

No. 13
STATE OF MICHIGAN
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REGULAR SESSION OF 2005

Senate Chamber, Lansing, Thursday, February 17, 2005.

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—excused
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 day, we bow before You. We acknowledge You as the Giver of all that is good. We want to thank You for the opportunity to serve. We are mindful of our obligations and responsibilities to consider the needs of the entire state and not the needs of just our own districts and areas. We want You, we ask You to bless our work today.

We, again, offer a heartfelt prayer for our friend and former colleague, Jim Howell, and his wife Maureen and their family. We thank You that You are the Giver of life. We beseech You that You will pour out Your mercy and healing grace upon that young man and that family.

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*.

Motions and Communications

Senator Birkholz entered the Senate Chamber.

Senator Schauer moved that Senator Basham be excused from today's session.

The motion prevailed.

The Secretary announced that the following official bills and joint resolution were printed on Wednesday, February 16, and are available at the legislative Web site:

Senate Bill Nos.	196	197	198	199	200	201													
House Bill Nos.	4262	4263	4264	4265	4266	4267	4268	4269	4270	4271	4272	4273	4274	4275					
	4276	4277	4278	4279	4280	4281	4282	4283	4284	4285	4286	4287	4288	4289					
	4290	4291	4292	4293	4294	4295	4296	4297	4298	4299	4300	4301	4302	4303					
	4304	4305	4306	4307	4308	4309	4310	4311	4312	4313	4314	4315	4316	4317					
	4318	4319	4320																
House Joint Resolution		E																	

Recess

Senator Hammerstrom moved that the Senate recess subject to the call of the Chair.

The motion prevailed, the time being 10:09 a.m.

10:15 a.m.

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

During the recess, Senators Brown, Jelinek, Stamas, Johnson, Garcia, McManus, George, Hardiman, Cropsey and Bernero entered the Senate Chamber.

Third Reading of Bills

Senator Goschka entered the Senate Chamber.

Senator Hammerstrom moved that the following bills be placed at the head of the Third Reading of Bills calendar:

Senate Bill No. 69

Senate Bill No. 93

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 69, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1311g (MCL 380.1311g), as added by 1999 PA 23.

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. 10**Yeas—37**

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

Nays—0**Excused—1**

Basham

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. 93, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding section 1163.

The question being on the passage of the bill,

Senator Brater offered the following amendment:

1. Amend page 2, line 3, by striking out all of subdivision (A) and relettering the remaining subdivisions.

The amendment was not adopted, a majority of the members serving not voting therefor.

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. 11**Yeas—33**

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

Nays—4

Brater

Emerson

Jacobs

Leland

Excused—1

Basham

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Protest

Senator Jacobs, under her constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 93 and moved that the statement she made during the discussion of the amendment offered by Senator Brater be printed as her reasons for voting “no.”

The motion prevailed.

Senator Jacobs’ statement is as follows:

I rise in support of this amendment. I think all of us here feel that we have done a pretty good job of raising our kids, that we have raised moral kids with good values. I know I feel I did. My husband and I raised our kids; they were brought up in a faith community; they attended religious services; they went to Sunday school; they were active members of their temple youth group; and they became really great adults with great values. That’s because my husband and I took the responsibility to provide good role models and to teach them what we felt were really good values.

We should be, as parents, doing this from the moment our children are born. I don’t think that we should be basically legislating morality. We have a situation where our schools are basically having a tough time teaching our kids to read and write. Our State Board of Education certainly has enough to do. To me, if we were going to be asking them to provide some new models, I’d say let’s do something on conflict resolution so that kids know how to behave properly when they are at school. But I think we ought to be leaving character education to parents. I think we do a good job.

I am in total support of what my colleague was speaking about. So let’s continue making sure that parents are parents. I support Senator Brater’s amendment.

By unanimous consent the Senate proceeded to the order of

Resolutions

Senators Stamas, Patterson, Hardiman, Garcia, Cropsey, Goschka, Bishop and Allen offered the following concurrent resolution:

Senate Concurrent Resolution No. 6.

A concurrent resolution to memorialize the Congress of the United States and the federal government to work with Michigan officials to align the ownership of mineral rights and surface rights on state and federal lands in Michigan and express our intent to take actions to achieve this goal.

Whereas, State-owned land in Michigan amounts to approximately 13 percent of the acreage and the federal government manages another 8 percent of Michigan’s surface area. This large percentage of state and federal land ownership is especially significant in the situations in which ownership of mineral rights is not consistent with the ownership of the surface rights; and

Whereas, The degree to which the rights to minerals do not align with rights to the surface of the land is cause for considerable litigation and frustration in Michigan. This frustration is felt by citizen groups, mineral exploration and production companies, local units of government, and all consumers of gas and oil; and

Whereas, The state of Michigan has jurisdiction over both mineral and surface rights on 3.8 million acres of land and mineral rights alone on another 2.1 million acres. Maps showing ownership of property in Michigan reflect a crazy quilt of ownership. The common situation of surface land ownership differing from ownership of the mineral rights below presents many problems to our state. This nonalignment of ownership makes it difficult to protect land from development and difficult to extract the energy resources that our society needs. Instead, expensive and minimally productive litigation can be the result; and

Whereas, It would be far more productive for the state and federal governments to work together to do all that is possible to minimize conflicts in ownership between surface rights and mineral rights; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we memorialize the Congress of the United States, the Department of Interior, the Bureau of Land Management, the National Forest Service, and the Department of Energy to work with Michigan officials to exchange property to align the ownership of mineral rights and surface rights on state and federal lands in Michigan and express our intent to take actions to achieve this goal; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, the Bureau of Land Management, the Department of Interior, the National Forest Service, and the Department of Energy.

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 Natural Resources and Environmental Affairs.

The motion prevailed.

Senators Birkholz, Cassis and Prusi were named co-sponsors of the concurrent resolution.

Senators Stamas, Van Woerkom, Birkholz, Sanborn, Goschka, Allen, Hardiman, Garcia, Brown, Jelinek and Barcia offered the following resolution:

Senate Resolution No. 9.

A resolution to express support for the mission of Rural Partners of Michigan and calling for increased investment in this work.

Whereas, Due to changes in technology, the global marketplace, and society, farm life and rural communities in Michigan and throughout the country are facing unprecedented challenges. Rural life today projects a far different profile than was the case for those who lived in rural areas only a few decades ago; and

Whereas, In 1980, Congress enacted the Rural Development Policy Act. Michigan took actions to implement this idea through a rural partnership program and the creation of a nonprofit organization to address such key issues as the infrastructure, rural health problems, water-related matters, economic development, land use, and a host of other policy challenges. Rural Partners of Michigan was formed and became a focused mechanism to ensure that the rural voice was heard, especially in the halls of government; and

Whereas, The framework of rural private-public partnerships to facilitate collaboration, encourage input, and reduce and eliminate duplicative governmental regulations remains as important as ever to the vitality of rural life in Michigan. The state's policymakers and agriculture leaders would do well to encourage investment in Michigan rural communities through Rural Partners of Michigan; now, therefore, be it

Resolved by the Senate, That we express support for the mission of Rural Partners of Michigan and call for increased investment in this work; and be it further

Resolved, That copies of this resolution be transmitted to the Michigan Department of Agriculture, the Michigan Economic Development Corporation, the Office of the Governor, and the USDA Michigan State Director.

Pending the order that, under rule 3.204, the 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 resolution,

Senator Hammerstrom moved that the resolution be referred to the Committee on Agriculture, Forestry and Tourism.

The motion prevailed.

Senator Cassis was named co-sponsor of the resolution.

Introduction and Referral of Bills

Senators Brater, Jacobs, Leland and Emerson introduced

Senate Bill No. 209, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 3902 (MCL 324.3902).

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

Senators Brown and Jelinek introduced

Senate Bill No. 210, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 205 (MCL 257.205), as amended by 1980 PA 398.

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

Senators Birkholz, Toy, Allen, Gilbert, Sanborn, Patterson, Van Woerkom, Hardiman and Hammerstrom introduced

Senate Bill No. 211, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 41301 (MCL 324.41301), as added by 2003 PA 270.

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

Senators Van Woerkom, Birkholz, Toy, Allen, Gilbert, Sanborn, Patterson, Hardiman and Hammerstrom introduced

Senate Bill No. 212, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 41303 (MCL 324.41303), as added by 2003 PA 270.

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

Senators Stamas, Birkholz, Toy, Allen, Gilbert, Sanborn, Patterson, Van Woerkom, Hardiman and Hammerstrom introduced

Senate Bill No. 213, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 41305 (MCL 324.41305), as added by 2003 PA 270.

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

Senators Brater, Allen, Toy, Gilbert, Patterson, Van Woerkom, Hardiman, Hammerstrom and Birkholz introduced

Senate Bill No. 214, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 41309 (MCL 324.41309), as added by 2003 PA 270.

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

Senators Gilbert, Birkholz, Allen, Toy, Patterson, Van Woerkom, Hardiman and Hammerstrom introduced

Senate Bill No. 215, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 41313.

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

Senators Patterson, Birkholz, Toy, Allen, Van Woerkom, Hardiman and Hammerstrom introduced

Senate Bill No. 216, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 41321.

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

Senators Allen, Birkholz, Patterson, Toy, Gilbert, Van Woerkom, Hardiman and Hammerstrom introduced

Senate Bill No. 217, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 41323.

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

Senators Birkholz, Allen, Brater and Garcia introduced

Senate Bill No. 218, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 11514 (MCL 324.11514), as amended by 2004 PA 34.

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

Senators Birkholz, Allen and Brater introduced

Senate Bill No. 219, entitled

A bill to amend 1967 PA 288, entitled "Land division act," (MCL 560.101 to 560.293) by adding section 294; 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 Natural Resources and Environmental Affairs.

Senators Van Woerkom, Kuipers, Cropsey, Goschka and Patterson introduced

Senate Bill No. 220, entitled

A bill to amend 1989 PA 269, entitled "An act to provide civil immunity to persons who operate or use certain sport shooting ranges; and to regulate the application of state and local laws, rules, regulations, and ordinances regarding sport shooting ranges," by amending section 3 (MCL 691.1543), as amended by 1994 PA 250.

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

Senators McManus, Van Woerkom, Barcia, Gilbert, Goschka, Allen, Stamas, Hardiman, Garcia, Brown and Jelinek introduced

Senate Bill No. 221, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 262.

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

Senators Barcia, Van Woerkom, Goschka, Allen, Stamas, Hardiman, Garcia, Brown and Jelinek introduced

Senate Bill No. 222, entitled

A bill to amend 1975 PA 228, entitled "Single business tax act," (MCL 208.1 to 208.145) by adding section 35c.

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

Senators Jelinek, Van Woerkom, Birkholz, Sanborn, Cropsey, Goschka, Allen, Stamas, Hardiman, Garcia, Brown and Barcia introduced

Senate Bill No. 223, entitled

A bill to amend 1975 PA 228, entitled "Single business tax act," by amending section 38e (MCL 208.38e), as amended by 2003 PA 273.

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

Senators Van Woerkom, Gilbert, Birkholz, Goschka, Allen, Stamas, Brown, Jelinek and Barcia introduced

Senate Bill No. 224, entitled

A bill to amend 2002 PA 49, entitled "Michigan broadband development authority act," by amending section 7 (MCL 484.3207), as amended by 2003 PA 265.

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

Senators Brown, Van Woerkom, Gilbert, Birkholz, Sanborn, Cropsey, Goschka, Allen, Stamas, Hardiman, Garcia, Jelinek and Barcia introduced

Senate Bill No. 225, entitled

A bill to create an agricultural tourism advisory commission; to provide for its powers and duties; 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 Agriculture, Forestry and Tourism.

Senators Gilbert, Van Woerkom, Birkholz, Sanborn, Cropsey, Goschka, Allen, Stamas, Hardiman, Garcia, Brown, Jelinek and Barcia introduced

Senate Bill No. 226, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding part 23.

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

Senators Brown, Van Woerkom, Birkholz, Gilbert, Jelinek, Goschka, Cropsey, Sanborn, Stamas, Kuipers and Allen introduced

Senate Bill No. 227, entitled

A bill to amend 1855 PA 105, entitled "An act to regulate the disposition of the surplus funds in the state treasury; to provide for the deposit of surplus funds in certain financial institutions; to lend surplus funds pursuant to loan agreements secured by certain commercial, agricultural, or industrial real and personal property; to authorize the loan of surplus funds to certain municipalities; to authorize the participation in certain loan programs; to authorize an appropriation; and to prescribe the duties of certain state agencies," (MCL 21.141 to 21.147) by adding section 2g.

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

Senators Van Woerkom, Gilbert, Jelinek, Goschka, Cropsey, Stamas, Birkholz, Kuipers, Allen and Brown introduced

Senate Bill No. 228, entitled

A bill to establish a loan repayment program for repayment of certain educational loans to agricultural employees in rural areas; to provide for the administration of the program; and to prescribe certain powers and duties of certain state officers, agencies, and departments.

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

Statements

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

The motion prevailed.

Senator Scott's statement is as follows:

Well, here I go again. After attending the JCAR meeting this morning, you know, it's very clear that there is a segment of the population that just wants to keep everything status quo for themselves and not be fair to everyone and make sure that these insurance rates are spread among all of us, as opposed to a few of us who live in the urban areas. I would just hope that we would start looking at things just a little differently. We talk about fairness. That is all I'm asking for is some fairness with these insurance rates.

Committee Reports

The Committee on Commerce and Labor reported

Senate Bill No. 171, entitled

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," (MCL 421.1 to 421.75) by adding section 22b.

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

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

Jason E. Allen
Chairperson

To Report Out:

Yeas: Senators Allen, Toy and McManus

Nays: None

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

The Committee on Commerce and Labor reported

Senate Bill No. 172, entitled

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 26 (MCL 421.26), as amended by 1984 PA 172.

With the recommendation that the bill pass.

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

Jason E. Allen
Chairperson

To Report Out:

Yeas: Senators Allen, Toy, McManus and Schauer

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Commerce and Labor reported

Senate Bill No. 173, entitled

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 22 (MCL 421.22).

With the recommendation that the bill pass.

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

Jason E. Allen
Chairperson

To Report Out:

Yeas: Senators Allen, Toy, McManus and Schauer

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Commerce and Labor reported

Senate Bill No. 174, entitled

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 41 (MCL 421.41).

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.

Jason E. Allen
Chairperson

To Report Out:

Yeas: Senators Allen, Toy, McManus and Schauer

Nays: None

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

The Committee on Senior Citizens and Veterans Affairs reported

Senate Bill No. 194, entitled

A bill to amend 2004 PA 402, entitled "Armed forces commemoration act," by amending section 2 (MCL 435.342).

With the recommendation that the bill pass.

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

Laura M. Toy
Chairperson

To Report Out:

Yeas: Senators Toy, Stamas, Gilbert and Olshove

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

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

Meeting held on Wednesday, February 16, 2005, at 1:00 p.m., Room 100, Farnum Building

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

Excused: Senator Clark-Coleman

Scheduled Meetings

Natural Resources and Environmental Affairs - Tuesday, February 22, 3:00 p.m., Room 110, Farnum Building (373-3447)

Technology and Energy - Wednesday, February 23, 3:00 p.m., Room 210, Farnum Building (373-7350)

Transportation - Tuesday, February 22, 1:00 p.m., Room 110, Farnum Building (373-7708)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 10:54 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Tuesday, February 22, 2005, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate