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House of Representatives

92nd Legislature REGULAR SESSION OF 2003

House Chamber, Lansing, Wednesday, February 26, 2003.

1:00 p.m.

The House was called to order by the Speaker Pro Tempore.

The roll was called by the Clerk of the House of Representatives, who announced that a quorum was present.

Accavitti—present Acciavatti—present Adamini—present Amos—present Anderson—present Bieda—present Bisbee—present Bradstreet—present Brandenburg—present Brown—present Byrum—present Casperson—present Caswell—present Caul-present Cheeks—present Clack—present Condino—present Daniels—present Dennis-present DeRoche—present DeRossett—present Drolet—present Ehardt—present Elkins—present Emmons—present Farhat—present Farrah—present Gaffney—present

Garfield—present Gieleghem—present Gillard—present Gleason—present Hager—present Hardman—present Hart—present Hood-present Hoogendyk—present Hopgood—present Howell-present Huizenga—present Hummel—present Hune-present Hunter—present Jamnick—present Johnson, Rick-present Johnson, Ruth—present Julian—present Koetje-present Kolb—present Kooiman—present LaJoy—present LaSata—present Law-present Lipsey—excused McConico—present

Meisner—present Meyer—present Middaugh—present Milosch-present Minore-present Moolenaar—present Murphy—present Newell-present Nitz-present Nofs-present O'Neil—present Paletko—present Palmer—present Palsrok-present Pappageorge—present Pastor—present Phillips—present Plakas—present Pumford—present Reeves-present Richardville-present Rivet—present Robertson—present Rocca—present Sak—present Shackleton—present

Shaffer—present

Sheltrown—present Shulman—present Smith—present Spade—present Stahl—present Stakoe—present Stallworth—present Steil—present Stewart—present Tabor—present Taub—present Tobocman—present Vagnozzi-present Van Regenmorter—present Vander Veen—present Voorhees—present Walker—present Ward—present Waters-present Wenke-present Whitmer—present Williams—present Wojno—present Woodward-present Woronchak—present Zelenko—present

Sheen—present

Rep. Sandy Caul, from the 99th District, offered the following invocation:

"Heavenly Father, we thank You for the gift of life. Please Father, grant us the strength and wisdom to use that precious gift to fulfill the mission You have ordained for us here on earth. We ask Your blessing upon all who will frequent this chamber today, that the fruits of our deliberations will be pleasing to You and benefit those who serve in Your name. Father, in Your name we pray. Amen."

Rep. Waters moved that Rep. Lipsey be excused from today's session. The motion prevailed.

Motions and Resolutions

Reps. Cheeks, Farrah, Vagnozzi, Woodward, McConico, Paletko, Kolb, Murphy, Adamini, Sheltrown, Accavitti, Phillips, Byrum, Dennis, Smith, Hunter, Whitmer, Hopgood, Hood, Jamnick, Lipsey, Gieleghem, Gleason, Tobocman, Waters, Clack, Condino, Reeves, Hardman, Stallworth, Meisner, Minore, Zelenko, Daniels, Rivet and Elkins offered the following resolution:

House Resolution No. 22.

A resolution to express support for admissions policies that encourage racial diversity in academics at the University of Michigan and other institutions of higher education.

Whereas, The ongoing debate over the University of Michigan's admissions policies provides an opportunity for our nation to address the role of education in shaping and reflecting our society and our country's place in the world. The case before the United States Supreme Court is generating not only an examination of pertinent case law on the issue of race consciousness in university admissions, but also discussions on the value of diversity to every sector of our country; and

Whereas, The University of Michigan's consideration of racial and other factors in its evaluation process is consistent with the United States Supreme Court's 1978 *Bakke* decision. That landmark case validated the use of race as one of many factors that can be considered; and

Whereas, It is significant to note that briefs in favor of the University of Michigan's admissions practices have been filed by many corporate and military leaders, as well as colleges across the country. The arguments by corporate America reflect the realities of the global marketplace and the importance of cross-cultural understanding. Military and defense leaders have articulated the fundamental role that diversity at all levels of the military has on our national security; and

Whereas, There is a clear distinction between policies that are race sensitive and policies that are based on quotas or numerical targets. The University of Michigan system for admissions clearly emphasizes—above all else—the academic track record of each applicant. However, in order to provide an atmosphere that truly mirrors the world, admissions criteria include a variety of factors, including those that encourage diversity in ethnicity, geography, talents, and socioeconomics. The benefits of the resultant diversity are many, as students are enriched enormously by interaction with people from many different backgrounds; and

Whereas, The track record of America's network of higher education is well known throughout the world. It is a central strength of our nation. To abandon policies that have contributed to this success would be short-sighted; now, therefore, be it

Resolved by the House of Representatives, That we express support for admissions policies that encourage racial diversity in academics at the University of Michigan and other institutions of higher education; and be it further

Resolved, That copies of this resolution be transmitted to the Regents and President of the University of Michigan and the United States Supreme Court.

The resolution was referred to the Committee on Government Operations.

Announcement by the Clerk of Printing and Enrollment

The Clerk announced that the following bills had been printed and placed upon the files of the members, Thursday, February 20:

Senate Bill Nos. 196 197 198 199

The Clerk announced that the following bills had been printed and placed upon the files of the members, Friday, February 21:

Senate Bill Nos. 201 202 203 204

The Clerk announced that the following bills had been printed and placed upon the files of the members, Wednesday, February 26:

House Bill Nos. 4263 4264 4265 4266 4267 4268 4269 4270 4271 4272 4273 4274 4275 4276 4277 4278 4279 4280 4281 4282

The Clerk announced that the following Senate bills had been received on Wednesday, February 26: Senate Bill Nos. 117 118 160

Communications from State Officers

The following communication from the Department of Management and Budget was received and read:

February 12, 2003

I am pleased to present you with a copy of the Annual Report for the Michigan Public School Employees Retirement System, the State Employees Retirement System, the State Police Retirement System and the Judges Retirement System for the fiscal year ending September 30, 2002.

If I can provide further information, please let me know.

Sincerely, Mitch Irwin Director

The communication was referred to the Clerk.

Introduction of Bills

Reps. Pappageorge, Spade, Bieda, Vander Veen, Voorhees, Palmer, Stakoe, Pumford, Ward, Garfield, Brandenburg, Kooiman, Hart, Newell, Moolenaar, Hummel, Robertson, Shaffer and Farhat introduced

House Bill No. 4283, entitled

A bill to amend 1991 PA 179, entitled "Michigan telecommunications act," (MCL 484.2101 to 484.2701) by adding section 314a.

The bill was read a first time by its title and referred to the Committee on Energy and Technology.

Reps. Kolb, Tobocman, McConico, Rivet and Kooiman introduced

House Bill No. 4284, entitled

A bill to provide for joint land use planning by certain local units of government; and to provide for the establishment, powers, and duties of joint planning commissions.

The bill was read a first time by its title and referred to the Committee on Land Use and Environment.

Reps. Ehardt, Tabor, Newell, Vander Veen, Rocca, Stewart, Stahl and Pappageorge introduced

House Bill No. 4285, entitled

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending section 4 (MCL 38.1304), as amended by 2002 PA 94, and by adding section 92.

The bill was read a first time by its title and referred to the Committee on Senior Health, Security and Retirement.

Reps. Spade and Sheltrown introduced

House Bill No. 4286, entitled

A bill to designate an official game bird of this state.

The bill was read a first time by its title and referred to the Committee on Conservation and Outdoor Recreation.

Reps. Spade, Sheltrown, Tobocman, Sak and Kooiman introduced

House Bill No. 4287, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 50a (MCL 750.50a), as added by 1994 PA 42.

The bill was read a first time by its title and referred to the Committee on Criminal Justice.

Reps. Spade, Sheltrown, Tobocman, Sak and Kooiman introduced

House Bill No. 4288, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 16b of chapter XVII (MCL 777.16b), as amended by 2000 PA 279.

The bill was read a first time by its title and referred to the Committee on Criminal Justice.

Reps. Vagnozzi, Woodward, Gillard, Bieda, Spade, Anderson, Paletko, Plakas, Hardman, Wojno, Byrum, Waters, Zelenko, Clack, Williams, Condino, Sheltrown, Elkins, Farrah, Rivet, Jamnick, Law, Dennis, Gleason, Lipsey, Sak, Gieleghem, Hunter, Hopgood, Minore, Accavitti, Brown, Tobocman, Adamini, Whitmer, McConico, Murphy, Rocca, Phillips and Daniels introduced

House Bill No. 4289, entitled

A bill entering into the midwest pharmaceutical compact; and for related purposes.

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

Reps. Julian, Tabor, Vander Veen, Steil, Casperson, Shackleton, Brandenburg, Bisbee, Palmer and Hummel introduced **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 bill was read a first time by its title and referred to the Committee on Local Government and Urban Policy.

Reps. Cheeks, Stallworth, Hunter, Dennis, Clack, Law, Hopgood, Smith, Paletko and Daniels introduced House Bill No. 4291, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding section 1290. The bill was read a first time by its title and referred to the Committee on Education.

By unanimous consent the House returned to the order of

Messages from the Senate

Senate Bill No. 117, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 16*l* of chapter XVII (MCL 777.16*l*), as amended by 2001 PA 19.

The Senate has passed the bill.

The bill was read a first time by its title and referred to the Committee on Criminal Justice.

Senate Bill No. 118, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 215 (MCL 750.215), as amended by 2002 PA 672.

The Senate has passed the bill.

The bill was read a first time by its title and referred to the Committee on Criminal Justice.

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; and to provide for the administration of this act.

The Senate has passed the bill.

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

Second Reading of Bills

House Bill No. 4087, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding part 317.

Was read a second time, and the question being on the adoption of the proposed substitute (H-3) previously recommended by the Committee on Land Use and Environment,

The substitute (H-3) was not adopted, a majority of the members serving not voting therefor.

Rep. Moolenaar moved to substitute (H-4) the bill.

The motion prevailed and the substitute (H-4) was adopted, a majority of the members serving voting therefor.

Rep. Moolenaar moved to amend the bill as follows:

1. Amend page 2, line 20, after "day." by inserting "High capacity well does not include a water well associated with a public water supply system that is owned or operated by a local unit of government if the recharge area of the water well is protected by a wellhead protection program approved by the department under the state's wellhead protection program.".

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

Rep. Moolenaar moved to amend the bill as follows:

- 1. Amend page 2, line 16, after "means" by inserting "1 or more water wells associated with".
- 2. Amend page 2, line 18, after "methods," by striking out "has" and inserting "have".

The motion prevailed and the amendments were adopted, a majority of the members serving voting therefor.

Rep. Pastor moved to amend the bill as follows:

1. Amend page 6, line 3, after "reasonable" by inserting "scientifically-based".

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

Rep. Emmons moved to amend the bill as follows:

- 1. Amend page 4, line 3, after "subsection" by striking out "(5)" and inserting "(4)".
- 2. Amend page 4, line 5, after "agriculture" by striking out the balance of the sentence and inserting "if the complaint involves an agricultural well.".
- 3. Amend page 4, line 9, after "director" by inserting "or the director of the department of agriculture, as appropriate,".
- 4. Amend page 4, line 10, after "complaint." by inserting "An investigation by the director of the department of agriculture shall be conducted under the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.".
- 5. Amend page 4, line 10, after "director" by inserting "or the director of the department of agriculture, as appropriate,".
- 6. Amend page 4, line 13, after "director" by inserting "or the director of the department of agriculture, as appropriate,".
 - 7. Amend page 4, line 16, by striking out all of subsection (3) and renumbering the remaining subsections.
 - 8. Amend page 5, line 17, after "subsection" by striking out "(5)" and inserting "(4)".
 - 9. Amend page 6, line 25, by striking out "31702(4)" and inserting "31702(3)".

The motion prevailed and the amendments were adopted, a majority of the members serving voting therefor.

Rep. Ward moved to amend the bill as follows:

1. Amend page 10, following line 24, by inserting:

"Sec. 31710. This part does not apply to a potential groundwater conflict involving a high capacity well owned or operated by a local unit of government if the local unit of government agrees to make the aggrieved property owner whole by connecting the owner's property to the local unit of government's public water supply system or by drilling the owner a new well, with the costs paid by the local unit of government." and renumbering the remaining section.

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

Rep. Moolenaar moved that the bill be placed on the order of Third Reading of Bills.

The motion prevailed.

House Bill No. 4097, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 32714 (MCL 324.32714), as added by 1996 PA 434.

The bill was read a second time.

Rep. Ruth Johnson moved that the bill be placed on the order of Third Reading of Bills.

The motion prevailed.

Rep. Richardville moved that House Committees be given leave to meet during the balance of today's session. The motion prevailed.

Rep. Cheeks moved that the House adjourn. The motion prevailed, the time being 2:50 p.m.

The Speaker Pro Tempore declared the House adjourned until Thursday, February 27, at 10:00 a.m.

GARY L. RANDALL Clerk of the House of Representatives