

No. 23
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Tuesday, March 16, 1999.

10:00 a.m.

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

The roll was called by the Assistant Secretary of the Senate, who announced that a quorum was not present.

Bennett—present
Bullard—present
Byrum—present
Cherry—present
DeBeaussaert—present
DeGrow—present
Dingell—present
Dunaskiss—present
Emerson—present
Emmons—present
Gast—present
Goschka—present
Gougeon—present

Hammerstrom—present
Hart—present
Hoffman—present
Jaye—present
Koivisto—present
Leland—present
McCotter—present
McManus—present
Miller—present
Murphy—present
North—present
Peters—present

Rogers—present
Schuette—present
Schwarz—present
Shugars—present
Sikkema—present
A. Smith—present
V. Smith—present
Steil—present
Stille—present
Van Regenmorter—present
Vaughn—present
Young—present

Senator Virgil C. Smith, Jr., of the 2nd District offered the following invocation:

Dear Lord, another day has arrived, and how blessed we are to be allowed to see it. We know, Lord, in You we shall find wisdom and in Your counsel, understanding. If we seek You, then You will guide us in all truth because it is through You and in You that we find our strength and our help.

Lord, Your written word told us to ask, and it shall be given; seek, and we shall find; knock, and the door shall be opened unto us. Help us, dear Lord, on this day to ask You the right questions, seek You for the right directions and follow You once the doors have been opened. Let us remember that we are here as representation of the people and their trust is within us. Let us in return place our trust in You.

Lord, let Your hand be upon each of us today as we go forth within this Senate session. We ask this, and in Your name we pray. Amen.

Senator Young entered the Senate Chamber.

Recess

Senator Rogers moved that the Senate recess until 10:15 a.m.

The motion prevailed, the time being 10:06 a.m.

The Senate reconvened at the expiration of the recess and was called to order by the President, Lieutenant Governor Posthumus.

During the recess, Senators Schuette, Hoffman, Bullard, DeGrow, Bennett, Stille, McCotter, Gougeon, Steil, McManus, Emmons, Gast, Hammerstrom, Van Regenmorter, Sikkema, Jaye, Dunaskiss, North and Goschka entered the Senate Chamber.

A quorum of the Senate was present.

Motions and Communications

The following communications were received:
Department of State

Administrative Rules Notices of Filing

March 5, 1999

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 12:25 p.m. this date, administrative rule (99-03-1) for the Department of Natural Resources, Wildlife and Fisheries Division, entitled "*Endangered and Threatened Species*," effective 15 days hereafter.

March 8, 1999

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 1:12 p.m. this date, administrative rule (99-03-3) for the Department of Consumer and Industry Services, Carnival/Amusement Safety Board, entitled "*Carnival and Amusement Rides*," effective 15 days hereafter.

Sincerely,
Candice S. Miller
Secretary of State
Helen Kruger, Supervisor
Office of the Great Seal

The communications were referred to the Secretary for record.

The following communication was received:
Office of the Auditor General

March 12, 1999

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, 1998. 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, internal control structure, and compliance with laws and regulations 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 provisions of the Federal Single Audit Act.

The Report Letter on Internal Control Structure reports that the auditors noted no matters involving the internal control structure and its operation considered by the auditors to be a material weakness.

The Report Letter on Compliance with Laws and Regulations 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.

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 pursuant to rule 2.109 of the Standing Rules of the Senate, the following expense reports have been filed with the Secretary of the Senate for the quarter from October 1, 1998, through December 31, 1998, and are available in the Secretary's office during business hours for public inspection:

Committee

Appropriations

Appropriations Subcommittee on Community Health

Economic Development, International Trade and Regulatory Affairs

Education

Families, Mental Health and Human Services

Farming, Agribusiness and Food Systems

Finance

Financial Services

Gaming and Casino Oversight

Government Operations

Health Policy and Senior Citizens

Human Resources, Labor and Veterans Affairs

Hunting, Fishing and Forestry

Judiciary

Local, Urban and State Affairs

Natural Resources and Environmental Affairs

Technology and Energy

Chairperson

Senator Harry Gast

Senator Dan DeGrow on behalf of

Senator Robert Geake

Senator Bill Schuette

Senator Joanne Emmons

Senator Joel Gougeon

Senator George McManus

Senator Joanne Emmons

Senator Dan DeGrow on behalf of

Senator Michael Bouchard

Senator Dan DeGrow on behalf of

Senator Michael Bouchard

Senator Bill Bullard

Senator Dale Shugars

Senator Mike Rogers

Senator Dave Jaye

Senator William Van Regenmorter

Senator Leon Stille

Senator Loren Bennett

Senator Mat Dunaskiss

The Secretary announced that the following House bills were received in the Senate and filed on Thursday, March 11:

House Bill Nos. 4231 4318 4323

The Secretary announced the enrollment printing and presentation to the Governor on Thursday, March 11, for his approval the following bill:

Enrolled Senate Bill No. 259 at 3:06 p.m.

The Secretary announced the printing and placement in the members' files on Thursday, March 11 of:

Senate Bill Nos. 408 410 415 416 417 418 419 420 421 422 423 424

Senate Joint Resolution J

**House Bill Nos. 4382 4383 4384 4385 4386 4387 4388 4389 4390 4391 4392 4393 4394 4395
4396 4397 4398 4399 4400 4401 4402 4403 4404 4405 4406 4407**

The Secretary announced the printing and placement in the members' files on Monday, March 15 of:

Senate Bill Nos. 425 426 427 428 429 430 431 432 433 434 435 436

House Bill Nos. 4408 4409 4410 4411 4412 4413

Messages from the Governor

The following message from the Governor was received on March 11, 1999, and read:

EXECUTIVE ORDER
No. 1999-2

Amendment to Executive Order 1999-1

Whereas, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

Whereas, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

Now, Therefore, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:

I. Rescission of Section III.A.21 of Executive Order 1999-1

Section III.A.21 – Economic Development Transportation Projects – of Executive Order 1999-1 is hereby rescinded on the date this Executive Order is signed.

II. Economic Development Road Projects

a. All the statutory authority, powers, duties, functions and responsibilities of the State Transportation Commission to distribute grants and direct the office of economic development as to economic development road projects under Section 11(3)(a) of Act No. 231 of the Public Acts of 1987, as amended, being Section 247.911(3)(a) of the Michigan Compiled Laws, are hereby transferred to the Director of the Michigan Department of Transportation and to the President of the Michigan Strategic Fund, jointly.

b. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Michigan Department of Transportation for the functions assigned by this Order shall remain with the Michigan Department of Transportation.

c. All rules, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

d. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the state of Michigan of 1963, Section II (Economic Development Road Projects) of this Executive Order shall become effective 60 days after filing, or on such earlier date that a resolution of the legislature declining its right under Article V, Section 2 to disapprove this Order has been approved by both houses of the legislature by record roll call vote.

[SEAL]

Given under my hand and the Great Seal of the state of Michigan this 11th day of March, in the Year of our Lord, One Thousand Nine Hundred Ninety-nine.

John Engler
Governor

By the Governor:
Candice S. Miller
Secretary of State

The Executive Order was referred to the Committee on Government Operations.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator Rogers 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:

Senate Bill No. 319

Senate Bill No. 320

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

By unanimous consent the Senate proceeded to the order of
General Orders

Senator Rogers 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 Posthumus, designated Senator A. Smith as Chairperson.

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

Senate Bill No. 335, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 710d and 710e (MCL 257.710d and 257.710e), section 710d as amended by 1990 PA 90 and section 710e as amended by 1991 PA 25.

Substitute (S-2).

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

1. Amend page 5, following line 23, by inserting:

"(11) THE SECRETARY OF STATE SHALL CONDUCT A STUDY WITH THE COOPERATION AND CONTRIBUTION OF THE DIRECTORS OF THE DEPARTMENT OF STATE POLICE, THE DEPARTMENT OF COMMUNITY HEALTH, THE STATE TRANSPORTATION DEPARTMENT, AND THE INSURANCE BUREAU TO ANALYZE THE MONETARY SAVINGS, IF ANY, ARISING FROM THE ENACTMENT OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION. THE SECRETARY OF STATE SHALL REPORT THE FINDINGS OF THE STUDY TO THE SENATE APPROPRIATIONS COMMITTEE AND THE SENATE FISCAL AGENCY NOT LATER THAN MAY 1, 2000." and renumbering the remaining subsections.

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

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

House Bill No. 4059, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 1603 (MCL 324.1603), as added by 1995 PA 60.

Substitute (S-1).

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

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

Senate Bill No. 319, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 6304 (MCL 600.6304), as amended by 1995 PA 249, and by adding section 1484.

Substitute (S-2).

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

1. Amend page 2, line 2, after "AGENCY" by inserting "EITHER ADOPTED THE MODEL POLICY DEVELOPED BY THE COMMISSION OR".

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

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

Senate Bill No. 320, entitled

A bill to create the model law enforcement vehicle pursuit and response policy advisory panel within the commission on law enforcement standards; to prescribe its membership, powers, and duties; to prescribe the powers and duties of certain state and local agencies and departments; to provide for the development of law enforcement vehicle pursuit and response policies; and to repeal acts and parts of acts.

Substitute (S-1).

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

1. Amend page 7, line 8, after "certification." by inserting "The commission shall examine each aspect of the policy that is in variance with the model policy. If the commission finds that each variation is reasonably justified by unusual circumstances that exist in a government agency's jurisdiction, and that the policy as a whole substantially achieves the objectives of the model policy, the commission may certify the policy. If the commission finds that any variation is not reasonably justified by unusual circumstances that exist in a governmental agency's jurisdiction, or that the policy as

a whole does not substantially achieve the objectives of the model policy, the commission shall not certify the policy, and shall return the policy to the governmental agency that developed it with an explanation of the basis for the commission's decision."

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 proceeded to the order of

Introduction and Referral of Bills

Senator Jaye introduced

Senate Bill No. 437, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 43517 and 43520 (MCL 324.43517 and 324.43520), as added by 1995 PA 57.

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

Senator Jaye introduced

Senate Bill No. 438, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 40113b.

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

Senator Jaye introduced

Senate Bill No. 439, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 504 (MCL 324.504), as amended by 1996 PA 171.

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

Senators McCotter and Bennett introduced

Senate Bill No. 440, entitled

A bill to amend 1967 PA 288, entitled "Land division act," by amending section 113 (MCL 560.113).

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

Senators McCotter and Bennett introduced

Senate Bill No. 441, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1233 (MCL 380.1233), as amended by 1995 PA 289.

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

Senator Sikkema introduced

Senate Bill No. 442, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 7011 and 7060 (MCL 500.7011 and 500.7060), as added by 1986 PA 121.

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

Senator DeBeaussiaert introduced

Senate Bill No. 443, entitled

A bill to amend 1998 PA 116, entitled "Personal watercraft safety act," by amending section 11 (MCL 281.1411).

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

House Bill No. 4231, entitled

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by repealing section 49 (MCL 169.249).

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 Government Operations.

House Bill No. 4318, entitled

A bill to amend 1971 PA 227, entitled "An act to prescribe the rights and duties of parties to home solicitation sales," by amending section 1 (MCL 445.111), as amended by 1998 PA 126.

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

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

House Bill No. 4323, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 721 (MCL 257.721), as amended by 1995 PA 248.

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 Farming, Agribusiness and Food Systems.

Committee Reports

The Committee on Farming, Agribusiness and Food Systems reported

Senate Bill No. 49, entitled

A bill to amend 1943 PA 183, entitled "County zoning act," (MCL 125.201 to 125.240) by adding section 1b.

With the recommendation that the bill pass.

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

George A. McManus, Jr.
Chairperson

To Report Out:

Yeas: Senators McManus, Stille, Gougeon, Byrum and Hart

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Farming, Agribusiness and Food Systems reported

Senate Bill No. 395, entitled

A bill to amend 1943 PA 184, entitled "Township zoning act," (MCL 125.271 to 125.310) by adding section 1b.

With the recommendation that the bill pass.

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

George A. McManus, Jr.
Chairperson

To Report Out:

Yeas: Senators McManus, Stille, Gougeon, Byrum and Hart

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Farming, Agribusiness and Food Systems submits the following:

Meeting held on Wednesday, March 10, 1999, at 1:00 p.m., Room 405, Capitol Building

Present: Senators McManus (C), Stille, Gougeon, Byrum and Hart

The Committee on Judiciary reported

Senate Bill No. 319, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 6304 (MCL 600.6304), as amended by 1995 PA 249, and by adding section 1484.

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

William Van Regenmorter
Chairperson

To Report Out:

Yeas: Senators Van Regenmorter, McCotter, Bullard and Rogers

Nays: Senators Peters and V. Smith

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

The Committee on Judiciary reported
Senate Bill No. 320, entitled

A bill to create the model law enforcement vehicle pursuit and response policy advisory panel within the commission on law enforcement standards; to prescribe its membership, powers, and duties; to prescribe the powers and duties of certain state and local agencies and departments; to provide for the development of law enforcement vehicle pursuit and response policies; and to repeal acts and parts of acts.

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

William Van Regenmorter
Chairperson

To Report Out:

Yeas: Senators Van Regenmorter, McCotter, Bullard and Rogers

Nays: Senators Peters and V. Smith

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

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submits the following:

Meeting held on Wednesday, March 10, 1999, at 1:00 p.m., Rooms 402 and 403, Capitol Building

Present: Senators Van Regenmorter (C), McCotter, Bullard, Rogers, Peters, V. Smith and Dingell

The Committee on Government Operations reported

Senate Bill No. 303, entitled

A bill to amend 1986 PA 268, entitled "Legislative council act," by amending section 203 (MCL 4.1203).

With the recommendation that the bill pass.

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Hammerstrom, V. Smith and Miller

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Government Operations reported

Senate Bill No. 306, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 307, 315, and 319 (MCL 257.307, 257.315, and 257.319), section 307 as amended by 1998 PA 330 and section 319 as amended by 1998 PA 347, and by adding section 50a.

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

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Hammerstrom, V. Smith and Miller

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 Government Operations submits the following:

Meeting held on Thursday, March 11, 1999, at 1:00 p.m., Room 110, Farnum Building

Present: Senators Bullard (C), Hammerstrom, V. Smith and Miller

Excused: Senator Sikkema

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Environmental Quality submits the following:

Meeting held on Wednesday, March 10, 1999, at 1:00 p.m., Senate Appropriations Room, Capitol Building

Present: Senators Bennett (C), Gast, North, A. Smith and DeBeaussiaert

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Jobs Commission submits the following:

Meeting held on Wednesday, March 10, 1999, at 3:00 p.m., Senate Appropriations Room, Capitol Building

Present: Senators Steil (C), Gougeon and Emerson

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Transportation submits the following:

Meeting held on Wednesday, March 10, 1999, at 3:00 p.m., Room 100, Farnum Building

Present: Senators Hoffman (C), Stille and Young

COMMITTEE ATTENDANCE REPORT

The Subcommittee on State Police and Military Affairs submits the following:

Meeting held on Thursday, March 11, 1999, at 8:30 a.m., Room 110, Farnum Building

Present: Senators Hoffman (C), North and Vaughn

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Family Independence Agency submits the following:

Meeting held on Thursday, March 11, 1999, at 1:00 p.m., Senate Appropriations Room, Capitol Building

Present: Senators Goschka (C) and Gougeon

Excused: Senator Emerson

COMMITTEE ATTENDANCE REPORT

The Subcommittee on State Police and Military Affairs submits the following:

Meeting held on Thursday, March 11, 1999, at 1:00 p.m., Room 100, Farnum Building

Present: Senators Hoffman (C), North and Vaughn

Scheduled Meetings

Hunting, Fishing and Forestry Committee - Thursday, March 18, at 2:30 p.m., Room 110, Farnum Building (3-7670).

Judiciary Committee - Wednesday, March 17, at 1:00 p.m., Rooms 402 and 403, Capitol Building (3-6920).

Local, Urban and State Affairs Committee - Wednesday, March 17, at 3:00 p.m., Room 405, Capitol Building and Monday, March 22, at 4:00 p.m., Fetzer Center, Western Michigan University, Kalamazoo (3-1707).

Senator Rogers moved that the Senate adjourn.

The motion prevailed, the time being 10:52 a.m.

The President pro tempore, Senator Schwarz, declared the Senate adjourned until Wednesday, March 17, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

