under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.
- (10) The attorney general may bring an action for the collection of the annual permit fee imposed under this section.
- (11) Within 30 days after the effective date of the amendatory act that added this section, the director of the department shall notify each person holding a permit under this part authorizing a discharge into surface water, other than a storm water permit, of the requirements of this section.
- (12) As used in this section:
  - (a) "Agricultural purpose" means the agricultural production or processing of those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy animals and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product, as determined by the commission of agriculture, that incorporates the use of food, feed, fiber, or fur. Agricultural purpose includes an operation or facility that produces wine.
  - (b) "Combined sewer overflow" means a discharge from a combined sewer system that occurs when the flow capacity of the combined sewer system is exceeded at a point prior to the headworks of a publicly owned treatment works during wet weather conditions.
  - (c) "Combined sewer system" means a sewer designed and used to convey both storm water runoff and sanitary sewage, and which contains lawfully installed regulators and control devices that allow for delivery of sanitary flow to treatment during dry weather periods and divert storm water and sanitary sewage to surface waters during storm flow periods.

- (d) "CSO facility" means a facility whose discharge is solely a combined sewer overflow.
  - (e) "EPA major facility" means a facility that is designated by the United States environmental protection agency as being a major facility under 40 C.F.R. 122.2.
  - (f) "EPA minor facility" means a facility that is not an EPA major facility.
  - (g) "Farmers' cooperative corporation" means a farmers' cooperative corporation organized within the limitations of section 98 of 1931 PA 327, MCL 450.98.
  - (h) "General permit" means a permit suitable for use at facilities meeting eligibility criteria as specified in the permit. With a general permit, the discharge from a specific facility is acknowledged through a certificate of coverage issued to the facility.
  - (i) "High-flow facility" means a facility that discharges 1 MGD or more.
  - (j) "Individual permit" means a permit developed for a particular facility, taking into account that facility's specific characteristics.
  - (k) "Industrial or commercial facility" means a facility that is not a municipal facility.
  - (l) "Low-flow facility" means a facility that discharges less than 1 MGD.
  - (m) "MGD" means 1,000,000 gallons per day.
  - (n) "Municipal facility" means a facility that is designed to collect or treat sanitary wastewater, and is either publicly or privately owned, and serves a residential area or a group of municipalities.
  - (o) "Wastewater stabilization lagoon" means a type of treatment system constructed of ponds or basins designed to receive, hold, and treat sanitary wastewater for a predetermined amount of time. Wastewater is treated through a combination of physical, biological, and chemical processes.
- Sec. 3121. (1) The national pollutant discharge elimination system fund is created within the state treasury.
- (2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.
- (3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.
- (4) The department shall expend money from the fund, upon appropriation, only to administer the national pollutant discharge elimination system program under this part including, but not limited to, all of the following:
- (a) Water quality standards development and maintenance.
  - (b) Permit development and issuance.
  - (c) Maintenance of program data.
  - (d) Ambient water quality monitoring conducted to determine permit conditions and evaluate the effectiveness of permit requirements.
  - (e) Activities conducted to determine a discharger's permit compliance status, including, but not limited to, inspections, discharge monitoring, and review of submittals.
  - (f) Laboratory services.
  - (g) Enforcement.
  - (h) Program administration activities.
- (5) By January 1, 2006 and by January 1 of each year thereafter, the department shall prepare and submit to the governor, the legislature, the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the departmental activities of the previous fiscal year in administering the department's national pollutant discharge elimination system program that were funded by the fund. This report shall include, at a minimum, all of the following as it relates to the department:
- (a) The number of full-time equated positions performing each of the following functions:
    - (i) Permit issuance and development.
    - (ii) Compliance.
    - (iii) Enforcement.
  - (b) The number of permit applications received by the department in the preceding year, including applications for new and increased uses and reissuances.
  - (c) The number of staff hours dedicated to each of the fee categories listed in section 3120.
  - (d) The number of permits issued for fee categories listed in section 3120.
  - (e) The number of permit applications denied.
  - (f) The number of permit applications withdrawn by the applicant.
  - (g) The percentage and number of permit applications that were reviewed for administrative completeness within statutory time frames.
  - (h) The percentage and number of permit applications submitted to the department that were administratively complete as received.

(i) The percentage and number of permit applications for which a final action was taken by the department within statutory time frames for new and increased uses and reissuances.

(j) The number of permits reopened by the department.

(k) The number of unfilled positions dedicated to the national pollutant discharge elimination system program.

(l) The amount of revenue in the fund at the end of the fiscal year.

(6) As used in this section:

(a) "Fund" means the national pollutant discharge elimination system fund created in subsection (1).

(b) "National pollutant discharge elimination system program" means the national pollutant discharge elimination system program delegated to the department under section 402 of title IV of the federal water pollution control act, chapter 758, 86 Stat. 880, 33 U.S.C. 1342, and implemented under this part.

Second: That the Senate and House agree to the title of the bill 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.

Michelle McManus  
Patricia L. Birkholz  
Elizabeth S. Brater  
Conferees for the Senate

James Koetje  
Jim Howell  
Steve Tobocman  
Conferees for the House

The question being on the adoption of the conference report,

The second conference report was adopted, a majority of the members serving voting therefor, as follows:

**Roll Call No. 163**

**Yeas—34**

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

**Nays—4**

Clark-Coleman	Leland	Scott	Thomas
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**Excused—0**

**Not Voting—0**

By unanimous consent the Senate returned to the order of

**Messages from the House**

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

**Senate Bill No. 432, entitled**

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 73, 283, 393, 499, 509m, 509n, 509t, 509aa, 686, 735, 795, 798c, 799a, 803, and 842 (MCL 168.73, 168.283, 168.393, 168.499, 168.509m, 168.509n, 168.509t, 168.509aa, 168.686, 168.735, 168.795, 168.798c, 168.799a, 168.803, and 168.842), sections 73, 283, 393, 509n, and 686 as amended by 1999 PA 216, section 499 as amended by 1995 PA 213, sections 509m and 509aa as added by 1994 PA 441, section 509t as amended by 1998 PA 21, section 795 as amended by 2002 PA 91, section 798c as amended by 1990 PA 109, and sections 799a and 803 as amended by 1997 PA 137, and by adding sections 18, 523a, 813, and 829; and to repeal acts and parts of acts.

Substitute (H-5).

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

Senator Hammerstrom offered the following amendment to the substitute:

1. Amend page 15, line 21, by striking out all of section 662 and inserting:

"Sec. 662. (1) The legislative body in each city, village, and township shall designate and prescribe the place or places of holding an election for a city, village, or township election, and shall provide a suitable polling place in or for each precinct located in the city, village, or township for use at each election. Except as otherwise provided in this section, school buildings, fire stations, police stations, and other publicly owned or controlled buildings shall be used as polling places. If it is not possible or convenient to use a publicly owned or controlled building as a polling place, the legislative body of the city, township, or village may use as a polling place a building owned or controlled by an organization that is exempt from federal income tax as provided by section 501(c) other than 501(c)(4), (5), or (6) of the internal revenue code of 1986, or any successor statute. The legislative body of a city, township, or village shall not designate as a polling place a building that is owned by a person who is a sponsor of a political committee or independent committee. A city, township, or village shall not use as a polling place a building that does not meet the requirements of this section. As used in this subsection, "sponsor of a political committee or independent committee" means a person who is described as being a sponsor under section 24(3) of the Michigan campaign finance act, 1976 PA 388, MCL 169.224, and includes a subsidiary of a corporation or a local of a labor organization, if the corporation or labor organization is considered a sponsor under section 24(3) of the Michigan campaign finance act, 1976 PA 388, MCL 169.224.

(2) The legislative body in each city, village, and township shall make arrangements for the rental or erection of suitable buildings for use as polling places if publicly owned or controlled buildings are not available, and shall have the polling places equipped with the necessary facilities for lighting and with adequate facilities for heat and ventilation. The legislative body may establish a central polling place or places for 6 precincts or less if it is possible and convenient for the electors to vote at the central polling place. The legislative body may abolish other polling places not required as a result of the establishment of a central polling place.

(3) The legislative body of a city, village, or township may establish a polling place at a for profit or nonprofit residence or facility in which 150 persons or more aged 62 or older reside or at an apartment building or complex in which 150 persons or more reside. A township board may provide polling places located within the limits of a city that has been incorporated from territory formerly a part of the township, and the electors of the township may cast their ballots at those polling places. If 2 contiguous townships utilize a combined township hall or other publicly owned or controlled building within 1 of the township's boundaries and outside of the other township's boundaries, and there is not another publicly owned or controlled building or a building owned or controlled by an organization that is exempt from federal income tax, as provided by section 501(c), other than 501(c)(4), (5), or (6), of the internal revenue code of 1986, available or suitable for a polling place within the other township, then each township board may provide a polling place in that publicly owned building for 1 or more election precinct.

(4) The legislative body of a city, village, or township shall not establish, move, or abolish a polling place less than 60 days before an election unless necessary because a polling place has been damaged, destroyed, or rendered inaccessible or unusable as a polling place.

(5) The legislative body of a city, village, or township shall ensure that a polling place established under this section is **accessible and** complies with the voting accessibility for the elderly and handicapped act, ~~42 USC 1973ee-6~~ ~~4973ee-6~~ **and the help America vote act of 2002.**

(6) **As used in this section, "accessible" means the removal or modification of policies, practices, and procedures that deny an individual with a disability the opportunity to vote, including the removal of physical barriers as identified in section 261(b) of the help America vote act of 2002, 42 USC 15421, so as to ensure individuals with disabilities the opportunity to participate in elections in this state."**

The amendment to the substitute was adopted.

Senator Hammerstrom offered the following amendments to the substitute:

1. Amend page 13, line 25, after “**chauffeur’s**” by striking out the balance of the line through “**or**” on line 26 and inserting “**license,**”.
2. Amend page 13, line 26, after “**card**” by inserting a comma and “**other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963 that contains a current residence address**”.
3. Amend page 14, line 8, after “**license**” by striking out “**or**” and inserting a comma.
4. Amend page 14, line 9, after “**card,**” by inserting “**other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963 that contains a current residence address,**”.
5. Amend page 14, line 14, after the second “**license,**” by striking out “**or**”.
6. Amend page 14, line 15, after “**card**” by inserting a comma and “**other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963**”.
7. Amend page 27, line 4, after “**license,**” by striking out “**or**”.
8. Amend page 27, line 4, after “**card**” by inserting a comma and “**other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963**”.

The amendments to the substitute were adopted.

Senator Hammerstrom offered the following amendments to the substitute:

1. Amend page 23, line 21, after “**approval**” by striking out “**by**” and inserting “**of**”.
  2. Amend page 26, line 14, after “**approval**” by striking out “**by**” and inserting “**of**”.
- The amendments to the substitute were adopted.

Senator Hammerstrom offered the following amendment to the substitute:

1. Amend page 18, following line 6, following subsection (6), by inserting:
 

“Sec. 727. (1) An election inspector shall challenge ~~a person applying for ballots~~ **an applicant applying for a ballot** if the inspector knows or has good reason to suspect **that** the applicant is not a qualified and registered elector of the precinct, or if a challenge appears in connection with the applicant’s name in the registration book. A registered elector of the precinct present in the polling place may challenge the right of anyone attempting to vote if the elector knows or has good reason to suspect that ~~person individual~~ **person individual** is not a registered elector in that precinct. An election inspector or other qualified challenger may challenge the right of ~~a person~~ **an individual** attempting to vote who has previously applied for an absent voter ballot and who on election day is claiming to have never received the absent voter ballot or to have lost or destroyed the absent voter ballot.

(2) Upon a challenge being made under subsection (1), an election inspector shall immediately do all of the following:

  - (a) Identify ~~pursuant to section as provided in sections 745 and 746~~ **any** a ballot voted by the challenged individual, if any.
  - (b) Make a written report including all of the following information:
    - (i) All election disparities or infractions complained of or believed to have occurred.
    - (ii) The name of the ~~person individual~~ **person individual** making the challenge.
    - (iii) The time of the challenge.
    - (iv) The name, telephone number, and address of the challenged individual.
    - (v) ~~Any other~~ **Other** information considered appropriate by the election inspector.
  - (c) Retain the written report created under subdivision (b) and make it a part of the election record.
  - (d) **Inform a challenged elector of his or her rights under section 729.**

(3) A challenger shall not make a challenge indiscriminately and without good cause. A challenger shall not handle the poll books while observing election procedures or the ballots during the counting of the ballots. A challenger shall not interfere with or unduly delay the work of the election inspectors. ~~A person~~ **An individual** who challenges a qualified and registered elector of a voting precinct for the purpose of annoying or delaying voters is guilty of a misdemeanor.”

The amendment to the substitute was adopted.

The question being concurring in the House substitute, as amended,

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

**Roll Call No. 164****Yeas—22**

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

**Nays—16**

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

**Excused—0****Not Voting—0**

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was not concurred in, 2/3 of the members not serving voting therefor. Senator Hammerstrom moved that further consideration of the bill be postponed temporarily. The motion prevailed.

Senators Jacobs and Clark-Coleman asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Jacobs' statement is as follows:

I'd like to say thank you to the sponsor of this bill for working so hard in trying to make some of the changes. However, in its current form, I regret that I am unable to encourage my colleagues to vote for this. The bill has very little to do with helping America or Michigan, for that matter, to vote. Only one provision directly addresses a HAVA requirement, and that is the provision regarding disability access. That provision has to be in place by January 1, 2007. Therefore, there is no need to put this legislation through at this time. Contrary to assertions made in the media, federal funding does not depend upon the passage of this bill. Rather, the funding is linked to the plan which has already been completed by the Secretary of State. This bill contains critical errors regarding first-time voters who are supposed to be allowed to register and vote by mail. It has deficiencies regarding voter identification and probably conflicts with the federal National Voter Registration Act. It does not even meet HAVA's minimum requirements.

In conclusion, while there was a fair amount of discussion about this legislation, there was very little actual negotiation. This bill simply does not help people vote, which is our most precious right, and I, therefore, urge its defeat.

Senator Clark-Coleman's statement is as follows:

This bill presents a missed opportunity to help citizens participate in democracy. I'm much saddened that people who backed the extension of no-reason absentee voting did not want to include that provision in this bill. The Secretary of State is publicly in favor of no-reason absentee voting but did not want it included in this bill. Others in this body are in favor of it but did not want it included in this bill. We even offered to make it effective after the presidential election to remove that issue, but the offer was rejected. As the *Lansing State Journal* wrote recently in its editorial, this bill is simply a missed opportunity, and I urge its defeat.

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 Brater 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 with a substitute therefor, the following bill:

**Senate Bill No. 1062, entitled**

A bill to make appropriations for community colleges and certain state purposes related to education for the fiscal year ending September 30, 2004 and for the fiscal year ending September 30, 2005; to provide for the expenditure of those appropriations; to establish or continue certain funds, programs, and categories; and to prescribe the powers and duties of certain state departments, institutions, agencies, employees, and officers.

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.

By unanimous consent the Senate returned to the order of  
**Third Reading of Bills**

Senator Hammerstrom moved that the rules be suspended and that the following bill, now on the order of Third Reading of Bills, be placed on its immediate passage at the head of the Third Reading of Bills calendar:

**Senate Bill No. 1062**

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

The following bill was read a third time:

**Senate Bill No. 1062, entitled**

A bill to make appropriations for community colleges and certain state purposes related to education for the fiscal year ending September 30, 2004 and for the fiscal year ending September 30, 2005; to provide for the expenditure of those appropriations; to establish or continue certain funds, programs, and categories; and to prescribe the powers and duties of certain state departments, institutions, agencies, employees, and officers.

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. 165**

**Yeas—37**

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

**Nays—0**

**Excused—0**

**Not Voting—1**

Emerson

In The Chair: President

The Senate agreed to the title of the bill.

By unanimous consent the Senate returned 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 Brater 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 with a substitute therefor, the following bill:

**Senate Bill No. 1063, entitled**

A bill to make appropriations for the department of community health and certain state purposes related to mental health, public health, and medical services for the fiscal year ending September 30, 2005; to provide for the expenditure of those appropriations; to create funds; to require and provide for reports; to prescribe the powers and duties of certain local and state agencies and departments; and to provide for disposition of fees and other income received by the various state agencies.

Substitute (S-1).

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

1. Amend page 41, line 21, after "Sec. 453." by striking out "The" and inserting "By December 1, 2004, the".

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.

By unanimous consent the Senate returned to the order of  
**Third Reading of Bills**

Senator Hammerstrom moved that the rules be suspended and that the following bill, now on the order of Third Reading of Bills, be placed on its immediate passage at the head of the Third Reading of Bills calendar:

**Senate Bill No. 1063**

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

The following bill was read a third time:

**Senate Bill No. 1063, entitled**

A bill to make appropriations for the department of community health and certain state purposes related to mental health, public health, and medical services for the fiscal year ending September 30, 2005; to provide for the expenditure of those appropriations; to create funds; to require and provide for reports; to prescribe the powers and duties of certain local and state agencies and departments; and to provide for disposition of fees and other income received by the various state agencies.

The question being on the passage of the bill,

Senator Cherry offered the following amendment:

1. Amend page 81, line 22, by striking out all of subsection (3) and inserting:

"(3) It is the intent of the legislature that payment increases for enhanced wages and new or enhanced employee benefits shall be provided to those facilities that make application for it to fund the Medicaid program share of wage and employee benefit increases up to the equivalent of 50 cents per employee hour. Such increases shall be funded from net revenue from the nursing home quality assurance assessment program. Employee benefits shall include, but are not limited to, health benefits, retirement benefits, and quality of life benefits such as day care services. Nursing facilities shall be required to document that these wage and benefit increases were actually provided."

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



Senator Schauer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

**Roll Call No. 166**

**Yeas—17**

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

**Nays—21**

Allen	Garcia	Hardiman	Patterson
Birkholz	George	Jelinek	Sanborn
Bishop	Gilbert	Johnson	Sikkema
Brown	Goschka	Kuipers	Stamas
Cassisi	Hammerstrom	McManus	Van Woerkom
Cropsey			

**Excused—0**

**Not Voting—0**

In The Chair: President

Senator Cherry offered the following amendments:

1. Amend page 2, line 6, by striking out “9,743,675,400” and inserting “9,759,005,400”.
2. Amend page 2, line 10, by striking out “9,673,132,000” and inserting “9,688,462,000”.
3. Amend page 2, line 18, by striking out “2,974,148,800” and inserting “2,989,478,800”.
4. Amend page 11, line 5, by striking out “2,286,100” and inserting “9,797,800”.
5. Amend page 11, line 13, by striking out “4,914,600” and inserting “7,776,200”.
6. Amend page 11, line 16, by striking out “30,681,400” and inserting “41,054,700”.
7. Amend page 11, line 21, by striking out “10,010,500” and inserting “20,383,800”.
8. Amend page 12, following line 7, by inserting:  
“Maternal and children’s health..... 4,956,700”.
9. Amend page 12, line 15, by striking out “43,147,800” and inserting “48,104,500”.
10. Amend page 12, line 20, by striking out “6,064,000” and inserting “11,020,700”.
11. Amend page 17, line 1, by striking out “665,015,900” and inserting “649,685,900”.
12. Amend page 17, line 2, by striking out “1,596,514,600” and inserting “1,611,844,600”.
13. Amend page 17, line 20, by striking out “\$3,894,552,800.00” and inserting “\$3,909,882,800.00” and adjusting the subtotals, totals, and section 201 accordingly.

The amendments were not adopted, a majority of the members serving not voting therefor.

Senator Schauer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendments were not adopted, a majority of the members serving not voting therefor, as follows:

**Roll Call No. 167**

**Yeas—17**

Barcia	Clark-Coleman	Leland	Scott
Basham	Clarke	Olshove	Switalski
Bernero	Emerson	Prusi	Thomas

Brater  
Cherry

Jacobs

Schauer

Toy

**Nays—21**

Allen  
Birkholz  
Bishop  
Brown  
Cassis  
Cropsey

Garcia  
George  
Gilbert  
Goschka  
Hammerstrom

Hardiman  
Jelinek  
Johnson  
Kuipers  
McManus

Patterson  
Sanborn  
Sikkema  
Stamas  
Van Woerkom

**Excused—0**

**Not Voting—0**

In The Chair: President

Senator Cherry offered the following amendments:

1. Amend page 2, line 6, by striking out “9,743,675,400” and inserting “9,748,675,400”.
2. Amend page 2, line 10, by striking out “9,673,132,000” and inserting “9,678,132,000”.
3. Amend page 2, line 12, by striking out “5,267,506,300” and inserting “5,270,341,800”.
4. Amend page 2, line 18, by striking out “2,974,148,800” and inserting “2,976,313,300”.
5. Amend page 16, following line 1, by inserting:  
“Supplemental hospital disproportionate share payments..... \$ 5,000,000”.
6. Amend page 16, line 17, by striking out “5,887,989,600” and inserting “5,892,989,600”.
7. Amend page 16, line 21, by striking out “6,430,250,400” and inserting “6,435,250,400”.
8. Amend page 16, line 24, by striking out “3,716,590,800” and inserting “3,719,426,300”.
9. Amend page 17, line 2, by striking out “1,596,514,600” and inserting “1,598,679,100”.
10. Amend page 17, line 20, after “is” by striking out “\$3,894,552,800.00” and inserting “\$3,896,717,300.00” and adjusting the subtotals, totals, and section 201 accordingly.
11. Amend page 89, line 7, by striking out all of section 1717 and inserting:

“Sec. 1717. (1) From the funds appropriated in part 1 for supplemental hospital disproportionate share payments, the department shall create a supplemental hospital disproportionate share payment pool totaling \$5,000,000.00. This pool shall distributed to unaffiliated hospitals and hospital systems that receive less than \$900,000.00 in disproportionate share hospital payments in fiscal year 2002-2003 based on a formula that is weighted proportional to the product of each eligible system’s Medicaid revenue and each eligible system’s Medical utilization.

(2) By November 1, 2004, the department shall report to the senate and house appropriations subcommittees on community health and the senate and house fiscal agencies on the distribution of funding to each eligible hospital from the supplemental hospital disproportionate share payment pool.”.

The amendments were not adopted, a majority of the members serving not voting therefor.

Senator Schauer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendments were not adopted, a majority of the members serving not voting therefor, as follows:

**Roll Call No. 168**

**Yeas—17**

Barcia  
Basham  
Bernero  
Brater  
Cherry

Clark-Coleman  
Clarke  
Emerson  
Jacobs

Leland  
Olshove  
Prusi  
Schauer

Scott  
Switalski  
Thomas  
Toy

**Nays—21**

Allen	Garcia	Hardiman	Patterson
Birkholz	George	Jelinek	Sanborn
Bishop	Gilbert	Johnson	Sikkema
Brown	Goschka	Kuipers	Stamas
Cassis	Hammerstrom	McManus	Van Woerkom
Cropsey			

**Excused—0****Not Voting—0**

In The Chair: President

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. 169****Yeas—24**

Allen	Cassis	Hammerstrom	Olshove
Barcia	Cropsey	Hardiman	Sanborn
Bernero	Garcia	Jelinek	Schauer
Birkholz	George	Johnson	Sikkema
Bishop	Gilbert	Kuipers	Stamas
Brown	Goschka	McManus	Van Woerkom

**Nays—14**

Basham	Clarke	Patterson	Switalski
Brater	Emerson	Prusi	Thomas
Cherry	Jacobs	Scott	Toy
Clark-Coleman	Leland		

**Excused—0****Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.  
Senator Hardiman moved that he be named co-sponsor of the bill.  
The motion prevailed.

**Protests**

Senators Cherry, Scott, Clark-Coleman and Basham, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 1063.

Senators Cherry and Scott moved that the statements they made during the discussion of the bill be printed as their reasons for voting “no.”

The motion prevailed.

Senator Cherry's statement is as follows:

I rise today to unfortunately say that I will be voting "no" on the 2005 budget for the Department of Community Health. I say that also recognizing that this is the first step of a long budget process, and I'm hopeful that we can still address the problem that exists in the budget, making it both fiscally responsible and able to address the needs of our citizens.

I also just want to commend the chair of the subcommittee. He has been more than willing to work through issues and has been able to do some things that are very positive. For example, as you know, the adult dental program has been restored, and it's very important, but there are still other issues that need to be dealt with.

I'm voting "no" because this budget in its current form is neither fiscally responsible nor able to meet our citizens' needs. The budget is more than \$500 million out of line with the Governor's recommendation, and that is because we have not addressed any funding source for the additional funds that have been added to the budget. That's half a billion dollars that relies on general funds to make up this huge hole which we do not have, as all of you well know. In addition, the chair of the committee has also talked about other funding issues that may need to be dealt with as we proceed in this budget. At that same time, we've also eliminated some of the funding increase for Healthy Michigan programs, including chronic disease prevention, maternal and children's care, and smoking cessation programs. And, again, while I support adult dental, the restoration of that program and podiatry and chiropractic care, we still need to be putting some funds to invest in prevention programs.

Finally, this budget impairs our ability to help our most vulnerable citizens. Changes in the way disproportionate share payments are made will hurt hospitals that serve a high concentration of Medicaid patients. At a time when the economy is hurting and health care costs continue to soar, limiting in any way our ability to help those most in need is simply unacceptable.

So, Mr. President, the reasons for not supporting this budget are many. We do need to address the source of funding so that we are not placing a huge hole in our General Fund. I hope as the process moves forward, we will deal with all of those issues and be corrected, and by the time it comes back, I will be joyfully voting to support this budget.

Senator Scott's statement, in which Senators Clark-Coleman and Basham concurred, is as follows:

I also rise to speak about the impact of this bill, especially Section 1717 in this budget dealing with the "dis" payments. Instead of taking money from the regular "dis," which has not been increased since 1991, mind you, the state should find new money to help hospitals with going to Medicaid rolls. Detroit hospitals would be forced to forfeit roughly \$4.3 million of 86 percent or the \$5 million that would be redistributed to the hospitals that receive little or no "dis" money. Five of the Detroit Medical Center hospitals—Children's Hospital of Michigan, Detroit Receiving Hospital, Harper Hospital, the Rehabilitation Institute of Michigan, and Sinai Grace Hospital—would collectively lose \$3.8 million under the boilerplate. Children's Hospital of Michigan, which is located in Detroit and is part of the Detroit Medical Center, but services the entire state, would alone lose nearly \$2 million. There is a reason Detroit hospitals receive the bulk of the "dis" money; they provide the bulk of the medical care for the Michigan indigent population.

So, Mr. President, I will be voting "no" on this bill until we can come up with some better solutions to help our hospitals.

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

The motion prevailed.

Senator Hardiman's statement is as follows:

I rise in opposition to this amendment. I appreciate the work of all of our hospitals in Michigan. I appreciate the wonderful job they do in helping to save lives, but I don't believe that we know that there is more money available, and if there is, that's wonderful because I believe that they can all use it.

I appreciate the work of the chairman and of the committee on this very important budget. This bill more fairly distributes the \$45 million of Michigan's Medicaid disproportionate shared fund. The intent of the disproportionate shared fund is to bring necessary funding relief to Michigan hospitals providing high amounts of Medicaid services. Spectrum Health System in Grand Rapids receives zero dollars from the 2003 disproportionate share distribution, despite having the second highest number of Medicaid, medical surgical days in this state, which serves as a leading indicator of Medicaid patient treatment volume. In Southeast Michigan in 2003, Southeast Michigan received 94.5 percent of the total disproportionate share distribution, while accounting for 54.7 percent of the Medical surgical days. In 2003, West and Southwest Michigan received 3.3 percent of the disproportionate share distribution, while accounting for 18.4 percent of the medical surgical days.

So I believe that this is a more fair distribution of the dollars we do have available. I would love to see more dollars available for all of the hospitals, and if that happens, then I think that is good for Michigan.

By unanimous consent the Senate returned 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 Brater as Chairperson.

After some time spent therein, the Committee arose; and, the President pro tempore, Senator Birkholz, assumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

**Senate Bill No. 1068, entitled**

A bill to make appropriations for the department of natural resources for the fiscal year ending September 30, 2005; to provide for the expenditure of those appropriations; to create funds and accounts; to require reports; to prescribe certain powers and duties of certain state agencies and officials; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by the various state agencies.

Substitute (S-2).

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

By unanimous consent the Senate returned to the order of  
**Third Reading of Bills**

Senator Hammerstrom moved that the rules be suspended and that the following bill, now on the order of Third Reading of Bills, be placed on its immediate passage at the head of the Third Reading of Bills calendar:

**Senate Bill No. 1068**

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

The following bill was read a third time:

**Senate Bill No. 1068, entitled**

A bill to make appropriations for the department of natural resources for the fiscal year ending September 30, 2005; to provide for the expenditure of those appropriations; to create funds and accounts; to require reports; to prescribe certain powers and duties of certain state agencies and officials; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by the various state agencies.

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. 170**

**Yeas—37**

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

**Nays—1**

Patterson

**Excused—0**

**Not Voting—0**

In The Chair: Birkholz

The Senate agreed to the title of the bill.

By unanimous consent the Senate returned 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 pro tempore, Senator Birkholz, designated Senator Brater as Chairperson.

After some time spent therein, the Committee arose; and, the Assistant President pro tempore, Senator Sanborn, assumed the Chair, the Committee reported back to the Senate, favorably and with a substitute, the following bill:

**Senate Bill No. 1066, entitled**

A bill to make appropriations for the department of environmental quality for the fiscal year ending September 30, 2005; to provide for the expenditure of the appropriations; and to provide for the disposition of fees and other income received by the various state agencies.

Substitute (S-1).

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

1. Amend page 29, line 19, by striking out all of section 216 and inserting:

“Sec. 216. (1) The department shall not spend any of the funds appropriated in part 1 for travel for meal expenses when an overnight stay is not required. No funds shall be expended for travel outside the state of Michigan unless such travel is required by legal mandate or court order, for mandatory law enforcement activities, or to prevent the loss of federal funds.

(2) From the funds appropriated in part 1 for travel, the department shall place a priority on vehicle travel services.”.

2. Amend page 32, following line 6, by inserting:

“Sec. 603. The department shall work in cooperation with Michigan Sea Grant and Michigan State University extension to conduct a pilot project in a coastal area in Ottawa County to identify unique lake-effect agricultural lands in a geographic information system and to make recommendations for any incentives and regulations necessary to protect these unique coastal community assets. The department shall submit a report to the senate and house standing committees that consider natural resources and environmental issues, the senate and house appropriations subcommittees on environmental quality, and the senate and house fiscal agencies by September 30, 2005 which will identify areas in the county suitable for lake-effect dependent agriculture along with recommendations for actions to protect the resources, including technical support for development of local ordinances and incentives; and if warranted, describe how the pilot project could be extended to all coastal agricultural communities.”.

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.

By unanimous consent the Senate returned to the order of  
**Third Reading of Bills**

Senator Hammerstrom moved that the rules be suspended and that the following bill, now on the order of Third Reading of Bills, be placed on its immediate passage at the head of the Third Reading of Bills calendar:

**Senate Bill No. 1066**

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

The following bill was read a third time:

**Senate Bill No. 1066, entitled**

A bill to make appropriations for the department of environmental quality for the fiscal year ending September 30, 2005; to provide for the expenditure of those appropriations; to create certain funds and accounts; to require certain reports; to prescribe the powers and duties of certain state agencies and officials; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by the various state agencies.

The question being on the passage of the bill,  
Senator Basham offered the following amendment:

1. Amend page 31, line 24, by striking out all of section 602.

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

Senator Brater offered the following amendments:

1. Amend page 9, line 10, by striking out “11,433,900” and inserting “10,233,900”.

2. Amend page 9, line 13, by striking out “5,384,600” and inserting “6,584,600” and adjusting the subtotals, totals, and section 201 accordingly.

The amendments were not adopted, a majority of the members serving not voting therefor.

Senator Schauer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendments were not adopted, a majority of the members serving not voting therefor, as follows:

**Roll Call No. 171**

**Yeas—16**

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

**Nays—22**

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

**Excused—0**

**Not Voting—0**

In The Chair: Sanborn

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. 172**

**Yeas—31**

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

**Nays—7**

Brater  
Clark-Coleman

Clarke  
Emerson

Patterson  
Scott

Thomas

**Excused—0****Not Voting—0**

In The Chair: Sanborn

The Senate agreed to the title of the bill.

**Protest**

Senator Brater, under her constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 1066 and moved that the statement she made during the discussion of the bill be printed as her reasons for voting “no.”

The motion prevailed.

Senator Brater’s statement is as follows:

I am offering this amendment because of a concern I have that this bill includes a \$1.2 million appropriation which would supplant General Fund money by using air emissions fees under the Title V program of the federal Clean Air Act. The Federal Clean Air Act explicitly prohibits the use of Title V fees for anything other than the direct and indirect costs related to the Title V permit program. As we all know, there is great need for this program and for it to be adequately funded. There are plenty of respiratory illnesses in this state and other effects of air pollution in our environment. We need to make sure that that program is properly funded, not to mention that we would be running afoul of federal law if we did this. So I am asking you to adopt this amendment so that we can remain in compliance with federal law under the Clean Air Act.

By unanimous consent the Senate returned 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 Brater as Chairperson.

After some time spent therein, the Committee arose; and, the President pro tempore, Senator Birkholz, resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute, the following bill:

**House Bill No. 4160, entitled**

A bill to amend 1964 PA 154, entitled “Minimum wage law of 1964,” by amending the title and section 3 (MCL 408.383).

Substitute (S-2).

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

1. Amend page 2, line 14, after “**vendor**” by striking out the balance of the sentence through “**employees**” on line 15.
2. Amend page 2, line 23, after “**not**” by striking out “**limit, restrict, or expand**” and inserting “**have any effect on**”.
3. Amend page 2, following line 25, by inserting:

“(4) **Subsection (2) does not prohibit a local unit of government from enforcing an ordinance that is in effect on the effective date of the amendatory act that added subsection (2) as to a contract that was entered into by the local unit of government before the effective date of the amendatory act that added subsection (2).**”.

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.



By unanimous consent the Senate returned to the order of  
**Third Reading of Bills**

Senator Hammerstrom moved that the rules be suspended and that the following bill, now on the order of Third Reading of Bills, be placed on its immediate passage at the head of the Third Reading of Bills calendar:

**House Bill No. 4160**

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

The following bill was read a third time:

**House Bill No. 4160, entitled**

A bill to amend 1964 PA 154, entitled "Minimum wage law of 1964," by amending the title and section 3 (MCL 408.383).

The question being on the passage of the bill,  
Senator Schauer offered the following amendment:

1. Amend page 2, line 23, by striking out all of subsection (3) and inserting:

**"(3) Subsection (2) shall not limit, restrict, or expand any prevailing wage or fringe benefit requirements imposed on any project under 1965 PA 166, MCL 408.551 to 408.558, or imposed on any project by a local unit of government under any similar prevailing wage or fringe benefit requirements or under any public works contract requirements."**

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

Senator Schauer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

**Roll Call No. 173**

**Yeas—18**

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

**Nays—20**

Allen	Cropsey	Hammerstrom	Patterson
Birkholz	Garcia	Hardiman	Sanborn
Bishop	George	Johnson	Sikkema
Brown	Gilbert	Kuipers	Stamas
Cassis	Goschka	McManus	Van Woerkom

**Excused—0**

**Not Voting—0**

In The Chair: Birkholz

Senator Schauer offered the following amendment:

1. Amend page 2, following line 25, by inserting:

**"(4) Subsection (2) does not limit or restrict living wage ordinances in effect as of the effective date of the amendatory act that added this subsection."**

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

Senator Schauer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

**Roll Call No. 174****Yeas—16**

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

**Nays—22**

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

**Excused—0****Not Voting—0**

In The Chair: Birkholz

Senator Schauer offered the following amendment:

1. Amend page 2, following line 25, by inserting:

“Enacting section 1. This amendatory act does not take effect unless House Bill No. 4165 of the 92nd Legislature is enacted into law.”.

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

Senator Schauer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

**Roll Call No. 175****Yeas—16**

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

**Nays—22**

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

**Excused—0**

**Not Voting—0**

In The Chair: Birkholz

Senator Schauer offered the following amendment:

1. Amend page 1, line 9, after “act” by inserting “**or as provided under section 6(a)(1) of the fair labor standards act of 1939, 29 USC 206, whichever is greater**”.

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

Senator Schauer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

**Roll Call No. 176****Yeas—16**

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

**Nays—22**

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

**Excused—0****Not Voting—0**

In The Chair: Birkholz

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. 177****Yeas—22**

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

**Nays—16**

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

**Excused—0****Not Voting—0**

In The Chair: Birkholz

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor.

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

“An act to fix minimum wages for employees within this state; to prohibit wage discrimination; to provide for the administration and enforcement of this act; and to prescribe penalties for the violation of this act.”.

The Senate agreed to the full title.

**Protest**

Senator Basham, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of House Bill No. 4160 and moved that the statements he made during the discussion of the bill be printed as his reasons for voting “no.”

The motion prevailed.

Senator Basham’s first statement is as follows:

I hope we are not talking about sending—and we are talking about minimum wage being \$5.15 an hour. When I have my grandkids help me rake leaves, I pay them more than that. So it’s certainly not a living wage. This legislation takes away the right of a local community to pass a living wage—a local community like the city of Lansing, which is a very progressive community.

In fact, you’ve heard the stats from my good colleague from Battle Creek, but again, we aren’t talking about Mexican wages here. We’re talking about a living wage, and when people don’t make a living wage, they live, in fact, in poverty. That’s what we are talking about here as heading the state in the wrong direction, taking away rights of local communities, passing legislation that hurts small businesses, and passing legislation that does nothing. But again, I guess pre-emption is what it’s all about. Certainly, there are probably enough votes here to pass this legislation in the Senate, but this is certainly a bill that deserves a veto because certainly it takes away a person who’s struggling, needing a hand up, not a handout. They need a little help in life; they certainly need better wages than \$5.15 an hour. Again, that’s a wage that you don’t even pay a kid who’s raking leaves.

I would encourage opposition to this bill, strong opposition. This is not something we should even be talking about in the Senate, much less voting on.

Senator Basham’s second statement is as follows:

I would like to comment relative to my colleague’s remarks across the aisle. You don’t get an abortion if you’re not pregnant. This is certainly not prevention. This is certainly asking for legislation that’s not demanded and not needed. There’s no public outcry from local communities to ask you to support this legislation.

Senators Schauer, Cassis and Allen asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Schauer’s statement is as follows:

I voted against this bill in committee and I’ll be voting “no” here on the floor. This bill is yet another Republican solution in search of a problem. House Bill No. 4160 is a clear attack, and I want to rebut through you to the comments

of the previous speaker. It's a clear attack on local control and micromanages our local communities and local units of government. House Bill No. 4160 prohibits local governments from having their own minimum wage laws, and to me, it is very unclear how it would affect local prevailing wage and living wage ordinances. Language was added as lipstick to apparently fix this bill, but I have serious reservations as to whether these changes substantially fix this bill. I believe that they do not.

But aside from that major question, this problem would affect communities like Lansing—and we heard from Mayor Benavides in committee—communities like Ypsilanti, Eastpointe, Ferndale, Ann Arbor, Pittsfield Township, Detroit, perhaps one of yours. Guess what? There are no Michigan communities with their own minimum wage laws. Not only that, but there are no such laws even being proposed. What then is the purpose of this bill? When it left the House, it clearly prohibited living wage laws as well as prevailing wage laws. I believe that it continues to do that. Living wage says that if you're being paid with local tax dollars, you must pay your employees a living wage. I want to put this into perspective, since we are talking about jobs and our economy. Most consider a living wage, at least when including it for jobs that include health care benefits, \$8.50 per hour. That's about \$17,000 a year. Nearly 10 percent of Michigan's residents live under the federal poverty level, which in 2002 was approximately \$18,000 a year for a family of four. So we are talking about a living wage that for many families is a poverty wage. We can argue here in Lansing whether or not this is living wages, prevailing wages are good public policy, but the bottom line is for local communities, it's their tax dollars. It's their local decision.

In committee I expressed grave concerns about how this bill really is patronizing to local units of government. It is sad that we should express some such distrust of local government and local control. No Michigan cities are proposing these minimum wage laws, but if we pass this bill, we are going to authorize a pre-emptive strike on their democratically elected mayors and councils to stop them. I would strongly urge a "no" vote of this bad public policy. But, Madam President and colleagues, the good thing about this bill, even while attempting to give it a positive appearance, it really does very, very little. The bad thing is that everything that it does do is wrong. I encourage my colleagues to vote "no."

Senator Cassis' first statement is as follows:

Once again our state Senate is focused on job retention and job creation—fighting for every single Michigan job, which is so fundamental to keeping and providing work for those who want to work. This bill allows local control and decision-making to act in their own best interest and the best interests of their taxpayers. And importantly, it strengthens Michigan economic competitiveness. Cost-effectiveness leads to more workers working, more businesses staying in our communities, and after all is said and done, isn't that Michigan's goal, one we all can agree on? I urge passage of House Bill No. 4160, which is pro-worker and pro-jobs.

Senator Cassis' second statement is as follows:

I rise in response to the good Senator from Battle Creek. Let's recall that our Governor just last week said, in announcing an executive directive, that currently there are no funds, state or federal, going toward outsourcing, but she urged prevention. She urged prevention. So today, we, too, urge prevention. We support the Governor in prevention for very, very good reasons in this respect. We want to keep Michigan's economy strong, growing, and competitive.

Senator Allen's statement is as follows:

I rise to ask for this body's support of House Bill No. 4160 and ask the members to talk about what we are facing today—Michigan is in a jobs crisis. Jobs are needed to be created throughout this state. As a small entrepreneur and as an individual who runs a family business, I look at municipalities as a key to the renaissance of Michigan; trying to create a community that is pro-investment, pro-commerce, and pro-downtowns. One of the things that the Governor's land use report came out with and talked about was the aspect of creating a level playing field. I believe in Chapter 4 they talked about the ability to address existing barriers to downtown revitalization. Further on, they talked about the process of streamlining state and local government financial assistance and regulatory programs to support better land use. I can tell you that as multi-state companies are looking to invest in their communities, they are looking for a level playing field. This legislation allows communities to continue to be able to have a living wage that they are paid for their different contracts, but it does allow the small business, the medium-size entrepreneur, to have a level playing field in regards to the types of investments they're going to be making. I also think that a good ounce of prevention is worth a pound of cure. I'm very glad we are making this pre-emptive strike because I think it is very critical for the economic health of Michigan, primarily in its downtowns. I ask this esteemed group of individuals to support this legislation.

By unanimous consent the Senate returned to the order of

### Messages from the Governor

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

**Senate Bill No. 195**

**Senate Bill No. 364**

**Senate Bill No. 293**  
**Senate Bill No. 265**  
**Senate Bill No. 288**  
**Senate Bill No. 540**  
**Senate Bill No. 283**  
**Senate Bill No. 464**  
**Senate Bill No. 466**  
**Senate Bill No. 395**  
**Senate Bill No. 474**  
**Senate Bill No. 840**  
**Senate Bill No. 785**

The motion prevailed.

The following messages from the Governor were received:

Date: March 26, 2004

Time: 11:45 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

**Enrolled Senate Bill No. 498 (Public Act No. 34), being**

An act 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 section 11514 (MCL 324.11514); and to repeal acts and parts of acts.

(Filed with the Secretary of State on March 29, 2004, at 10:00 a.m.)

Date: March 26, 2004

Time: 11:47 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

**Enrolled Senate Bill No. 497 (Public Act No. 35), being**

An act 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 section 11502 (MCL 324.11502), as amended by 1996 PA 359.

(Filed with the Secretary of State on March 29, 2004, at 10:02 a.m.)

Date: March 26, 2004

Time: 11:49 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

**Enrolled Senate Bill No. 57 (Public Act No. 36), being**

An act 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,” (MCL 324.101 to 324.90106) by adding section 11526c.

(Filed with the Secretary of State on March 29, 2004, at 10:04 a.m.)

Date: March 26, 2004  
Time: 11:51 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

**Enrolled Senate Bill No. 502 (Public Act No. 37), being**

An act 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,” (MCL 324.101 to 324.90106) by adding section 11526b.

(Filed with the Secretary of State on March 29, 2004, at 10:06 a.m.)

Date: March 26, 2004  
Time: 11:55 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

**Enrolled Senate Bill No. 506 (Public Act No. 38), being**

An act 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,” (MCL 324.101 to 324.90106) by adding section 11511a; and to repeal acts and parts of acts.

(Filed with the Secretary of State on March 29, 2004, at 10:08 a.m.)

Date: March 26, 2004  
Time: 11:57 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

**Enrolled Senate Bill No. 557 (Public Act No. 39), being**

An act 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 section 11507a (MCL 324.11507a), as amended by 2003 PA 153.

(Filed with the Secretary of State on March 29, 2004, at 10:10 a.m.)

Date: March 26, 2004  
Time: 3:25 p.m.

To the President of the Senate:

Sir—I have this day approved and signed

**Enrolled Senate Bill No. 500 (Public Act No. 41), being**

An act 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 section 11546 (MCL 324.11546).

(Filed with the Secretary of State on March 29, 2004, at 10:14 a.m.)

Date: March 26, 2004  
Time: 3:30 p.m.

To the President of the Senate:

Sir—I have this day approved and signed

**Enrolled Senate Bill No. 499 (Public Act No. 43), being**

An act 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 section 11526 (MCL 324.11526).

(Filed with the Secretary of State on March 29, 2004, at 10:18 a.m.)

Date: March 26, 2004  
Time: 3:31 p.m.

To the President of the Senate:

Sir—I have this day approved and signed

**Enrolled Senate Bill No. 715 (Public Act No. 44), being**

An act 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 11533 and 11538 (MCL 324.11533 and 324.11538).

(Filed with the Secretary of State on March 29, 2004, at 10:20 a.m.)

Respectfully,  
Jennifer M. Granholm  
Governor

The following messages from the Governor were received and read:

March 25, 2004

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointment to state office under Section 6103 of the Insurance Code of 1956, 1956 PA 218, MCL 500.6103:

**Automobile Theft Prevention Authority Board of Directors**

Ms. Ella M. Bully-Cummings of 277 Leeward Court, Detroit, Michigan 48207, county of Wayne, succeeding Chief Jerry Oliver, who has resigned, representing law enforcement, for a term commencing March 25, 2004 and expiring July 1, 2006.

March 25, 2004

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointment to state office under Section 4 of 1973 PA 196, MCL 15.344:

**Board of Ethics**

Mr. Frank J. Kelley, a Democrat, of 101 South Washington Square, Lansing, Michigan 48933, county of Ingham, appointed to succeed Sheriff Thomas T. Kern, whose term has expired, for a term commencing March 25, 2004 and expiring February 7, 2008.

Sincerely,  
Jennifer M. Granholm  
Governor

The appointments were referred to the Committee on Government Operations.

By unanimous consent the Senate returned to the order of

**Messages from the House**

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

**Senate Bill No. 806**

**Senate Bill No. 824**



**Senate Bill No. 350**

**Senate Bill No. 206**

The motion prevailed.

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

**Senate Bill No. 432, entitled**

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 73, 283, 393, 499, 509m, 509n, 509t, 509aa, 686, 735, 795, 798c, 799a, 803, and 842 (MCL 168.73, 168.283, 168.393, 168.499, 168.509m, 168.509n, 168.509t, 168.509aa, 168.686, 168.735, 168.795, 168.798c, 168.799a, 168.803, and 168.842), sections 73, 283, 393, 509n, and 686 as amended by 1999 PA 216, section 499 as amended by 1995 PA 213, sections 509m and 509aa as added by 1994 PA 441, section 509t as amended by 1998 PA 21, section 795 as amended by 2002 PA 91, section 798c as amended by 1990 PA 109, and sections 799a and 803 as amended by 1997 PA 137, and by adding sections 18, 523a, 813, and 829; and to repeal acts and parts of acts.

(The House substitute, as amended, was concurred earlier today and consideration postponed. See p. 498.)

Senator Hammerstrom offered to amend the title to read as follows:

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 73, 283, 393, 499, 509m, 509n, 509t, 509aa, 662, 727, 735, 795, 798c, 799a, 803, and 842 (MCL 168.73, 168.283, 168.393, 168.499, 168.509m, 168.509n, 168.509t, 168.509aa, 168.662, 168.727, 168.735, 168.795, 168.798c, 168.799a, 168.803, and 168.842), sections 73, 283, and 393 as amended by 1999 PA 216, section 499 as amended by 1995 PA 213, sections 509m and 509aa as added by 1994 PA 441, section 509n as amended by 2003 PA 302, section 509t as amended by 1998 PA 21, section 662 as amended by 2004 PA 13, section 727 as amended by 1995 PA 261, section 795 as amended by 2002 PA 91, section 798c as amended by 1990 PA 109, and sections 799a and 803 as amended by 1997 PA 137, and by adding sections 18, 523a, 813, and 829; and to repeal acts and parts of acts.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

**Senate Bill No. 635, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 21311 (MCL 333.21311), as amended by 1984 PA 311.

Substitute (H-2).

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. 178**

**Yeas—37**

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

**Nays—0**

**Excused—0**

**Not Voting—1**

Emerson

In The Chair: Birkholz

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. 702, entitled**

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 23d of chapter X (MCL 710.23d), as amended by 1996 PA 409.

Substitute (H-1).

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. 179**

**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: Birkholz

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. 339, entitled**

A bill to amend 1970 PA 169, entitled "Local historic districts act," by amending sections 1a and 5 (MCL 399.201a and 399.205), as amended by 2001 PA 67.

The House of Representatives has passed the bill, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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. 612, entitled**

A bill to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to

create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," by amending section 10a (MCL 460.10a), as added by 2000 PA 141.

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 amended the title to read as follows:

A bill to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," by amending section 10a (MCL 460.10a), as amended by 2003 PA 214.

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

#### **Senate Bill No. 637, entitled**

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 703 (MCL 436.1703), as amended by 1999 PA 53.

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.

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

#### **Senate Bill No. 742, entitled**

A bill to amend 1972 PA 230, entitled "Stille-DeRossett-Hale single state construction code act," (MCL 125.1501 to 125.1531) by adding section 4c.

The House of Representatives has passed the bill, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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

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

The Senate agreed to the full title.

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

#### **House Bill No. 5120, entitled**

A bill to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts

inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending sections 1d, 65, 310d, 319b, 320a, 321a, 625, 625b, 627, 727, 732, 733, and 907 (MCL 257.1d, 257.65, 257.310d, 257.319b, 257.320a, 257.321a, 257.625, 257.625b, 257.627, 257.727, 257.732, 257.733, and 257.907), section 1d as added and sections 310d and 625 as amended by 2003 PA 61, section 65 as amended by 1994 PA 449, sections 319b and 732 as amended by 2002 PA 534, sections 320a and 627 as amended by 2003 PA 315, section 321a as amended by 2002 PA 741, section 625b as amended by 1998 PA 357, section 727 as amended by 1998 PA 348, section 733 as amended by 1994 PA 50, and section 907 as amended by 2003 PA 73, and by adding section 79e; and to repeal acts and parts of acts.

The House of Representatives has substituted (H-3) to the Senate substitute (S-3).

The House of Representatives has concurred in the Senate substitute (S-3) as substituted (H-3), ordered that the bill be given immediate effect and agreed to the full title.

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

By unanimous consent the Senate returned to the order of

### Third Reading of Bills

The following bill was read a third time:

#### House Bill No. 5344, entitled

A bill to amend 1992 PA 147, entitled “Neighborhood enterprise zone act,” by amending section 4 (MCL 207.774), as amended by 2003 PA 199.

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. 180

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: Birkholz

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

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

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

“An act to provide for the development and rehabilitation of residential housing; to provide for the creation of neighborhood enterprise zones; to provide for obtaining neighborhood enterprise zone certificates for a period of time and to prescribe the contents of the certificates; to provide for the exemption of certain taxes; to provide for the levy and collection of a specific tax on the owner of certain facilities; and to prescribe the powers and duties of certain officers of the state and local governmental units.”.

The Senate agreed to the full title.

The following bill was read a third time:

**Senate Bill No. 1073, entitled**

A bill to amend 1976 PA 451, entitled “The revised school code,” by amending section 1246 (MCL 380.1246), as amended by 1995 PA 289.

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. 181**

**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: Birkholz

The Senate agreed to the title of the bill.

By unanimous consent the Senate returned 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 pro tempore, Senator Birkholz, designated Senator Brater 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:

**House Bill No. 5670, entitled**

A bill to amend 1969 PA 306, entitled “Administrative procedures act of 1969,” by amending sections 24, 41, 42, 45, 45a, 51, and 52 (MCL 24.224, 24.241, 24.242, 24.245, 24.245a, 24.251, and 24.252), sections 24, 41, 42, 45, 45a, and 52 as amended by 2004 PA 23.

**Senate Bill No. 991, entitled**

A bill to amend 1945 PA 47, entitled “An act to authorize 2 or more cities, townships, and villages, or any combination of cities, townships, and villages, to incorporate a hospital authority for planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining, and operating 1 or more community hospitals and related buildings or structures and related facilities; to provide for the sale, lease, or other transfer of a hospital owned by a hospital authority to a nonprofit corporation established under the laws of this state for no or nominal monetary

consideration; to define hospitals and community hospitals; to provide for changes in the membership therein; to authorize the cities, townships, and villages to levy taxes for community hospital purposes; to provide for the issuance of bonds; to provide for the pledge of assessments; to provide for borrowing money for operation and maintenance and issuing notes for operation and maintenance; to validate elections heretofore held and notes heretofore issued; to validate bonds heretofore issued; to authorize condemnation proceedings; to grant certain powers of a body corporate; to validate and ratify the organization, existence, and membership of entities acting as hospital authorities under the act and the actions taken by hospital authorities and by the members of the hospital authorities; and to prescribe penalties and provide remedies," by amending section 2 (MCL 331.2).

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. 222, entitled**

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding section 1163. Substitute (S-4).

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

1. Amend page 2, line 3, after "**series**" by inserting a comma and "**or the character unlimited program**".

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

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

**Senate Resolution No. 175**

**Senate Resolution No. 139**

The motion prevailed.

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

**Senate Resolution No. 232**

**Senate Resolution No. 233**

The resolution consent calendar was adopted.

Senator Jacobs offered the following resolution:

**Senate Resolution No. 232.**

A resolution to proclaim May Day, May 1, 2004, as Millie Jeffrey Day in Michigan to honor her lifetime contribution to social justice and equality.

Whereas, Mildred McWilliams Jeffrey was born in Alton, Iowa, on December 29, 1910, into a family of independent and hardworking women; and

Whereas, Her grandmother ran the family farm and raised 16 children after losing her husband; and

Whereas, Millie's mother raised seven children, became Iowa's first registered pharmacist, and remained determined that all her children would attend college; and

Whereas, Millie Jeffrey's fight for social justice began at age 17 when she joined the left-leaning Women's International League for Peace and Freedom and the very liberal YWCA as a student at the University of Minnesota; and

Whereas, Millie was exuberant, dynamic, tenacious, and, while diminutive in size, mighty in stature; and

Whereas, During the next seven decades, she would fight tirelessly against exploitation and for opportunity, against discrimination and for equality; and

Whereas, After earning a master's degree from Bryn Mawr College Department of Social Economy and Social Research, she worked briefly as an investigator for the National Recovery Administration. She then accepted a job organizing for the Amalgamated Clothing Workers of America recruiting millworkers, along with fellow organizer Homer Newman Jeffrey; and

Whereas, In 1936, she married Homer Newman Jeffrey and traveled with him throughout the South organizing textile workers until World War II, when they moved to Washington, D.C., as consultants to the War Labor Board, where they met the Reuther brothers; and

Whereas, In 1944, the Jeffreys moved to Detroit where Millie accepted a job as director of the newly formed UAW Women's Bureau, as the first female UAW department head, and where, in 1948, she began work on the Equal Rights Amendment; and

Whereas, Millie continued her career with the UAW that included management of the union's radio station, director of the Community Relations Department, and director of the Consumer Affairs Department, where she served from 1968 until her retirement in 1976; and

Whereas, While her Democratic Party grassroots political activism had begun upon her arrival in Detroit, it was not until 1974 that she ran for political office herself and was elected to the Wayne State University Board of Governors, an office she held for 16 years; and

Whereas, She was an original board member of the Michigan Women's Foundation and a founding member and chair of NOW's National Women's Political Caucus, supporting female candidates for political office; and

Whereas, After her retirement from the UAW, Millie continued her work on behalf of civil rights, workers' rights, women's rights, gay rights, education, health care, youth employment, and recreation, earning numerous awards, commendations, and distinctions; and

Whereas, She marched with the Rev. Martin Luther King, Jr.; advised UAW President Walter Reuther; counted Hubert Humphrey and Geraldine Ferrero among her good friends; and served on national commissions during the Kennedy and Carter administrations; and

Whereas, In 2000, Millie's work was honored by then-President Bill Clinton when he presented her with the Presidential Medal of Freedom, the nation's highest civilian award; and

Whereas, In her words, "You never win freedom permanently. You have to win it time after time...whether it's union rights, civil rights, or equality for women. We have to keep at it and at it"; and

Whereas, In a 2001 interview with the University of Minnesota College of Liberal Arts magazine, Millie expressed impatience with those who tried to analyze her extraordinary character and inner motives, snapping "I just DO it"; and

Whereas, She also indicated no interest in slowing down, bluntly stating, "I'll retire when I die"; now, therefore, be it

Resolved by the Senate, That since Millie Jeffrey has now officially "retired," we hereby honor her monumental contributions to social justice by declaring May Day, May 1, 2004, as Millie Jeffrey Day in Michigan; and be it further

Resolved, That Millie Jeffrey will continue to remind us that we must "keep at it and at it" until the good work is done; and be it further

Resolved, That a copy of this resolution be transmitted to the Governor of the state of Michigan and the family of Millie Jeffrey in deepest and profound appreciation of her lifetime of service and her contribution to equality and justice for all people.

Senators Basham, Bernero, Cherry, Clark-Coleman, Clarke, Johnson, Leland, Olshove, Prusi, Schauer, Scott, Switalski, Thomas, Toy and Van Woerkom were named co-sponsors of the resolution.

Senators George, Van Woerkom, Brown, Hardiman, Kuipers, Sikkema, Toy, McManus, Patterson, Birkholz, Brater and Clarke offered the following resolution:

**Senate Resolution No. 233.**

A resolution commemorating the 100th Anniversary and Rededication of the Michigan Monument at Andersonville National Historic Site.

Whereas, It is with great admiration and gratitude for the tremendous sacrifices that Michigan soldiers have made as prisoners of war throughout many generations that the Michigan Senate commemorates the 100th Anniversary and Rededication of the Michigan Monument at Andersonville National Historic Site. It is fitting that we honor those who have given so much for the cause of freedom; and

Whereas, Andersonville, or Camp Sumter as it was officially known, was one of the largest of many Confederate military prisons established during the Civil War. It was built in 1864, and during the 14 months the prison existed, more than 45,000 Union soldiers were confined there. Almost 13,000 of those soldiers died from disease, poor sanitation, malnutrition, overcrowding, and exposure to the elements; and

Whereas, There are over 640 Michigan soldiers buried at Andersonville. In 1902, Dr. J.A. Griffen, a member of the Grand Army of the Republic (GAR) and former prisoner at Andersonville, passionately led an undertaking to honor the Michigan dead with a monument. The Michigan Legislature appropriated \$6,000 for the creation of the monument, and Governor Bliss signed the bill, approving the project; and

Whereas, The Michigan Monument, made of Vermont granite, was inscribed with the words "In Memoriam" and "Erected by the State of Michigan to her soldiers and sailors who were imprisoned on these grounds"; and

Whereas, On May 28, 1904, a special train left Detroit for Georgia to share in ceremonies for the original dedication for the Michigan Monument at the Andersonville National Historic Site in Andersonville, Georgia. Included in the contingent of prominent Michiganders were Governor Bliss and his military staff, the President of the Senate, the Speaker of the House of Representatives, and a committee of three from the Senate and six from the House of Representatives, as well as numerous family members and several veterans from the Civil War; and

Whereas, 100th Anniversary plans are now being made to rededicate the Michigan Monument on Sunday, May 30, 2004, with a GAR ceremony honoring Michigan's prisoners of war; now, therefore, be it

Resolved by the Senate, That we hereby commemorate the 100th Anniversary and Rededication of the Michigan Monument at Andersonville National Historic Site; and be it further

Resolved, That we proudly join in honoring all Michigan soldiers who were prisoners of war, especially those for whom Andersonville became their final resting place, and pay tribute to them for their bravery and dedication to liberty for all; and be it further

Resolved, That a copy of this resolution be transmitted to the Michigan Department Commander of the Sons of Union Veterans of the Civil War as evidence of our highest esteem and heartfelt gratitude.

Senators Basham, Bernero, Cherry, Cropsey, Garcia, Jacobs, Leland, Prusi, Schauer, Switalski and Thomas were named co-sponsors of the resolution.

Senators Patterson and Basham offered the following resolution:

**Senate Resolution No. 234.**

A resolution to memorialize the Congress of the United States to provide funding for the dredging of canals around the city of Gibraltar.

Whereas, The city of Gibraltar in Wayne County is a unique community, with more than five miles of canals bisecting the city and its four islands of residences. These public transportation routes include access to public and private facilities, including boat ramps and marinas. Thousands of people use the canals each year; and

Whereas, With no dredging of the Gibraltar canals since the late 1950s, the use of the canals is today significantly threatened by the buildup of sediment throughout the system. Boating traffic is hampered by the buildup. The task of dealing with the Gibraltar canals is made more complex by the results of testing that has identified contamination in the sediment. This fact will greatly increase the costs of dredging and disposal of the sediment; and

Whereas, The costs of dredging the canals is far beyond the resources available within the community of Gibraltar, and the canals are available to and used by many more people than residents of Gibraltar. This work clearly needs to be completed. The Gibraltar canals are notable components of the Detroit River system, and maintaining the quality of the canals is work that is strongly related to the quality of this vital part of our water transportation network. It is essential that necessary resources be directed to this task; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to provide funding for the dredging of canals around the city of Gibraltar; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

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

Senator Hammerstrom moved that the resolution be referred to the Committee on Natural Resources and Environmental Affairs.

The motion prevailed.

Senators Birkholz, Clarke, Jacobs, Switalski, Thomas, Toy and Van Woerkom were named co-sponsors of the resolution.

Senators Patterson and Basham offered the following concurrent resolution:

**Senate Concurrent Resolution No. 41.**

A concurrent resolution to memorialize the Congress of the United States to provide funding for the dredging of canals around the city of Gibraltar.

Whereas, The city of Gibraltar in Wayne County is a unique community, with more than five miles of canals bisecting the city and its four islands of residences. These public transportation routes include access to public and private facilities, including boat ramps and marinas. Thousands of people use the canals each year; and

Whereas, With no dredging of the Gibraltar canals since the late 1950s, the use of the canals is today significantly threatened by the buildup of sediment throughout the system. Boating traffic is hampered by the buildup. The task of dealing with the Gibraltar canals is made more complex by the results of testing that has identified contamination in the sediment. This fact will greatly increase the costs of dredging and disposal of the sediment; and

Whereas, The costs of dredging the canals is far beyond the resources available within the community of Gibraltar, and the canals are available to and used by many more people than residents of Gibraltar. This work clearly needs to be completed. The Gibraltar canals are notable components of the Detroit River system, and maintaining the quality of the canals is work that is strongly related to the quality of this vital part of our water transportation network. It is essential that necessary resources be directed to this task; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we memorialize the Congress of the United States to provide funding for the dredging of canals around the city of Gibraltar; and be it further



Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

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 Natural Resources and Environmental Affairs.

The motion prevailed.

Senators Birkholz, Clarke, Jacobs, Switalski, Thomas, Toy and Van Woerkom were named co-sponsors of the concurrent resolution.

### Introduction and Referral of Bills

Senators Bernero, George, Thomas, Schauer, Jacobs and Hammerstrom introduced

**Senate Bill No. 1129, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 5114 and 5114a (MCL 333.5114 and 333.5114a), as added by 1988 PA 489.

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

Senators Brown, Jelinek, Barcia, McManus and Gilbert introduced

**Senate Bill No. 1130, entitled**

A bill to amend 1978 PA 361, entitled "Michigan exposition and fairgrounds act," by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14a, and 15a (MCL 285.161, 285.162, 285.163, 285.164, 285.165, 285.166, 285.167, 285.168, 285.169, 285.170, 285.171, 285.172, 285.173, 285.174a, and 285.175a), sections 2, 5, 6, 7, 8, 9, and 11 as amended and sections 14a and 15a as added by 2000 PA 39.

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

Senators Brown, Jelinek, Barcia, Van Woerkom, McManus and Gilbert introduced

**Senate Bill No. 1131, entitled**

A bill to amend 1978 PA 361, entitled "Michigan exposition and fairgrounds act," by amending sections 2, 9, and 11 (MCL 285.162, 285.169, and 285.171), as amended by 2000 PA 39.

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

Senators Toy and George introduced

**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.

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

Senator Birkholz introduced

**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.

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

Senators George and Toy introduced

**Senate Bill No. 1134, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 20514, 20515, and 20516.

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

Senator Garcia introduced

**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.

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

Senator Hammerstrom introduced

**Senate Bill No. 1136, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 20505, 20506, 20507, 20508, and 20509.

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. 5648, entitled**

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 18 and 18m of chapter XIIA (MCL 712A.18 and 712A.18m), section 18 as amended and section 18m as added by 2003 PA 71.

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.

**House Bill No. 5666, entitled**

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending section 101 (MCL 388.1701), as amended by 2003 PA 158.

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 Education.

### Statements

Senator Garcia stated that had he been present on March 24 when the votes were taken on concurring in the House substitute to the following bills, he would have voted "yea":

**Senate Bill No. 189**

**Senate Bill No. 829**

Senator Garcia stated that had he been present on March 24 when the votes were taken on the passage of the following bills, he would have voted "yea":

**House Bill No. 5280**

**House Bill No. 5104**

**Senate Bill No. 1032**

**House Bill No. 4179**

**House Bill No. 5184**

Senator Garcia stated that had he been present on March 24 when the votes were taken on the adoption of the following resolutions, he would have voted "yea":

**Senate Concurrent Resolution No. 10**

**Senate Resolution No. 22**

Senator Garcia stated that had he been present on March 25 when the vote was taken on concurring in the House amendments to the following bill, he would have voted "yea":

**House Bill No. 4720**

Senator Garcia stated that had he been present on March 25 when the votes were taken on the passage of the following bills, he would have voted "yea":

**House Bill No. 5479**

**House Bill No. 5480**

**Senate Bill No. 1000**

**House Bill No. 5119**

**House Bill No. 5117**

**Senate Bill No. 1093**

**Senate Bill No. 1026**  
**House Bill No. 4702**  
**Senate Bill No. 998**  
**Senate Bill No. 999**

Senator Garcia stated that had he been present on March 25 when the vote was taken on the adoption of the amendments offered by Senator Brater to the following bill, he would have voted “nay”:

**House Bill No. 4702**

Senator Garcia stated that had he been present on March 25 when the vote was taken on the adoption of the following resolution, he would have voted “yea”:

**Senate Resolution No. 224**

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

The motion prevailed.

Senator Scott’s statement is as follows:

I rise today to continue my campaign for fair and equal treatment in the insurance industry. As you all know, I have been persistent in my call to action. I again am urging the chair of the Senate Banking and Financial Institutions Committee to take up Senate Bill No. 1099, and allow this important piece of legislation to proceed in the legislative process.

On a similar but different issue today, I had on my desk two bluebacks that require insurance to deal fairly and in good faith with individuals claiming benefits. The bills would hold insurance companies liable for damages which result from the unfair denial or delay of claims. Similar legislation has been introduced in previous sessions, and identical bills are now pending in the Michigan House of Representatives. The bills would address concerns that are raised during the Senate Democratic Consumer Protection Task Force on Insurance Industry Reform, of which I was co-chair. At task force hearings, many shared their concerns regarding claims handling by some insurance companies that have left certain policyholders at a disadvantage, given that currently there is no economic penalty for insurance companies that engage in the practice of unfairly or unjustly denying claims. I’m happy that many of you join me in addressing this matter by co-sponsoring this legislation. I look forward to a timely hearing on these bills as well.

I also want to say that on Senate Bill No. 252, the NPDES permit fees, I voted “no” on that bill because we again continue to charge Detroiters against the farmers. So we raise the farmers, and we have the Detroiters to subsidize that.

### **Committee Reports**

The Committee on Appropriations reported

**Senate Bill No. 1066, entitled**

A bill to make appropriations for the department of environmental quality for the fiscal year ending September 30, 2005; to provide for the expenditure of the appropriations; and to provide for the disposition of fees and other income received by the various state agencies.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

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

Shirley Johnson  
 Chairperson

To Report Out:

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

Nays: None

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

The Committee on Appropriations reported

**Senate Bill No. 1069, entitled**

A bill to amend 1979 PA 94, entitled “The state school aid act of 1979,” by amending sections 11 and 17b (MCL 388.1611 and 388.1617b), section 11 as amended by 2003 PA 236 and section 17b as amended by 2000 PA 297.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

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

Shirley Johnson  
 Chairperson

## To Report Out:

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

Nays: None

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

## COMMITTEE ATTENDANCE REPORT

The Committee on Appropriations submitted the following:

Meeting held on Wednesday, March 24, 2004, at 2:15 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Johnson (C), Stamas, Brown, Goschka, Cropsey, Jelinek, McManus, Hardiman, George, Prusi, Barcia, Scott, Cherry, Clarke and Switalski

Excused: Senator Garcia

The Committee on Commerce and Labor reported

**House Bill No. 5445, entitled**

A bill to amend 1975 PA 228, entitled "Single business tax act," by amending section 37c (MCL 208.37c), as amended by 2003 PA 251.

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.

Jason E. Allen  
Chairperson

## To Report Out:

Yeas: Senators Allen, Kuipers, Schauer and Olshove

Nays: None

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

## COMMITTEE ATTENDANCE REPORT

The Committee on Commerce and Labor submitted the following:

Meeting held on Wednesday, March 24, 2004, at 2:00 p.m., Room 110, Farnum Building

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

Excused: Senator McManus

The Committee on Local, Urban and State Affairs reported

**House Bill No. 5200, entitled**

A bill to designate October 28, 2003 as Willie Horton day in the state of Michigan.

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.

Laura M. Toy  
Chairperson

## To Report Out:

Yeas: Senators Toy, Birkholz, Goschka, Basham and Bernero

Nays: None

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

The Committee on Local, Urban and State Affairs reported

**House Bill No. 5365, entitled**

A bill to repeal 1905 LA 653, entitled "An act to provide the manner of voting by the members of the board of supervisors of Saginaw county."

With the recommendation that the bill pass.

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

Laura M. Toy  
Chairperson

## To Report Out:

Yeas: Senators Toy, Birkholz, Goschka, Basham and Bernero

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Local, Urban and State Affairs reported

**House Bill No. 5641, 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 17 (MCL 46.17); and to repeal acts and parts of acts.

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.

Laura M. Toy  
Chairperson

## To Report Out:

Yeas: Senators Toy, Birkholz, Goschka, Basham and Bernero

Nays: None

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

The Committee on Local, Urban and State Affairs reported

**Senate Bill No. 850, entitled**

A bill to amend 1984 PA 431, entitled "The management and budget act," (MCL 18.1101 to 18.1594) by adding section 283a.

With the recommendation that the bill pass.

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

Laura M. Toy  
Chairperson

## To Report Out:

Yeas: Senators Toy, Birkholz and Goschka

Nays: Senators Basham and Bernero

The bill was referred to the Committee of the Whole.

The Committee on Local, Urban and State Affairs reported

**Senate Bill No. 851, entitled**

A bill to amend 1978 PA 390, entitled "An act to regulate the time and manner of payment of wages and fringe benefits to employees; to prescribe rights and responsibilities of employers and employees, and the powers and duties of the department of labor; to require keeping of records; to provide for settlement of disputes regarding wages and fringe benefits; to prohibit certain practices by employers; to prescribe penalties and remedies; and to repeal certain acts and parts of acts," by amending section 6 (MCL 408.476).

With the recommendation that the bill pass.

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

Laura M. Toy  
Chairperson

## To Report Out:

Yeas: Senators Toy, Birkholz and Goschka

Nays: Senators Basham and Bernero

The bill was referred to the Committee of the Whole.

## COMMITTEE ATTENDANCE REPORT

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

Meeting held on Thursday, March 25, 2004, at 1:00 p.m., Room 110, Farnum Building

Present: Senators Toy (C), Birkholz, Goschka, Basham and Bernero

The Committee on Appropriations reported  
**Senate Bill No. 1064, entitled**

A bill to make appropriations for the department of corrections and certain state purposes related to adult corrections for the fiscal year ending September 30, 2005; to provide for the expenditure of the appropriations; and to provide for the disposition of fees and other income received by state agencies.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

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

Shirley Johnson  
 Chairperson

To Report Out:

Yeas: Senators Johnson, Stamas, Brown, Goschka, Cropsey, Jelinek, McManus, Hardiman and George

Nays: Senators Prusi, Barcia, Scott, Cherry, Clarke and Switalski

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

#### COMMITTEE ATTENDANCE REPORT

The Committee on Appropriations submitted the following:

Meeting held on Thursday, March 25, 2004, at 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Johnson (C), Stamas, Brown, Goschka, Cropsey, Jelinek, McManus, Hardiman, George, Prusi, Barcia, Scott, Cherry, Clarke and Switalski

Excused: Senator Garcia

The Committee on Education reported

**House Bill No. 5087, entitled**

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1179 (MCL 380.1179), as added by 2000 PA 10.

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.

Wayne Kuipers  
 Chairperson

To Report Out:

Yeas: Senators Kuipers, Cassis, Van Woerkom and Clark-Coleman

Nays: None

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

The Committee on Education reported

**Senate Bill No. 1100, entitled**

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending section 101 (MCL 388.1701), as amended by 2003 PA 158.

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.

Wayne Kuipers  
 Chairperson

To Report Out:

Yeas: Senators Kuipers, Cassis, Van Woerkom and Clark-Coleman

Nays: None

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

#### COMMITTEE ATTENDANCE REPORT

The Committee on Education submitted the following:

Meeting held on Thursday, March 25, 2004, at 2:00 p.m., Room 210, Farnum Building

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

Excused: Senator Leland

## COMMITTEE ATTENDANCE REPORT

The Michigan Capitol Committee submitted the following:

Meeting held on Tuesday, March 23, 2004, at 12:05 p.m., Room H-41, Capitol Building

Present: Senators George (C), Toy and Garcia

Excused: Senator Schauer

## COMMITTEE ATTENDANCE REPORT

The Subcommittee on Family Independence Agency submitted the following:

Meeting held on Thursday, March 25, 2004, at 8:30 a.m., Room 210, Farnum Building

Present: Senators Hardiman (C), George and Scott

## COMMITTEE ATTENDANCE REPORT

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

Meeting held on Thursday, March 25, 2004, at 9:00 a.m., Room 110, Farnum Building

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

Excused: Senators Brater and Thomas

**Scheduled Meetings****Appropriations -****Subcommittees -**

**Family Independence Agency** - Thursday, April 1, 8:30 a.m., Room 210, Farnum Building (373-1801)

**General Government** - Tuesdays, April 27, May 4, May 11 and May 18, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2420)

**State Police and Military Affairs** - Tuesdays, April 20, April 27, May 4 and May 11, 1:00 p.m., Room 405, Capitol Building (373-5932)

**State Police and Military Affairs and House State Police/Military and Veterans Affairs** - Thursdays, April 22 and April 29, 8:30 a.m., Senate Hearing Room, Ground Floor, Boji Tower (373-5932)

**Economic Development, Small Business and Regulatory Reform** - Wednesday, March 31, 8:30 a.m., Rooms 402 and 403, Capitol Building (373-7670)

**Finance** - Wednesday, March 31, 1:00 p.m., Room 110, Farnum Building (373-1758)

**Health Policy** - Wednesday, March 31, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-3543)

**Technology and Energy** - Wednesday, March 31, 3:00 p.m., Room 210, Farnum Building (373-7350)

Senator Hammerstrom moved that the Senate adjourn.

The motion prevailed, the time being 1:42 p.m.

The Assistant President pro tempore, Senator Sanborn, declared the Senate adjourned until Wednesday, March 31, 2004, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate

