

No. 7
STATE OF MICHIGAN
Journal of the Senate
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REGULAR SESSION OF 2019

Senate Chamber, Lansing, Wednesday, January 23, 2019.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor Garlin D. Gilchrist II.

The roll was called by the Secretary of the Senate, who announced that a quorum was present.

Alexander—present
Ananich—excused
Barrett—present
Bayer—present
Bizon—present
Brinks—present
Bullock—present
Bumstead—present
Chang—present
Daley—present
Geiss—present
Hertel—present
Hollier—present

Horn—present
Irwin—present
Johnson—present
LaSata—present
Lauwers—present
Lucido—present
MacDonald—present
MacGregor—present
McBroom—present
McCann—present
McMorrow—present
Moss—present
Nesbitt—present

Outman—present
Polehanki—present
Runestad—present
Santana—excused
Schmidt—present
Shirkey—present
Stamas—present
Theis—present
VanderWall—present
Victory—present
Wojno—present
Zorn—present

Senator Winnie Brinks of the 29th District offered the following invocation:

Lord, as we gather at the beginning of this legislative term, I ask for Your blessing on all of the people of Michigan.

Bless all who labor in support of their families. May we value their work and afford to them dignity and respect for their contributions to our economy and our communities. Bless all of the families who call Michigan home. May we create an environment in which they have the resources they need to thrive. Bless all the children among us. May we love and cherish those in our care and may we not turn our hearts away from those who suffer as a result of certain circumstances they have not chosen. Bless the elderly. May they live out their days secure in their well-being and with the knowledge that their life's work is affirmed by those who follow them.

As we in government work together to serve the people of Michigan, I ask that You prepare our hearts and our minds for the hard work of service to others. I pray that we think always of the greater good in all of our deliberations and that our decisions reflect that we value each other and every member of this community we call Michigan. I pray that there will be a generosity of spirit as we engage in legitimate disagreement and debate with each other. May we listen and speak to each other in such a way that acknowledges that each person here deserves to be heard and understood. May we celebrate and affirm what is just and good in our state so that our communities will be strong in times when all is as it should be, and in times when things seem to be going wrong. Let us also turn our hearts to the needs of those who suffer injustice. Let us not be afraid to defend the weak and the poor. Give us courage to act for their good. Summon out our best impulses of concern for each other, both in the Capitol and among all of the people of our great state.

We ask these things, relying on Your compassion and grace and confident in Your love. Amen.

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

Motions and Communications

Senator Hertel entered the Senate Chamber.

Senator Chang moved that Senator Hollier be temporarily excused from today's session.

The motion prevailed.

Senator Chang moved that Senators Ananich and Santana be excused from today's session.

The motion prevailed.

The following communication was received and read:

Office of the Auditor General

January 18, 2019

Enclosed is a copy of the following reports:

- Performance audit report on Rental Assistance and Homeless Solutions, Michigan State Housing Development Authority (MSHDA), Department of Talent and Economic Development (186-0220-17).
- Investigative audit report on the Department of Environmental Quality BioWatch Unit's select employees' time reporting and use of State vehicles (917-MDEQ-01).

Sincerely,
Doug Ringler
Auditor General

The audit reports were referred to the Committee on Oversight.

The following communication was received:

Office of Senator Lana Theis

January 17, 2019

Per Senate Rule 1.110, I am requesting that my name be added as a cosponsor to Senate Bill 1, which was introduced January 15th, 2019 by Senator Aric Nesbitt and is currently in the Senate Committee on Insurance and Banking.

Sincerely,
Lana Theis
State Senator
22nd District of Michigan

The communication was referred to the Secretary for record.

The following communications were received:
Office of Senator Stephanie Chang

January 22, 2019

Per Senate Rule 1.110(c) I am requesting that my name be added as a co-sponsor the Senate Joint Resolution D which was introduced on January 22, 2019, by Senator Irwin and is currently in Senate Finance Committee.

January 22, 2019

Per Senate Rule 1.110(c) I am requesting that my name be added as a co-sponsor the Senate Bill 13 which was introduced on January 15, 2019, by Senator Wojno and is currently in Senate Finance Committee.

Sincerely,
Senator Stephanie Chang
District 1

The communications were referred to the Secretary for record.

Recess

Senator MacGregor moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 10:06 a.m.

11:19 a.m.

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

During the recess, Senator Hollier entered the Senate Chamber.

Resolutions

Senator Horn offered the following resolution:

Senate Resolution No. 6.

A resolution to authorize the Senate Majority Leader to engage counsel to file a motion on behalf of the Senate to intervene in *League of Women Voters of Michigan, et al v. Jocelyn Benson*.

Whereas, On August 9, 2011, following the 2010 Census, then-Governor Rick Snyder signed into law Public Acts 128 and 129 of 2011. These acts collectively provided for the redistricting of congressional and state legislative districts, as required by the U.S. and Michigan constitutions and in accordance with state law. Specifically, Public Act 129 of 2011, which passed both chambers of the Legislature with bipartisan support, provided for the redistricting of the Michigan House of Representatives and the Senate; and

Whereas, On December 22, 2017, the League of Women Voters of Michigan and other named individuals filed an action against the Secretary of State, in her official capacity, in the United States District Court for the Eastern District of Michigan, Case No. 2:17-cv-14148, contending that the congressional and state legislative district maps are unconstitutional partisan gerrymanders in violation of the First and Fourteenth Amendments of the U.S. Constitution; and

Whereas, Following the filing of the action, then-Secretary of State Ruth Johnson engaged in a vigorous defense of Public Acts 128 and 129 of 2011, including the filing of multiple motions to dismiss the lawsuit and for summary judgement. On November 6, 2018, the people of Michigan elected Jocelyn Benson as Secretary of State, succeeding Secretary of State Johnson on January 1, 2019; and

Whereas, On January 17, 2019, Secretary of State Benson, through newly appointed counsel, filed a motion to stay the proceedings. In the motion, the Secretary of State expressed a desire to settle the matter with the plaintiffs, presumably by agreeing to allow for the redrawing of congressional and state legislative districts for the 2020 elections, including potentially calling for a special state Senate election in 2020. The filing of such a motion, together with media reports indicating a desire by the Secretary of State to adopt a new apportionment plan for the 2020 election, effectively ended the adversarial role of the Secretary of State and its meaningful participation in and defense of this matter; and

Whereas, Individual members of Congress and the Michigan House of Representatives previously filed motions to intervene as defendants and those motions were ultimately granted; and

Whereas, Members of the Michigan Senate now have an additional interest in this matter, as the proposed settlement could include a requirement that the Michigan Senate be subject to a special election in 2020 in violation of Article IV, Section 2 of the *Constitution of the State of Michigan of 1963*, which provides:

The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.

; and

Whereas, On January 22, 2019, three current members of the Senate filed a motion to intervene in order to help fill the adversarial void and defend against claims raised by plaintiffs and to protect the interests of the Senate and its members who are elected to represent the people of Michigan; and

Whereas, The Senate must seek to intervene in this case in order to defend its unique role in Michigan's constitutional system. Permitting the court to consider a mid-term special Senate election without hearing meaningful opposition would greatly harm operation of this legislative body and the ability of its members to carry out the duties of their office, including representing members of the public; now, therefore, be it

Resolved by the Senate, That the Senate Majority Leader is authorized to engage counsel to file a motion on behalf of the Senate to intervene in *League of Women Voters of Michigan, et al v. Jocelyn Benson* (2:17-cv-14148) and take all necessary steps incidental thereto, including, but not limited to, the pursuit or defense of any appeals.

Pending the order that, under rule 3.204, the resolution be referred to the Committee on Government Operations, Senator MacGregor moved that the rule be suspended.

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

The resolution was adopted.

Senators Bumstead, Daley, LaSata, Lauwers, Lucido, MacDonald, MacGregor, McBroom, Nesbitt, Outman, Stamas, Theis, VanderWall and Victory were named co-sponsors of the resolution.

Pursuant to rule 1.306, Senator Johnson submitted the following:

January 23, 2019

I rise to offer an explanation for not voting on the resolution just adopted by the Senate.

Although there may not be an actual conflict of interest that would prevent me from voting on the resolution, I abstained from voting to avoid any appearance of impropriety or conflict due to my former role as Secretary of State in the subject litigation.

I ask that my comments be printed in the Journal as my disclosure under Senate Rule 1.306. Thank you.

Sincerely,
Ruth A. Johnson
State Senator
14th District

Introduction and Referral of Bills

Senators Bayer, Polehanki, Moss, Wojno, Chang, Brinks, McMorro, McCann, Santana, Irwin, Ananich, Hollier, Geiss and Alexander introduced

Senate Bill No. 49, entitled

A bill to require all state departments and agencies to establish certain water affordability criteria; and to prescribe the powers and duties of certain state and local governmental officers and entities.

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

Senators Geiss, Irwin, Polehanki, Hertel, Moss, Ananich, Brinks, McMorro, Chang, Bayer, McCann, Bullock, Wojno, Hollier and Alexander introduced

Senate Bill No. 50, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by repealing section 14 (MCL 750.14).

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

Senators Chang, Geiss, Irwin, Polehanki, Moss, Hertel, Ananich, McCann, Bayer, Brinks, Bullock, Wojno, Hollier, McMorro and Alexander introduced

Senate Bill No. 51, entitled

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending section 33b (MCL 791.233b), as amended by 2010 PA 94.

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

Senators Bayer, Irwin, Polehanki, Ananich, Hertel, Moss, Brinks, McMorro, Chang, McCann, Bullock, Wojno, Hollier, Geiss and Alexander introduced

Senate Bill No. 52, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 16a of chapter XVII (MCL 777.16a), as amended by 2010 PA 97.

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

Senators Brinks, McMorrow, Chang, Bayer, McCann, Bullock, Wojno, Hollier, Polehanki, Irwin, Geiss, Moss and Alexander introduced

Senate Bill No. 53, entitled

A bill to amend 1931 PA 328, entitled “The Michigan penal code,” by repealing section 40 (MCL 750.40). The bill was read a first and second time by title and referred to the Committee on Judiciary and Public Safety.

Senators Schmidt, Chang, Horn, Zorn and Irwin introduced

Senate Bill No. 54, entitled

A bill to amend 1967 PA 281, entitled “Income tax act of 1967,” (MCL 206.1 to 206.713) by adding sections 266a and 675.

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

Senators Runestad, Zorn, Alexander, Bizon, McMorrow, Daley, MacDonald, Wojno, Bullock, Johnson, Lucido, Barrett, Bayer, Hollier, Horn, Chang and Hertel introduced

Senate Bill No. 55, entitled

A bill to amend 1967 PA 281, entitled “Income tax act of 1967,” (MCL 206.1 to 206.713) by adding section 261. The bill was read a first and second time by title and referred to the Committee on Finance.

Senators Runestad, MacDonald, Outman, Johnson, Lucido, Ananich, Bayer and Zorn introduced

Senate Bill No. 56, entitled

A bill to amend 1931 PA 328, entitled “The Michigan penal code,” by amending section 159g (MCL 750.159g), as amended by 2014 PA 300.

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

Senators Runestad, MacDonald, Daley and Bayer introduced

Senate Bill No. 57, entitled

A bill to amend 1978 PA 472, entitled “An act to regulate political activity; to regulate lobbyists, lobbyist agents, and lobbying activities; to require registration of lobbyists and lobbyist agents; to require the filing of reports; to prescribe the powers and duties of the department of state; to prescribe penalties; and to repeal certain acts and parts of acts,” by amending section 6a (MCL 4.416a), as added by 1994 PA 383, and by adding section 6b.

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

Senators Runestad, Barrett, Lucido, Zorn and MacDonald introduced

Senate Bill No. 58, entitled

A bill to amend 1993 PA 327, entitled “Tobacco products tax act,” by amending section 7 (MCL 205.427), as amended by 2016 PA 86.

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

Announcements of Printing and Enrollment

The Secretary announced that the following bills, joint resolution, and resolution was printed and filed on Tuesday, January 22, and are available on the Michigan Legislature website:

Senate Bill Nos.	40	41	42	43	44	45	46	47	48
Senate Joint Resolution	D								
Senate Resolution No.	5								

Scheduled Meetings

Criminal Justice Policy Commission - Wednesday, February 6, 9:00 a.m., Senate Hearing Room, 1st Floor, Boji Tower (373-0212)

Judiciary and Public Safety - Thursday, January 24, 8:30 a.m., Room 1300, Binsfeld Office Building (373-5312)

Oversight - Tuesday, January 29, 2:00 p.m., Room 1300, Binsfeld Office Building (373-5312)

Senator MacGregor moved that the Senate adjourn.

The motion prevailed, the time being 11:25 a.m.

The President, Lieutenant Governor Gilchrist declared the Senate adjourned until Thursday, January 24, 2019, at 10:00 a.m.

MARGARET O'BRIEN
Secretary of the Senate