

No. 75
STATE OF MICHIGAN
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REGULAR SESSION OF 2007

Senate Chamber, Lansing, Thursday, July 26, 2007.

10:00 a.m.

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

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

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

Garcia—excused
George—excused
Gilbert—present
Gleason—present
Hardiman—present
Hunter—present
Jacobs—present
Jansen—present
Jelinek—present
Kahn—present
Kuipers—excused
McManus—present
Olshove—present

Pappageorge—present
Patterson—present
Prusi—present
Richardville—present
Sanborn—present
Schauer—present
Scott—present
Stamas—present
Switalski—present
Thomas—present
Van Woerkom—present
Whitmer—present

Senator Jason E. Allen of the 37th District offered the following invocation:

Dear Lord, we bow our heads today in thanks for the many blessings You have bestowed upon us and our state. We thank You for this opportunity to serve the citizens of our great state. Bless our Governor and legislators as we guide our state through these very uncertain times. We ask for comfort and wisdom as we confront the problems that face us all. Please grant us the wisdom, the courage, and compassion to find solutions that are fair and just for all.

Please bless our soldiers, sailors, airmen, and Marines who are overseas.

We ask this all in Your name. Amen.

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

Motions and Communications

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

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

Senator Cropsy moved that Senators Garcia, George and Kuipers be excused from today's session.
The motion prevailed.

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

House Bill No. 4517

House Bill No. 4519

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

Senators Hunter and Gleason entered the Senate Chamber.

Senator Cropsy moved that rule 3.902 be suspended to allow the guests of Senator Cassis admittance to the Senate floor, including the center aisle.

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

Senator Cropsy moved that rule 3.901 be suspended to allow photographs to be taken from the Senate floor, including the center aisle and Gallery.

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

Recess

Senator Cropsy moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 10:07 a.m.

10:16 a.m.

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

During the recess, Senator Cassis introduced the Novi High School Wildcats Girls Soccer Team, 2007 MSHAA Division 1 State Champions, and Coach Brian O'Leary; and presented them with a Special Tribute.

Coach O'Leary responded briefly.

The following communication was received and read:
Office of the Auditor General

July 24, 2007

Enclosed is a copy of the following audit report:

Performance audit of the Mainframe Operating System Controls for the Unemployment Insurance Agency's Information Systems, Department of Information Technology and Department of Labor and Economic Growth.

Sincerely,
Thomas H. McTavish, C.P.A.
Auditor General

The audit report was referred to Committee on Government Operations and Reform.

The Secretary announced that the following official bills were printed on Wednesday, July 25, and are available at the legislative website:

Senate Bill Nos.	644	645	646	647	648	649	650	651	652					
House Bill Nos.	5044	5045	5046	5047	5048	5049	5050	5051	5052	5053	5054	5055	5056	5057
	5058	5059	5060	5061	5062									

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

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

Senate Bill No. 515

Senate Bill No. 540

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 515, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 438 (MCL 206.438), as added by 2004 PA 364.

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. 234

Yeas—33

Allen	Clarke	Jelinek	Sanborn
Anderson	Cropsey	Kahn	Schauer
Basham	Gilbert	McManus	Scott
Birkholz	Gleason	Olshove	Stamas
Bishop	Hardiman	Pappageorge	Switalski
Brown	Hunter	Patterson	Thomas
Cassis	Jacobs	Prusi	Van Woerkom
Cherry	Jansen	Richardville	Whitmer
Clark-Coleman			

Nays—0

Excused—5

Barcia	Garcia	George	Kuipers
Brater			

Not Voting—0

In The Chair: Sanborn

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 540, entitled

A bill to amend 1931 PA 328, entitled “The Michigan penal code,” by amending section 552 (MCL 750.552).

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. 235**Yeas—33**

Allen	Clarke	Jelinek	Sanborn
Anderson	Cropsey	Kahn	Schauer
Basham	Gilbert	McManus	Scott
Birkholz	Gleason	Olshove	Stamas
Bishop	Hardiman	Pappageorge	Switalski
Brown	Hunter	Patterson	Thomas
Cassis	Jacobs	Prusi	Van Woerkom
Cherry	Jansen	Richardville	Whitmer
Clark-Coleman			

Nays—0**Excused—5**

Barcia	Garcia	George	Kuipers
Brater			

Not Voting—0

In The Chair: Sanborn

The Senate agreed to the title of the bill.

By unanimous consent the Senate proceeded to the order of

General Orders

Senator Cropsey 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 Clarke 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. 4517, entitled

A bill to amend 1867 PA 20, entitled “An act relative to recording deeds, mortgages and instruments of record, and to declare the effect thereof,” by amending section 1 (MCL 565.491), as amended by 1992 PA 211.

House Bill No. 4519, entitled

A bill to amend 1915 PA 123, entitled “An act to provide for the recording and use in evidence of affidavits affecting real property; and to provide a penalty for the making of false affidavits,” by amending section 2 (MCL 565.452).

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. 207, entitled

A bill to amend 1995 PA 24, entitled “Michigan economic growth authority act,” by amending sections 3 and 8 (MCL 207.803 and 207.808), section 3 as amended by 2006 PA 281 and section 8 as amended by 2006 PA 484.

Substitute (S-3).

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

Resolutions

Senator Birkholz offered the following resolution:

Senate Resolution No. 86.

A resolution to memorialize the Congress of the United States to reject legislation that would preempt the authority of the Great Lakes states to curb the release of ballast water.

Whereas, Ballast water discharges from ships entering the Great Lakes are the leading pathway for the introduction of aquatic invasive species. Since the opening of the St. Lawrence Seaway in 1959, ocean-going ships have introduced more than 30 new species to the Great Lakes; and

Whereas, Once introduced and established, aquatic invasive species are nearly impossible to eliminate and costly to control. Zebra mussels and other aquatic invasive species introduced from ballast water have irrevocably changed the Great Lakes and directly cost cities and industries—and indirectly cost Great Lakes residents—tens of millions of dollars per year to control; and

Whereas, Current federal ballast water regulations designed to protect the Great Lakes are ineffective. At least eleven new aquatic invasive species have been introduced from ballast water since current requirements for ballast water exchange with open ocean water went into effect, including the recent introduction of viral hemorrhagic septicemia (VHS) that directly threatens the \$4.5-billion Great Lakes fishery; and

Whereas, The ocean-going shipping industry has shown little urgency over the last two decades to develop and install ballast water treatment technology, even as it introduced more and more aquatic invasive species to new regions. Rather, the industry has continuously fought efforts in the United States Congress, state legislatures, and the courts to require expeditious treatment of their ballast water. For every year treatment is not required for ballast water, an additional one to two new species, with unknown but potentially devastating impacts, make the Great Lakes their permanent home; and

Whereas, The state of Michigan has succeeded in identifying and requiring treatment standards that would provide additional protection to the Great Lakes; and

Whereas, Federal ballast water legislation, such as the Coast Guard Authorization Act of 2007 (H.R. 2830), would preempt Michigan’s efforts to protect its waters from further degradation. Preempting state actions before strong federal treatment standards are in place would leave the Great Lakes vulnerable to future invasions. This shortsighted approach undermines the millions of dollars and thousands of hours spent each year working to restore the Great Lakes to a healthy, self-sustaining system; and

Whereas, The Coast Guard Authorization Act of 2007 would also set a precedent for future federal actions that restrict state authority to protect essential natural resources. Clearly, Michigan and other states are best suited to make decisions that keep waters safe, clean, and healthy for its residents with regulations, when needed, above and beyond minimum federal requirements; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to reject legislation that would preempt the authority of the Great Lakes states to curb the release of ballast water; 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 and Reform,

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

The motion prevailed.

Senators Basham, Brown, Gilbert, Gleason, Kahn, Olshove, Patterson, Richardville, Switalski and Van Woerkom were named co-sponsors of the resolution.

Senator Birkholz offered the following resolution:

Senate Resolution No. 87.

A resolution to urge the Governor to reestablish the Groundwater Conservation Advisory Council.

Whereas, On May 3, 2007, Governor Jennifer Granholm issued Executive Order No. 2007-8 to abolish the Groundwater Conservation Advisory Council and transfer all of the authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, and allocations or other funds to the Department of Environmental Quality; and

Whereas, The Legislature created the Groundwater Conservation Advisory Council to help resolve the competing residential, industrial, agricultural, and recreational needs for good-quality groundwater in sufficient quantities. The Groundwater Conservation Advisory Council findings and recommendations were key to the development and passage of Michigan's first laws regulating water withdrawals; and

Whereas, Based on this successful model, the Legislature expanded the council's charge with the adoption of Public Act 34 of 2006 to design an interactive water withdrawal assessment tool to assist in determining whether a proposed withdrawal may adversely impact the waters or water-dependent natural resources of the state. Additionally, the council was instructed to make recommendations on whether the state should consider proposals to mitigate adverse impacts that may result from groundwater withdrawals; and

Whereas, The Groundwater Conservation Advisory Council developed an innovative water withdrawal assessment tool; however, it needs more time to complete its other charges. Council consensus has not been reached on many policy issues, including safety factors, the role of mitigation, how to value unique natural resources such as Michigan's blue ribbon trout streams, and how to balance social values with resource impacts. Additionally, the council has not yet come to consensus on recommendations regarding certain legal presumptions related to water withdrawals which may or may not require withdrawal permits; and

Whereas, With considerable work still remaining on policy issues, fine-tuning the Internet interface for using the water withdrawal assessment tool, disseminating information about the assessment tool to Michigan citizens, and developing and publishing documentation, this is not the time to cut short this dedicated and diverse group of volunteers' vital progress; now, therefore, be it

Resolved by the Senate, That we urge the Governor to reestablish the Groundwater Conservation Advisory Council; and be it further

Resolved, That copies of this resolution be transmitted to the Office of the Governor.

Pending the order that, under rule 3.204, the resolution be referred to the Committee on Government Operations and Reform,

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

The motion prevailed.

Senators Brown, Gleason, Kahn, Patterson, Richardville, Switalski and Van Woerkom were named co-sponsors of the resolution.

Introduction and Referral of Bills

Senators Jelinek and Switalski introduced

Senate Bill No. 655, entitled

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending section 61 (MCL 169.261), as amended by 1993 PA 262.

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

Senators Jelinek and Switalski introduced

Senate Bill No. 656, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 25 (MCL 205.75), as amended by 2006 PA 69.

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

Senators Jelinek and Switalski introduced

Senate Bill No. 657, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 21506a (MCL 324.21506a), as amended by 2006 PA 318.

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

Senators McManus, Van Woerkom, Allen, Jansen and Gleason introduced

Senate Bill No. 658, entitled

A bill to amend 1943 PA 20, entitled "An act relative to the investment of funds of public corporations of the state; and to validate certain investments," (MCL 129.91 to 129.96) by adding section 7.

The bill was read a first and second time by title and referred to the Committee on Local, Urban and State Affairs.

Senators Hunter, Thomas, Scott and Gleason introduced

Senate Bill No. 659, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 2111 (MCL 500.2111), as amended by 2002 PA 492, and by adding section 2110c.

The bill was read a first and second time by title and referred to the Committee on Economic Development and Regulatory Reform.

Senators Jansen, Barcia, Birkholz, Anderson, Gleason, Pappageorge, Hardiman, Kuipers, Richardville and Gilbert introduced

Senate Bill No. 660, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 411u.

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

Senators Jansen, Barcia, Birkholz, Anderson, Gleason, Pappageorge, Hardiman, Kuipers, Richardville, Gilbert and Allen introduced

Senate Bill No. 661, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending sections 16t and 43 of chapter XVII (MCL 777.16t and 777.43), section 16t as amended by 2004 PA 112 and section 43 as amended by 2002 PA 666.

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

Senators Cassis, Jelinek and Allen introduced

Senate Bill No. 662, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 272 (MCL 206.272), as amended by 2006 PA 372.

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

Senator Gleason introduced

Senate Bill No. 663, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 302 and 644g (MCL 168.302 and 168.644g), section 302 as amended by 2005 PA 71 and section 644g as amended by 2004 PA 293, and by adding section 642c.

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

Senator Gleason introduced

Senate Bill No. 664, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 4, 5, and 614 (MCL 380.4, 380.5, and 380.614), sections 4 and 5 as amended by 2005 PA 61 and section 614 as amended by 2004 PA 419.

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

Senator Allen introduced

Senate Bill No. 665, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 541 (MCL 436.1541), as amended by 2006 PA 253.

The bill was read a first and second time by title and referred to the Committee on Economic Development and Regulatory Reform.

Statements

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:

Saint Cyprian was a controversial North African bishop who lived two centuries before Christ. He was also a widely-respected Christian writer who wrote, "It profits nothing to show virtue in words and then destroy truth in deeds." In 2007, we might say, "Don't talk the talk if you're not going to walk the walk." So I bring Saint Cyprian's message to my colleagues today.

You can talk all you want about fairness and equality and doing the right thing, but if you destroy those words through your deeds of inaction, it profits you nothing. My insurance legislation will enact fairness and honesty. It will provide relief from huge financial burdens, and it will bring justice to a profit-motivated and exploitive system.

I urge you yet again to take action on my insurance legislation.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator Cropsy moved that when the Senate adjourns today, it stand adjourned until Wednesday, August 1.

The motion prevailed.

Committee Reports

The Committee on Local, Urban and State Affairs reported

Senate Bill No. 111, entitled

A bill to amend 1959 PA 243, entitled "An act to define, license and regulate trailer coach parks; to prescribe the powers and duties of the state health commissioner and other state and local officers; to provide for the levy and collection of specific taxes on occupied trailers in trailer coach parks and the disposition of the revenues therefrom; to provide remedies and penalties for the violation of this act; and to repeal certain acts and parts of acts," by amending section 41 (MCL 125.1041).

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.

Gerald Van Woerkom
Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Birkholz, Allen and Gleason

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. 4246, entitled

A bill to amend 1967 (Ex Sess) PA 8, entitled "An act to provide for intergovernmental transfers of functions and responsibilities," by amending section 4 (MCL 124.534).

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.

Gerald Van Woerkom
Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Birkholz and Allen

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. 4266, entitled

A bill to amend 1967 (Ex Sess) PA 7, entitled "Urban cooperation act of 1967," by amending section 5 (MCL 124.505), as amended by 1985 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.

Gerald Van Woerkom
Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Birkholz and Allen

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. 4517, entitled

A bill to amend 1867 PA 20, entitled "An act relative to recording deeds, mortgages and instruments of record, and to declare the effect thereof," by amending section 1 (MCL 565.491), as amended by 1992 PA 211.

With the recommendation that the bill pass.

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

Gerald Van Woerkom
Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Birkholz, Allen and Gleason

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Local, Urban and State Affairs reported

House Bill No. 4519, entitled

A bill to amend 1915 PA 123, entitled "An act to provide for the recording and use in evidence of affidavits affecting real property; and to provide a penalty for the making of false affidavits," by amending section 2 (MCL 565.452).

With the recommendation that the bill pass.

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

Gerald Van Woerkom
Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Birkholz, Allen and Gleason

Nays: None

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 Tuesday, July 24, 2007, at 3:00 p.m., Room 110, Farnum Building

Present: Senators Van Woerkom (C), Birkholz, Allen, Gleason and Basham

COMMITTEE ATTENDANCE REPORT

The Committee on Senior Citizens and Veterans Affairs submitted the following:
Meeting held on Wednesday, July 25, 2007, at 9:00 a.m., Room 100, Farnum Building
Present: Senators Allen (C), Pappageorge, Olshove and Basham
Excused: Senator Garcia

Senator Cropsey moved that the Senate adjourn.
The motion prevailed, the time being 10:39 a.m.

In pursuance of the order previously made, the Assistant President pro tempore, Senator Sanborn, declared the Senate adjourned until Wednesday, August 1, 2007, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate