

No. 32
STATE OF MICHIGAN
Journal of the Senate
92nd Legislature
REGULAR SESSION OF 2003

Senate Chamber, Lansing, Tuesday, April 1, 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—excused
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—excused
Sikkema—present
Stamas—present
Switalski—present
Thomas—present
Toy—present
Van Woerkom—excused

Bishop Quintin W. Wingate of Pentecostal House of God of Detroit offered the following invocation:

Gracious Father, today, God, we honor You. This is a day that You have made. We are coming today before Your presence, before this Senate, and before all who have gathered here seeking Your direction, seeking wisdom. There are things, Lord, that have to be discussed and decisions that have to be made that affect the lives of our cities and the lives of the people in the state and our country. Father, we pray that wisdom and knowledge would be granted, Lord God, that the right decisions would be made.

We pray, Lord, that You would bless every person who has gathered here. We pray as well for our Governor, that You would bless and lead her, guide and direct her. We pray for the President of the United States, that You would bless him as well. Give him wisdom and knowledge, even in these times that we are in. Let Thy will be done. Let You be honored, Lord, in whatever is done.

Father, in the name of Jesus, touch the lives of the people, Lord, those who have situations and circumstances in their lives where they're struggling, or they have situations in their lives where they don't have the answers. Bless them and let those who are here today be, Lord, those who would depend on You for wisdom, knowledge, and understanding.

We commend, Lord, this session into Your hands. These things that we pray and we ask of Thee, Father, in Jesus' name. Amen, Amen.

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

Motions and Communications

Senator Hammerstrom moved that Senator Van Woerkom 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.

Senator Schauer moved that Senators Clark-Coleman and Scott be excused from today's session.
The motion prevailed.

Senator Cassis asked and was granted unanimous consent to make a statement and moved that the statement be printed in the Journal.

The motion prevailed.

Senator Cassis' statement is as follows:

I stand before you today with a heavy heart. As they say, "All politics are local." Well, so are all wars. While our young men and women are fighting to liberate Iraq, they do so risking their very lives.

A young man, Kevin Nave, was the first Michiganian to give his life during this war in Iraq. Kevin, a White Lake native, graduated with honors from Waterford Kettering High School and the University of Michigan. His dream was always to be a U.S. Marine. Kevin embodied the Marine motto "Semper Fidelis." Truly, he was always faithful—faithful to his family and faithful to his country.

Kevin leaves his wife Carrie, his son Anthony, and daughter Maeve, as well as his parents who still reside in White Lake. Our condolences and heartfelt respect go to his family.

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

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

Senator Hammerstrom 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.

Senator Leland entered the Senate Chamber.

Recess

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

10:13 a.m.

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

During the recess, Senators Sikkema and Hardiman introduced to the Senate the Grand Rapids South Christian High School Varsity Boys Basketball Team, 2003 Class B State Champions, and cheerleaders.
Coach Ken Hiskes responded briefly.

The following communication was received:
Department of Civil Service

March 21, 2003

Enclosed is the Appropriation/Fiscal Analysis Report for the Department of Civil Service for fiscal year 2001-02.
This report is provided in accordance with Article XI, Section 5 of the Constitution of the State of Michigan.

Sincerely,
John F. Lopez
State Personnel Director

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 27:
House Bill Nos. 4062 4083 4238

The Secretary announced the enrollment printing and presentation to the Governor on Thursday, March 27, for her approval the following bill:

Enrolled Senate Bill No. 160 at 1:33 p.m.

The Secretary announced the printing and placement in the members' files on Thursday, March 27, of:
House Bill Nos. 4456 4457 4458 4459 4460 4461 4462 4463 4464 4465 4466 4467
House Joint Resolution F

The Secretary announced the printing and placement in the members' files on Friday, March 28, of:

Senate Bill Nos. 349 350 351 352
House Bill Nos. 4468 4469 4470 4471 4472 4473 4474 4475 4476 4477 4478 4479 4480 4481
4482 4483 4484 4485 4486 4487

Messages from the Governor

Senator Hammerstrom moved that consideration of the following bill be postponed for today:
Senate Bill No. 195
The motion prevailed.

The following messages from the Governor were received and read:

March 28, 2003

I respectfully submit for your approval the following appointment to office:
Michigan Board of Medicine

Mr. Harold Sauer, M.D., 2601 Creekstone Trail, Okemos, MI 48864, county of Ingham, appointed to fill the vacancy created by the resignation of Kenneth McNamee, M.D., to a term expiring December 31, 2003.

March 28, 2003

I respectfully submit for your approval the following appointments to office:

Certificate of Need Commission

Mr. James Maitland, 4303 Maitland Drive, Williamsburg, MI 49690, county of Grand Traverse, to a term commencing on March 28, 2003 and expiring on March 28, 2006.

Ms. Renee Turner-Bailey, 4534 Strandwyck Road, West Bloomfield, MI 48322, county of Oakland, to a term commencing on March 28, 2003 and expiring on March 28, 2006.

Sincerely,
Jennifer M. Granholm
Governor

The appointments were referred to the Committee on Government Operations.

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 Clarke 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:

House Bill No. 4198, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 82126 (MCL 324.82126), as amended by 1998 PA 30.

House Bill No. 4079, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 20194 and 21799a (MCL 333.20194 and 333.21799a), section 20194 as added by 1993 PA 79.

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:

House Bill No. 4139, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 43536a (MCL 324.43536a), as added by 1996 PA 585.

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.

Resolutions

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

Senate Resolution No. 48

The resolution consent calendar was adopted.

Senators Thomas and Garcia offered the following resolution:

Senate Resolution No. 48.

A resolution honoring the birthday of Cesar Chavez.

Whereas, The Michigan Senate recognizes the fundamental contributions that Cesar Chavez made to this nation by organizing farm workers to campaign for safe and fair working conditions, reasonable wages, decent housing, and the outlawing of child labor; and

Whereas, Influenced by the nonviolent principles of Mohandas Gandhi and Dr. Martin Luther King, Jr., Cesar Chavez began a crusade against racial and economic discrimination, coordinated voter registration drives, and founded the United Farm Workers of America; and

Whereas, In memory of this great American, it is appropriate to celebrate the birthday of Cesar Chavez on Monday, March 31, 2003; now, therefore, be it

Resolved by the Senate, That we hereby honor the birthday of Cesar Chavez and encourage individuals, government and educational institutions, and community organizations to do likewise and reflect upon this great American.

Senators Basham, Goschka, Schauer, Switalski, Cherry, Jacobs, Bernero, Birkholz, Clarke and Toy were named co-sponsors of the resolution.

Senators McManus, Allen, Goschka and Toy offered the following concurrent resolution:

Senate Concurrent Resolution No. 15.

A concurrent resolution to memorialize the United States Congress to enact legislation to lower the age for retirement eligibility for members of the United States Armed Forces Reserve.

Whereas, Congress needs to revise the retirement contract between Reservists and the federal government. During the Cold War, Reservists played a pivotal role in countering Soviet threats to pour through the Fulda Gap, cross the German plains, and conquer the Western democracies. At that time in history, Reservists received 2 weeks annual training in addition to monthly drills. With the collapse of the Soviet menace, the function of Reservists has grown more important. With active duty forces having been reduced by 40 percent within the past decade, Reservist mobilizations have increased to the point that they provide between 12 and 13 million man-days per year; and

Whereas, Active duty and Reservists component forces have merged into a continuum of services. Since there is increasingly less distinction separating the two, there should be a greater parity of benefits between the forces. For example, while active duty members can retire after twenty years of qualifying services regardless of age, qualifying Reservists are not eligible for retirement pay until age 60; and

Whereas, The number of Reservists ordered to active duty in Operation Iraqi Freedom exceeds 212,000. These mobilizations underscore the fact that the United States can no longer go to war or even adequately defend the homeland without Reservists playing a prominent role; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we memorialize the United States Congress to enact legislation allowing members of the United States Armed Forces Reserves who have more than 20 years of qualifying service to be eligible for retirement pay at age 50; and be it further

Resolved, That copies of this concurrent 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 concurrent resolution be referred to the Committee on Government Operations,

Senator Hammerstrom 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 concurrent resolution,

Senator Hammerstrom moved that the concurrent resolution be referred to the Committee on Senior Citizens and Veterans Affairs.

The motion prevailed.

Senators Bishop, Schauer, Cassis, Cherry, Birkholz and Clarke were named co-sponsors of the concurrent resolution.

By unanimous consent the Senate proceeded to the order of

Statements

Senators Birkholz and Hardiman asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Birkholz's statement is as follows:

I rise and have with me Senator Hardiman who is going to share this with me at this time. It is indeed with great sadness that we rise to recognize Senior Airman Jason Plite, who was from the Grand Ledge area.

Let It Be Known, That we offer this memorial in honor of Senior Airman Jason T. Plite with deep respect for his many contributions to uphold the freedom and his commitment to the noble ideals of our country. As friends and family gather to honor the life of this patriotic man, we proudly add our own thanks for his contributions and the contributions that he and his family have made in protecting our cherished liberties.

Jason was a proud and distinguished member of the 1999 graduating class of Grand Ledge High School, where he was Captain of the swimming team. Among his greatest talents was his artistic ability, where he excelled in creating drawings, paintings, and sculptures. He was an avid mountain bike racer as well as a motorcycle enthusiast.

Immediately after graduating from high school in 1999, Jason enlisted in the United States Air Force. Upon completion of basic training, he was selected to attend the U.S. Air Force special forces training program; a rigorous series of courses in which trainees become proficient paramedics and receive airborne training. Senior Airman Plite was designated a U.S. Air Force Pararescueperson. At his graduation, he was honored with the Charles B. King Award

for outstanding academic achievement and leadership in his field. Of the 77 personnel who began this course together, only six, including Jason, successfully completed the course. Presently, only 300 Pararescumen serve in the United States Air Force around the world.

Jason's mother and stepfather live in Grand Ledge in Eaton County. His father and stepmother live in Lowell. So I am going to share the rest of this tribute with Senator Bill Hardiman who represents his parents.

Senator Hardiman's statement is as follows:

Senior Airman/Pararescueman Plite served his country with pride and honor during his first tour of duty in Afghanistan in 2002. He was two weeks into his second tour of duty in Afghanistan when he died, along with five of his crewmembers when their Air Force helicopter crashed while conducting a rescue mission in Afghanistan on Sunday, March 23, 2003. He died doing what he enjoyed most: being a Pararescueman, helping people in need, and serving his country.

Jason was an outstanding example of the kind of person who is not content to sit idly by while others take action. Through his work with the 41st Rescue Squadron, he made it clear that we have opportunities each and every day to put our love of country to good use in helping our fellow citizens. We all benefit from the dedication and commitment of a man like Senior Airman Jason Plite.

In Special Tribute, Therefore, This document is signed and dedicated in memory of Senior Airman Jason T. Plite. May his family and friends know of our respect and gratitude for his outstanding contributions.

This is signed this day by Susan L. Tabor, State Representative, 71st District; Patricia L. Birkholz, State Senator, 24th District; and Governor Granholm, our Governor.

I'm sure that my colleagues would join in wishing the best to his family and may God's peace and comfort be with him now.

By unanimous consent the Senate returned to the order of

Introduction and Referral of Bills

Senators Bernero, Jacobs, Schauer, Olshove, Basham, Clark-Coleman, Switalski, Barcia and Thomas introduced
Senate Bill No. 353, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 3104 (MCL 500.3104), as amended by 2002 PA 662.

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

Senators Toy, Kuipers, Gilbert, Stamas, Bishop, Sanborn, Allen, McManus, Jelinek, Birkholz, Patterson, Garcia, Goschka and Brown introduced

Senate Bill No. 354, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," (MCL 211.1 to 211.157) by adding section 7gg. The bill was read a first and second time by title and referred to the Committee on Finance.

Senators Gilbert, Toy, Cropsey, Allen, Sanborn, Garcia, Kuipers, Van Woerkom, Basham, Goschka, McManus, Stamas, Birkholz, Bishop and Olshove introduced

Senate Bill No. 355, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 510 (MCL 206.510), as amended by 1995 PA 245.

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

Senators Jacobs, Hardiman, Schauer, Bernero and Johnson introduced

Senate Bill No. 356, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding sections 217q and 217r.

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

Senators Bishop, Sanborn, Toy, Goschka, Johnson, Basham, Kuipers, Cropsey, Hardiman, Jelinek, Brown, McManus, Birkholz, Gilbert, Stamas, Van Woerkom, Cassis, Garcia, Thomas, Allen and George introduced

Senate Bill No. 357, entitled

A bill to require certain restrictions on the transmission of unsolicited commercial and sexually explicit e-mail; to establish procedures for e-mail service providers; to allow recipients of e-mail to be excluded from receiving future e-mail; and to prescribe penalties and remedies.

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

Senators George, Toy, Patterson, Kuipers, Hammerstrom, Goschka, Olshove, Garcia, Jacobs, Thomas, Allen and Prusi introduced

Senate Bill No. 358, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 2811 (MCL 333.2811), as amended by 1998 PA 332.

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

House Bill No. 4062, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 21799a (MCL 333.21799a).

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 Health Policy.

House Bill No. 4083, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 36103 (MCL 324.36103), as amended by 1996 PA 233.

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. 4238, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 622 (MCL 257.622), as amended by 1991 PA 168.

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 Agriculture, Forestry and Tourism reported

House Bill No. 4010, entitled

A bill to amend 1974 PA 198, entitled "An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to impose and provide for the disposition of an administrative fee; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties," by amending section 2 (MCL 207.552), as amended by 2002 PA 280.

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, Brater 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 27, 2003, at 9:00 a.m., Room 110, Farnum Building

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

The Committee on Education reported

Senate Bill No. 157, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 375 (MCL 380.375), as added by 1999 PA 10.

With the recommendation that the bill pass.

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

Wayne Kuipers
Chairperson

To Report Out:

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

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Education submitted the following:

Meeting held on Thursday, March 27, 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 Technology and Energy submitted the following:

Meeting held on Wednesday, March 26, 2003, at 3:00 p.m., Room 210, Farnum Building

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

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Family Independence Agency submitted the following:

Meeting held on Thursday, March 27, 2003, at 2:00 p.m., Room 810, Farnum Building

Present: Senators Hardiman (C), George and Scott

Scheduled Meetings

Agriculture, Forestry and Tourism - Thursday, April 3, 9:00 a.m., Room 110, Farnum Building (373-1635)

Appropriations - Wednesday, April 2, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Subcommittees -

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

Capital Outlay - Thursday, April 3, 8:45 a.m., House Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Family Independence Agency - Wednesday, April 2, 2:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower) (CANCELED); and Thursday, April 3, 2:00 p.m., Room 810, Farnum Building (373-1801)

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

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

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

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

Finance - Wednesday, April 2, 1:00 p.m., Room 110, Farnum Building (373-1758)

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

Local, Urban and State Affairs - Thursday, April 3, 1:00 p.m., Room 110, Farnum Building (373-1707)

Senior Citizens and Veterans Affairs - Wednesday, April 2, 1:00 p.m., Room 100, Farnum Building (373-1707)

Technology and Energy - Wednesday, April 2, 3:00 p.m., Room 210, Farnum Building (373-7350)

Senator Hammerstrom moved that the Senate adjourn.

The motion prevailed, the time being 10:38 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Wednesday, April 2, 2003, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

