

No. 99
STATE OF MICHIGAN
Journal of the Senate

92nd Legislature
REGULAR SESSION OF 2003

Senate Chamber, Lansing, Wednesday, December 3, 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—excused
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 Raymond E. Basham of the 8th District offered the following invocation:

Heavenly Father, we thank You for this day that we are here safely gathered together. We thank You for Your bountiful goodness, and we pray for strength, wisdom, and clarity of thought as we deliberate and consider the issues confronting this great state. We would ask that You guide us in Your united effort for the common good. We ask also that Your grace and mercy rest upon the state Legislature, our Governor, and our national leaders as we work together to create and administer good public policy for the benefit of all. Bless each Senator and staff member with great joy in their service. It's in Your name that I pray. Amen.

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

Motions and Communications

Senators Thomas, Clarke, Toy, Emerson, Goschka and Olshove entered the Senate Chamber.

The following communication was received and read:

Office of Senator Shirley Johnson

December 2, 2003

Please accept this letter as my formal removal from the Senate Appropriations Subcommittee on Natural Resources.

In my place, I have appointed State Senator Tony Stamas to the Senate Appropriations Subcommittee on Natural Resources. Please accept my removal and Senator Stama's subsequent appointment effective immediately.

Your kind attention to this matter is appreciated.

Sincerely,
Shirley Johnson
State Senator
13th District

The communication was referred to the Secretary for record.

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

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

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

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, December 2:
House Bill Nos. 4225 5218

The Secretary announced that the following bills were available at the legislative Web site on Tuesday, December 2:
Senate Bill Nos. 849 853 854 855 856 857 858 859 860 861

Messages from the Governor

Senator Leland entered the Senate Chamber.

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**

The motion prevailed.

The following messages from the Governor were received:

Date: December 1, 2003

Time: 4:07 p.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 496 (Public Act No. 215), being

An act to provide for the organization, operation, regulation, and supervision of credit unions; to prescribe the powers and duties of credit unions; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties, civil sanctions, and remedies; and to repeal acts and parts of acts.

(Filed with the Secretary of State on December 2, 2003, at 10:10 a.m.)

Date: December 1, 2003

Time: 4:09 p.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 493 (Public Act No. 216), being

An act to amend 1976 PA 331, entitled “An act to prohibit certain methods, acts, and practices in trade or commerce; to prescribe certain powers and duties; to provide for certain remedies, damages, and penalties; to provide for the promulgation of rules; to provide for certain investigations; and to prescribe penalties,” by amending section 4 (MCL 445.904), as amended by 2000 PA 432.

(Filed with the Secretary of State on December 2, 2003, at 10:12 a.m.)

Date: December 1, 2003

Time: 4:11 p.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 494 (Public Act No. 217), being

An act to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending sections 315a and 376a (MCL 750.315a and 750.376a), as added by 1982 PA 395.

(Filed with the Secretary of State on December 2, 2003, at 10:14 a.m.)

Date: December 1, 2003

Time: 4:13 p.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 495 (Public Act No. 218), being

An act to amend 1973 PA 43, entitled “An act to permit associations, institutions and credit unions to process or handle food stamps; and to prescribe powers and duties,” by amending section 1 (MCL 400.171).

(Filed with the Secretary of State on December 2, 2003, at 10:16 a.m.)

Date: December 1, 2003

Time: 4:21 p.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 516 (Public Act No. 222), being

An act to amend 1939 PA 288, entitled “An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its

judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties," by amending section 22a of chapter X (MCL 710.22a), as added by 1994 PA 430.

(Filed with the Secretary of State on December 2, 2003, at 10:24 a.m.)

Respectfully,
Jennifer M. Granholm
Governor

The following message from the Governor was received and read:

**EMPLOYEES AND OFFICERS; CLARIFY PROCEDURES
FOR VACANCY IN COUNTY EXECUTIVE OFFICE**

December 2, 2003

Today I return with my objections Enrolled Senate Bill 687, as provided under Section 33 of Article IV of the Michigan Constitution of 1963. The bill would amend Public Act 139 of 1973, which relates to the optional unified form of county government to:

- Authorize a deputy to perform the duties of county executive when the county executive is absent or unable to perform his or her duties; and
- Change the process for the appointment or election of a new county executive in the event of the death or resignation of a county executive.

The stated intent of this legislation—to provide a clear line of succession for the office of county executive in Oakland County—is laudable. Unfortunately, while creating new procedures for Oakland County, this bill would repeal any legal authority to fill a vacancy in the office of county executive in Bay County. This is a serious flaw that cannot be ignored.

Because legal uncertainties could arise in Bay County if Senate Bill 687 were enacted, I have vetoed the bill. While I return Enrolled Senate Bill 687 without signature, I look forward to supporting a new bill that addresses the shortcomings of this legislation.

Respectfully,
Jennifer M. Granholm
Governor

This bill was returned from the Governor on December 2, 2003, at 4:11 p.m.

The question being on the passage of the bill, the objections of the Governor to the contrary notwithstanding, Senator Schauer moved that further consideration of the bill be postponed temporarily.

The motion prevailed.

Messages from the House

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

Senate Bill No. 474

Senate Bill No. 506

Senate Bill No. 557

Senate Bill No. 805

Senate Bill No. 806

The motion prevailed.

The House of Representatives requested the return of

Senate Bill No. 805, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 19608 (MCL 324.19608), as added by 1998 PA 288.

Senator Hammerstrom moved that the request of the House be granted.

The motion prevailed.

Third Reading of Bills

Senator Garcia entered the Senate Chamber.

The following bill was read a third time:

House Bill No. 4454, entitled

A bill to amend 1995 PA 24, entitled "Michigan economic growth authority act," by amending sections 3, 4, and 8 (MCL 207.803, 207.804, and 207.808), section 3 as amended by 2000 PA 428 and section 8 as amended by 2000 PA 144.

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. 573**Yeas—36**

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

Nays—0**Excused—1**

Johnson

Not Voting—1

Emerson

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.

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

"An act to promote economic growth and job creation within this state; to create and regulate the Michigan economic growth authority; to prescribe the powers and duties of the authority and of state and local officials; to assess and collect a fee; to approve certain plans and the use of certain funds; and to provide qualifications for and determine eligibility for tax credits and other incentives for authorized businesses and for qualified taxpayers."

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 4472, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 9f (MCL 211.9f), as amended by 2000 PA 415.

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. 574**Yeas—37**

Allen	Clark-Coleman	Hardiman	Sanborn
Barcia	Clarke	Jacobs	Schauer
Basham	Cropsey	Jelinek	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			

Nays—0**Excused—1**

Johnson

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.

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

“An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts.”

The Senate agreed to the full title.

The following bill was read a third time:

Senate Bill No. 193, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” (MCL 257.1 to 257.923) by adding section 811q; and to repeal acts and parts of acts.

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. 575**Yeas—35**

Allen	Cherry	Hammerstrom	Sanborn
Barcia	Clark-Coleman	Hardiman	Schauer
Basham	Clarke	Jacobs	Scott
Bernero	Cropsey	Jelinek	Sikkema

Birkholz	Emerson	Kuipers	Stamas
Bishop	Garcia	McManus	Thomas
Brater	George	Olshove	Toy
Brown	Gilbert	Patterson	Van Woerkom
Cassis	Goschka	Prusi	

Nays—2

Leland	Switalski
--------	-----------

Excused—1

Johnson

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 601, entitled

A bill to amend 1909 PA 279, entitled “The home rule city act,” by amending section 3 (MCL 117.3), as amended by 2002 PA 201.

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. 576**Yeas—37**

Allen	Clark-Coleman	Hardiman	Sanborn
Barcia	Clarke	Jacobs	Schauer
Basham	Cropsey	Jelinek	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			

Nays—0**Excused—1**

Johnson

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

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 Scott 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 without amendment, the following bills:

Senate Bill No. 835, entitled

A bill to amend 1975 PA 228, entitled "Single business tax act," (MCL 208.1 to 208.145) by adding section 37e.

Senate Bill No. 836, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 270.

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. 834, entitled

A bill to promote investment in certain businesses; to promote economic development in this state; to provide for a Michigan early stage venture capital investment corporation; to prescribe the powers and duties of a Michigan early stage venture capital investment corporation; to prescribe the powers and duties of certain public officers and departments; to establish the Michigan early stage venture capital investment fund and other funds; to provide for tax credits and incentives; to authorize certain investments; to provide for the expiration of the fund; to provide or allow for appropriations; and to provide penalties and remedies.

Substitute (S-4).

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 proceeded to the order of

Introduction and Referral of Bills

Senator Bishop introduced

Senate Bill No. 874, entitled

A bill to amend 1998 PA 492, entitled "An act to authorize the state administrative board to convey certain parcels of state owned property in Oakland county and Genesee county; to provide for certain powers and duties of the department of management and budget and certain municipalities in regard to that property; to prescribe conditions for the conveyances; and to provide for disposition of the revenue derived from the conveyances; and to alter certain use restrictions," by amending section 3.

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

Senators Gilbert, Kuipers, Sikkema, Bishop, Hammerstrom, Sanborn, McManus, Van Woerkom, Allen, Birkholz, Jelinek, Johnson, Cropsey, Garcia, Brown and Toy introduced

Senate Bill No. 875, entitled

A bill to amend 1990 PA 100, entitled "City utility users tax act," by amending section 5 of chapter 1 (MCL 141.1155), as amended by 1998 PA 241.

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

Senators Gilbert, Garcia and Birkholz introduced

Senate Bill No. 876, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1231 (MCL 380.1231), as amended by 2002 PA 735.

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

Senator Hammerstrom introduced

Senate Bill No. 877, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 641 (MCL 168.641); and to repeal acts and parts of acts.

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

House Bill No. 4225, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 43520, 43523, 43525a, 43527, 43531, and 43553 (MCL 324.43520, 324.43523, 324.43525a, 324.43527, 324.43531, and 324.43553), section 43520 as added by 1995 PA 57, sections 43523, 43527, 43531, and 43553 as amended by 1996 PA 585, and section 43525a as added by 1998 PA 291.

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 Natural Resources and Environmental Affairs.

House Bill No. 5218, entitled

A bill to amend 1909 PA 279, entitled "The home rule city act," by amending section 29 (MCL 117.29), as amended by 1994 PA 17.

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.

Committee Reports

The Committee on Commerce and Labor reported

Senate Resolution No. 163.

A resolution to memorialize the Congress of the United States to enact measures that support venture capital activities in Michigan.

(For text of resolution, see Senate Journal No. 80, p. 1738.)

With the recommendation that the resolution be adopted.

Jason Allen
Chairperson

To Report Out:

Yeas: Senators Allen, Kuipers, McManus, Schauer and Olshove

Nays: None

The resolution was placed on the order of Resolutions.

The Committee on Commerce and Labor reported

Senate Bill No. 849, entitled

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending section 2 (MCL 125.2652), as amended by 2002 PA 254.

With the recommendation that the bill pass.

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

Jason Allen
Chairperson

To Report Out:

Yeas: Senators Allen, Kuipers, McManus, Schauer and Olshove

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Commerce and Labor submitted the following:

Meeting held on Tuesday, December 2, 2003, at 3:00 p.m., Room 100, Farnum Building

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

The Committee on Transportation reported

Senate Bill No. 843, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 12e of chapter XVII (MCL 777.12e), as added by 2002 PA 34.

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.

Judson Gilbert II
Chairperson

To Report Out:

Yeas: Senators Gilbert, Kuipers and Goschka

Nays: Senators Leland and Basham

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

The Committee on Transportation reported

House Bill No. 5173, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 601b (MCL 257.601b), as amended by 2001 PA 103.

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.

Judson Gilbert II
Chairperson

To Report Out:

Yeas: Senators Gilbert, Kuipers, Goschka and Basham

Nays: Senator Leland

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

COMMITTEE ATTENDANCE REPORT

The Committee on Transportation submitted the following:

Meeting held on Tuesday, December 2, 2003, at 1:00 p.m., Room 110, Farnum Building

Present: Senators Gilbert (C), Kuipers, Goschka, Leland and Basham

COMMITTEE ATTENDANCE REPORT

The Joint Study Committee on Family Resource Center Curriculum submitted the following:

Meeting held on Tuesday, December 2, 2003, at 4:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Jelinek (C), Brown and Scott

Scheduled Meetings

Agriculture, Forestry and Tourism - Thursday, December 4, 8:30 a.m., Room 110, Farnum Building (373-1635)

Appropriations -

Subcommittees -

Capital Outlay - Wednesday, December 10, 8:30 a.m., House Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Natural Resources Department - Thursday, December 4, 8:30 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

Education - Thursday, December 4, 2:00 p.m., Room 210, Farnum Building (373-6920) (CANCELED)

Family Resource Center Curriculum Joint Study Committee (SCR 36) - Wednesdays, December 10 and December 17, 4:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 10:42 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Thursday, December 4, 2003, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

