

No. 29
STATE OF MICHIGAN
Journal of the Senate
92nd Legislature
REGULAR SESSION OF 2003

Senate Chamber, Lansing, Tuesday, March 25, 2003.

10:00 a.m.

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

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

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

Emerson—present
Garcia—present
George—present
Gilbert—present
Goschka—present
Hammerstrom—present
Hardiman—present
Jacobs—present
Jelinek—present
Johnson—present
Kuipers—present
Leland—present
McManus—present

Olshove—present
Patterson—present
Prusi—present
Sanborn—present
Schauer—present
Scott—present
Sikkema—present
Stamas—present
Switalski—present
Thomas—present
Toy—present
Van Woerkom—present

Senator Kenneth R. Sikkema of the 28th District offered the following invocation:

Lord, as we begin our legislative day, we are ever mindful that our nation is at war. We ask for Your blessings and Your guidance. We ask that You look over all the combatants from both sides. We ask that you give comfort to loved ones and family members who have family members who are involved in this in a direct way. We ask that You be with the leaders of our country and all countries around the world as they make significant decisions hour by hour and day by day.

Be with us now, Lord, as we work here in the legislative process here in the Michigan Senate. We thank You for the opportunity You have given us to serve You and our fellow citizens. Help us to do so in a spirit of cooperation and bipartisanship. This and more we ask in Your name. Amen.

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

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

The following communication was received:
Department of State

Administrative Rules
Notice of Filing

March 5, 2003

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 10:12 a.m. this date, administrative rule (03-03-01) for the Department of Environmental Quality, Land and Water Management Division, entitled "*Aquatic Nuisance Control*," effective 7 days hereafter.

Sincerely,
Terri Lynn Land
Secretary of State
Elena L. Beasley, Manager
Office of the Great Seal

The communication was referred to the Secretary for record.

The following communication was received:
Agriculture, Forestry and Tourism Committee

March 20, 2003

Pursuant to your request under Senate Rule 2.104 (c), the Senate Agriculture, Forestry and Tourism Committee held a hearing on the appointment of James Byrum to the Commission of Agriculture on Thursday, March 20, 2003.

At this hearing, the Senate Agriculture, Forestry and Tourism Committee approved a motion to recommending that the Senate Government Operations Committee favorably report the appointment of James Byrum to the Commission of Agriculture with a recommendation of advising and consenting to the appointment.

Sincerely,
Senator Gerald Van Woerkom, Chair
Agriculture, Forestry and Tourism Committee

The communication was referred to the Secretary for record.

The following communication was received:
Office of the Auditor General

March 21, 2003

Enclosed is a copy of the Michigan Legislature's audited Schedule of the Sources and Dispositions of General Fund Authorizations with Supplemental Schedules for the two-year period ended September 30, 2002. This audit was performed by the public accounting firm, Plante & Moran, LLP, under a contract with my office.

This report includes independent auditor's report letters on the financial schedule and compliance with laws and regulations and internal controls of the Michigan Legislature.

The Independent Auditor's Report letter on the financial schedule contains a clean opinion on the financial schedule with the exception that the schedule does not include the Library of Michigan. The Library of Michigan was excluded from this schedule because it is audited separately by my office under provision if the Federal Single Audit Act.

The Report Letter on Compliance with Laws and Regulations and Internal Control reports that, with respect to the items tested, nothing came to the auditor's attention that caused the auditor to believe that the Michigan Legislature

had not complied, in all material respects, with those provisions of laws, regulations, and contracts tested for. In addition, the auditors reported no matters involving the internal control over financial reporting and its operations that they considered to be material weaknesses.

Also, enclosed is a copy of the management letter. If you have any questions regarding this report, please contact me.

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

The communication was referred to the Secretary for record.

The Secretary announced that the following House bills were received in the Senate and filed on Thursday, March 20:

House Bill Nos. 4070 4148 4290

The Secretary announced the printing and placement in the members' files on Thursday, March 20, of:

**House Bill Nos. 4406 4407 4408 4409 4410 4411 4412 4413 4414 4415 4416 4417 4418 4419
4420 4421 4422 4423 4424 4425 4426 4427 4428 4429 4430 4431**

The Secretary announced the printing and placement in the members' files on Friday, March 21, of:

**Senate Bill Nos. 301 302 303 304 305 306 307 308 309 310 311 312 313 314
315 316 317 318 319 320**
House Bill Nos. 4432 4433 4434 4435 4436 4437 4438

The Secretary announced the printing and placement in the members' files on Monday, March 24, of:

Senate Bill Nos. 321 322 323 324 325 326 327 328 329 330 331 332 333 334

By unanimous consent the Senate proceeded to the order of

Messages from the House

Senator Thomas entered the Senate Chamber.

Senate Bill No. 160, entitled

A bill to provide for the audit and examination of this state and state funds; to provide for the audit and examination of the books and accounts of all branches, departments, offices, boards, commissions, agencies, authorities, and institutions of this state; to prescribe powers and duties of certain state officers and employees; to provide for access to certain records; to provide for the subpoena of witnesses and production of documents and records; to prescribe penalties; and to provide for the administration of this act.

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. 48

Yeas—38

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

Nays—0

Excused—0

Not Voting—0

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor. The Senate agreed to the title as amended. The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

Third Reading of Bills

The following bill was read a third time:

Senate Bill No. 150, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 78106, 78108, 78110, 78115, and 79112 (MCL 324.78106, 324.78108, 324.78110, 324.78115, and 324.79112), sections 78106, 78108, and 79112 as added by 1995 PA 58 and section 78110 as amended and section 78115 as added by 1998 PA 210.

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. 49**Yeas—38**

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

Nays—0**Excused—0****Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

Resolutions

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

Senate Resolution No. 42

The resolution consent calendar was adopted.

Senators Patterson, Toy, Olshove, Brown, Cassis, McManus, Bernero, Birkholz, Van Woerkom, Leland, Goschka, Thomas, Garcia and Stamas offered the following resolution:

Senate Resolution No. 42.

A resolution commemorating April 2003 as Raise the Flags and Dig Safely Month.

Whereas, The first week of April, traditionally the beginning of the construction season, will be known as Raise the Flags and Dig Safely Month; and

Whereas, There continues to be increased construction activity in the state of Michigan. The growth has led to an expansion in damages to underground facilities, which consist of cables and pipes located under the ground's surface. At times, these incidents have resulted in the loss of property and even serious injury to Michigan citizens. Annually, about 10,000 recorded incidents of damages to underground facilities occur in the state. Michigan's major gas, electric, and telecommunication companies, as well as other associated groups, including the AUC: Michigan's Heavy Construction Association, MISS DIG System, Inc., and the Michigan Public Service Commission, have come together to develop and implement best practices designed to decrease such incidents in the future; and

Whereas, The Raise the Flags campaign, sponsored by a utility consortium, draws attention to the need to call MISS DIG. Many people do not know that under Michigan law, MISS DIG must be called at least three working days before beginning a construction project, which can be as simple as planting a tree, installing a mailbox post, or as complex as erecting an office building or making major road repairs. The campaign encourages contractors and the general public to call MISS DIG before digging, with the required time to allow for staking, respecting the staking flags, and digging carefully; and

Whereas, The Michigan Damage Prevention Board continues its work to increase public safety by developing and implementing appropriate best practices and education programs, which will reduce accidents resulting from damages to underground facilities. Participants on the board include AUC: Michigan's Heavy Construction Association, Associated Petroleum Industries of Michigan, Consumers Energy, Detroit Edison, Michigan Consolidated Gas, Electric and Gas Association, SBC, SEMCO Energy, Verizon, Telecommunications Association of Michigan, MISS DIG Systems, Inc., and the Michigan Public Service Commission; now, therefore, be it

Resolved by the Senate, That we hereby commemorate April 2003 as Raise the Flags and Dig Safely Month; and be it further

Resolved, That Michigan's major gas, electric, and telecommunications companies, the AUC: Michigan's Heavy Construction Association, as well as other associated groups, be commended for coming together to find ways to decrease the number of incidents that damage underground facilities; and be it further

Resolved, That a copy of this resolution be transmitted to the Michigan Damage Prevention Board as a reflection of our appreciation for its efforts to ensure public safety.

Senators Schauer, Switalski, Bishop, Clarke, Kuipers, Cherry and Jacobs were named co-sponsors of the resolution.

Introduction and Referral of Bills

Senator Thomas introduced

Senate Bill No. 335, entitled

A bill to amend 1965 PA 203, entitled "Commission on law enforcement standards act," by amending section 9 (MCL 28.609), as amended by 1998 PA 237.

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

Senator Thomas introduced

Senate Bill No. 336, entitled

A bill to amend 1976 PA 453, entitled "Elliott-Larsen civil rights act," by amending section 605 (MCL 37.2605), as amended by 1992 PA 124.

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

Senator Johnson introduced

Senate Bill No. 337, entitled

A bill to amend 1917 PA 167, entitled "Housing law of Michigan," (MCL 125.401 to 125.543) by adding section 82a.

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

Senator Johnson introduced

Senate Bill No. 338, entitled

A bill to amend 1975 PA 197, entitled "An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials," by amending sections 1 and 29 (MCL 125.1651 and 125.1679), section 1 as amended by 1997 PA 202 and section 29 as amended by 2001 PA 68.

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

Senators Bishop and Kuipers introduced

Senate Bill No. 339, entitled

A bill to amend 1970 PA 169, entitled "Local historic districts act," by amending sections 1a and 3 (MCL 399.201a and 399.203), as amended by 2001 PA 67.

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

Senator Johnson introduced

Senate Bill No. 340, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 51a (MCL 206.51a), as amended by 1996 PA 484, and by adding section 269.

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

Senator Hammerstrom introduced

Senate Bill No. 341, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," (MCL 205.51 to 205.78) by adding section 4bb.

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

Senator Garcia introduced

Senate Bill No. 342, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," (MCL 205.91 to 205.111) by adding section 4w.

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

Senator Johnson introduced

Senate Bill No. 343, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending sections 24, 34d, and 53a (MCL 211.24, 211.34d, and 211.53a), section 24 as amended by 2002 PA 620 and section 34d as amended by 1996 PA 476.

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

Senator Johnson introduced

Senate Bill No. 344, entitled

A bill to amend 1973 PA 186, entitled "Tax tribunal act," by amending section 53 (MCL 205.753), as amended by 1989 PA 284.

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

Senators Patterson, Kuipers, Birkholz, Cropsey, Gilbert, Brown and Goschka introduced

Senate Bill No. 345, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 508, 511, 513, and 514 (MCL 339.508, 339.511, 339.513, and 339.514), section 508 as amended by 1989 PA 261.

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

Senators Toy, Stamas, Gilbert, McManus, Birkholz and Cropsey introduced

Senate Bill No. 346, entitled

A bill to provide for continued fringe benefits and wages for certain officers and employees of the state of Michigan who are called into active duty with the military or other armed service of the United States government.

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

Senators Olshove, Switalski, Scott and Goschka introduced

Senate Bill No. 347, entitled

A bill to amend 1975 PA 197, entitled "An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials," by amending section 1 (MCL 125.1651), as amended by 1997 PA 202.

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

Senator Switalski introduced

Senate Bill No. 348, entitled

A bill to amend 1965 PA 261, entitled "An act to authorize the creation and to prescribe the powers and duties of county and regional parks and recreation commissions; and to prescribe the powers and duties of county boards of commissioners with respect to county and regional parks and recreation commissions," by amending section 1 (MCL 46.351), as amended by 2000 PA 496.

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

House Bill No. 4070, entitled

A bill to require textbook publishers to provide electronic versions of certain instructional materials used in colleges and universities.

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.

House Bill No. 4148, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 501, 502, 503, 504, 504a, and 507 (MCL 380.501, 380.502, 380.503, 380.504, 380.504a, and 380.507), sections 501, 502, 503, 504a, and 507 as amended by 1995 PA 289 and section 504 as amended by 1994 PA 416, and by adding sections 503b and 1320.

The House of Representatives has passed the bill.

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

House Bill No. 4290, entitled

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," (MCL 169.201 to 169.282) by adding section 65a.

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 Local, Urban and State Affairs.

Committee Reports

The Committee on Agriculture, Forestry and Tourism reported

Senate Bill No. 163, entitled

A bill to amend 1996 PA 376, entitled "Michigan renaissance zone act," by amending sections 6, 8, and 8c (MCL 125.2686, 125.2688, and 125.2688c), section 6 as amended by 2002 PA 478, section 8 as amended by 1999 PA 139, and section 8c as added by 2000 PA 259.

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, Gilbert, Jelinek and Thomas

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

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

Meeting held on Thursday, March 20, 2003, at 8:30 a.m., Room 810, Farnum Building

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

The Committee on Education reported

Senate Bill No. 294, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1303 (MCL 380.1303), as amended by 1995 PA 289.

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

Wayne Kuipers

Chairperson

To Report Out:

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

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 20, 2003, at 2:00 p.m., Room 210, Farnum Building

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

COMMITTEE ATTENDANCE REPORT

The Committee on Senior Citizens and Veterans Affairs submitted the following:

Meeting held on Wednesday, March 19, 2003, at 1:00 p.m., Room 810, Farnum Building

Present: Senators Toy (C), Stamas, Gilbert, Clark-Coleman and Olshove

COMMITTEE ATTENDANCE REPORT

The Committee on Health Policy submitted the following:

Meeting held on Wednesday, March 19, 2003, at 1:00 p.m., Rooms 402 and 403, Capitol Building

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

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Commerce, Labor and Economic Development submitted the following:

Meeting held on Wednesday, March 19, 2003, at 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Garcia (C), Hardiman, Prusi and Scott

Excused: Senator George

COMMITTEE ATTENDANCE REPORT

The Committee on Technology and Energy submitted the following:

Meeting held on Wednesday, March 19, 2003, at 3:00 p.m., Room 210, Farnum Building

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

Excused: Senators Leland and Bernero

Scheduled Meetings

Agriculture, Forestry and Tourism - Thursday, March 27, 9:00 a.m., Room 110, Farnum Building (373-1635)

Appropriations -**Subcommittees -**

Agriculture - Thursdays, March 27, April 3, and April 24, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-5932)

Family Independence Agency - Thursday, March 27, 2:00 p.m., Room 810, Farnum Building; Tuesday, April 1, 2:00 p.m., Room 810, Farnum Building (CANCELED); and Wednesday, April 2, 2:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower) (CANCELED) (373-1801)

General Government - Tuesdays, April 1 and April 22, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-2420)

History, Arts, and Libraries - Wednesday, March 26, 12:00 noon, Room 810, Farnum Building (373-0793)

Judiciary and Corrections - Tuesdays, April 1 and April 22, 3:00 p.m., Room 210, Farnum Building (373-3760)

State Police and Military Affairs - Tuesdays, April 1 and April 22, 1:00 p.m., Room 405, Capitol Building (373-5932)

Transportation Department - Tuesdays, April 1, April 8, April 15, and April 22, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Banking and Financial Institutions - Thursday, March 27, 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower) (373-2417)

Business Competitiveness Joint Select Committee (SCR 3) - Monday, March 31, 6:00 p.m., Grand Valley State University, Eberhard Center, 301 W. Fulton Street, Grand Rapids (373-7670)

Education - Thursday, March 27, 2:00 p.m., Room 210, Farnum Building (373-6920)

Legislative Retirement Board of Trustees - Wednesday, April 2, 3:00 p.m., Room H-252, Capitol Building (373-0575)

Senior Citizens and Veterans Affairs - Wednesday, March 26, 1:00 p.m., Room 100, Farnum Building (373-1707)

Technology and Energy - Wednesday, March 26, 3:00 p.m., Room 210, Farnum Building (373-7350)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 10:17 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Wednesday, March 26, 2003, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

