

No. 111
STATE OF MICHIGAN
Journal of the Senate
100th Legislature
REGULAR SESSION OF 2019

Senate Chamber, Lansing, Tuesday, December 3, 2019.

10:00 a.m.

The Senate was called to order by the President pro tempore, Senator Aric Nesbitt.

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

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

Horn—excused
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—present
Schmidt—present
Shirkey—present
Stamas—present
Theis—present
VanderWall—present
Victory—present
Wojno—present
Zorn—present

Pradip Sagdeo of the Indo-American Cultural Center and Temple of Kalamazoo offered the following invocation:

O ye gods. May we hear with our ears what is auspicious. O wonderful ones, may we with our eyes see what is auspicious. May we live the entire length of our allotted life hale and hearty, offering our praises unto thee. May Indra, the ancient and the famous, Pooshan the all-knowing, the Lord of swift motion who saves us from all harm, and Brihaspati, who protects the spiritual wealth in us, bless us with the intellectual strength to understand the scriptures and the heroic heart to follow the teachings.

Let Him protect us both. May He bless us with the bliss of knowledge. Let us exert together. May what we study be well studied. May we not hate each other.

May everybody be happy. May everybody be free from disease. May everyone experience good fortune. May they never have to face sorrow.

Om, peace, peace, peace.

The President pro tempore, Senator Nesbitt, led the members of the Senate in recital of the *Pledge of Allegiance*.

Motions and Communications

Senator Shirkey entered the Senate Chamber.

Senator MacGregor moved that Senator Horn be excused from today's session. The motion prevailed.

The following communications were received and read:
Office of the Auditor General

November 26, 2019

Enclosed is a copy of the following report:

- Report on internal control over financial reporting of the Michigan State Employees' Retirement System Schedule of Employer Allocations and Schedules of Pension and Other Postemployment Benefit Amounts by Employer for the fiscal year ended September 30, 2018 (071-0165-19).

November 27, 2019

Enclosed is a copy of the following report:

- Performance audit on the Prisoner Security Classification and Recommended Programming, Michigan Department of Corrections (471-0350-18).

Sincerely,
Doug Ringler
Auditor General

The audit reports were referred to the Committee on Oversight.

The following communication was received:
Office of Senator Jeremy Moss

November 13, 2019

Please add my name as a co-sponsor to SB 612.

Sincerely,
Jeremy Moss
State Senator, Michigan's 11th District
Representing southern Oakland County
Assistant Democratic Leader

The communication was referred to the Secretary for record.

The following communication was received:
Office of Senator Rosemary Bayer

November 20, 2019

Per Senate Rule 1.110(c), I am requesting that my name be added as a co-sponsor to Senate Bill 0612 introduced by Senator Curtis VanderWall on October 29, 2019.

Sincerely,
Rosemary K. Bayer
12th Senate District
State Senator

The communication was referred to the Secretary for record.

Messages from the Governor

The following messages from the Governor were received:

Date: November 21, 2019
Time: 10:47 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 320 (Public Act No. 131), being

An act to amend 1998 PA 58, entitled “An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts,” by amending sections 207, 501, 536, 701, 703, 801, 803, 903, 1025, and 1027 (MCL 436.1207, 436.1501, 436.1536, 436.1701, 436.1703, 436.1801, 436.1803, 436.1903, 436.2025, and 436.2027), section 501 as amended by 2012 PA 82, section 536 as added by 2018 PA 408, section 701 as amended by 2010 PA 266, section 703 as amended by 2017 PA 89, section 801 as amended by 2008 PA 11, section 803 as amended by 2016 PA 105, section 903 as amended by 2010 PA 175, section 1025 as amended by 2017 PA 88, and section 1027 as amended by 2011 PA 219.

(Filed with the Secretary of State on November 21, 2019, at 4:18 p.m.)

Date: November 21, 2019
Time: 10:49 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 174 (Public Act No. 132), being

An act to amend 1988 PA 466, entitled “An act to authorize and require the appointment of a state veterinarian within the department of agriculture; to protect the human food chain and the livestock and aquaculture industries of the state through prevention, control, and eradication of infectious, contagious, or toxicological diseases of livestock and other animals; to prevent the importation of certain nonindigenous animals under certain circumstances; to safeguard the human population from certain diseases that are communicable between animals and humans; to prevent or control the contamination of livestock with certain toxic substances through certain livestock or livestock products; to provide for indemnification for livestock under certain circumstances; to provide for certain powers and duties for certain state agencies and departments; to provide for the promulgation of rules; to provide for certain hearings; to provide for remedies and penalties; and to repeal acts and parts of acts,” by amending the title and sections 1, 3, 7, 9, 11b, 12, 14, 19, 20, 22, 31, 39, 40, 43, 44, and 46 (MCL 287.701, 287.703, 287.707, 287.709, 287.711b, 287.712, 287.714, 287.719, 287.720, 287.722, 287.731, 287.739, 287.740, 287.743, 287.744, and 287.746), the title and section 43 as amended by 1996 PA 369, sections 1, 20, 39, and 40 as amended by 2000 PA 323, sections 3, 9, 11b, 14, 19, 22, and 44 as amended by 2002 PA 458, section 7 as amended by 1994 PA 41, sections 12 and 31 as amended by 2003 PA 271, section 43 as amended by 1996 PA 369, and section 46 as added by 2009 PA 117, and by adding sections 3a, 3b, 12a, 12b, 14a, 17b, 17c, 17d, 40a, 40b, and 43a; and to repeal acts and parts of acts.

(Filed with the Secretary of State on November 21, 2019, at 4:20 p.m.)

Date: November 21, 2019
Time: 10:51 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 179 (Public Act No. 133), being

An act to amend 1965 PA 232, entitled “An act relating to the marketing of agricultural commodities or agricultural commodity inputs; to provide for marketing and research programs, agreements, referendums by producers, assessments on producers, and commodity committees; and to prescribe certain functions of

the department of agriculture relative thereto including powers of enforcement of this act; and to prescribe remedies and penalties,” by amending section 2 (MCL 290.652), as amended by 2002 PA 601.

(Filed with the Secretary of State on November 21, 2019, at 4:22 p.m.)

Date: November 21, 2019
Time: 10:53 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 180 (Public Act No. 134), being

An act to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 12m of chapter XVII (MCL 777.12m), as amended by 2015 PA 213.

(Filed with the Secretary of State on November 21, 2019, at 4:24 p.m.)

Date: November 21, 2019
Time: 10:55 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 181 (Public Act No. 135), 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 and remedies; 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 criminal trials; to provide for liability for damages; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 50 (MCL 750.50), as amended by 2018 PA 452.

(Filed with the Secretary of State on November 21, 2019, at 4:26 p.m.)

Date: November 21, 2019
Time: 10:57 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 182 (Public Act No. 136), being

An act to amend 2012 PA 487, entitled “An act to provide for indemnification for livestock killed, injured, or lost as a result of certain wildlife; and to prescribe the powers and duties of certain state agencies and officials,” by amending section 2 (MCL 285.362).

(Filed with the Secretary of State on November 21, 2019, at 4:28 p.m.)

Date: November 21, 2019
Time: 10:59 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 183 (Public Act No. 137), being

An act to amend 2000 PA 246, entitled “An act to regulate the ownership, possession, and care of certain wolf-dog crosses; to prohibit the ownership and possession of certain wolf-dog crosses; to prohibit the false

advertising of certain canids as wolf-dog crosses; to impose fees; to prescribe the powers and duties of certain governmental entities and officials and of certain veterinarians; and to prescribe penalties and provide remedies,” by amending section 2 (MCL 287.1002), as amended by 2016 PA 299.

(Filed with the Secretary of State on November 21, 2019, at 4:30 p.m.)

Date: November 21, 2019

Time: 11:01 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 361 (Public Act No. 138), being

An act to amend 2011 PA 256, entitled “An act to revise, consolidate, and codify the laws relating to certain fireworks; to regulate the purchase, possession, sale, and use of certain fireworks; to establish a fireworks safety fund; to establish a fireworks safety fee; to provide for the transfer and expenditure of funds; to prescribe the powers and duties of certain state agencies; to provide for penalties and remedies; and to repeal acts and parts of acts,” by amending section 12 (MCL 28.462), as amended by 2018 PA 634.

(Filed with the Secretary of State on November 21, 2019, at 4:32 p.m.)

Respectfully,

Garlin D. Gilchrist II

Acting and Lieutenant Governor

Recess

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

The motion prevailed, the time being 10:08 a.m.

11:32 a.m.

The Senate was called to order by the President pro tempore, Senator Nesbitt.

The following message from the Governor was received and read:

December 3, 2019

Enclosed is a special message to the 100th Michigan Legislature. Under section 17 of article 5 of the Michigan Constitution of 1963, this message transmits information on the affairs of the state and recommends measures I consider necessary and desirable.

Respectfully,

Gretchen Whitmer

Governor

The special message is as follows:

**Special Message
to the 100th Michigan Legislature**

**Healthy Michigan Plan Work Requirements –
Avoiding Waste and Protecting Michigan Taxpayers Compels Legislative Action**

To the Members of the 100th Michigan Legislature:

On November 22, 2019 a lawsuit was filed in federal court challenging the legality of Michigan’s work requirements under federal law. I ask that the legislature act prudently in the best interests of Michigan taxpayers to suspend Michigan’s work requirements while this litigation is pending. If work requirements are blocked by the court, a pause now could avoid up to \$40 million in wasted expense. It could further avoid needlessly confusing hundreds of thousands of our residents with messages soon undone by a federal court.

The courts are taking these claims seriously. The same federal judge who will hear the Michigan case has already enjoined similar work requirements in Arkansas, Kentucky and New Hampshire. At oral argument on the appeal, a three-judge panel “express[ed] skepticism” about the legality of the work requirements,

according to the *Washington Post* (Oct. 11, 2019). Among the apparent skeptics was an appointee of President Ronald Reagan.

Seeing inherent uncertainty following ongoing litigation, states with Republican governors have paused work requirement implementation. On October 31, Indiana announced it would “temporarily suspend the reporting requirements of the Gateway to Work program due to a pending legal challenge.” (Press Release, Ind. Family & Social Svcs. Admin., Oct. 31, 2019.) This followed a similar action on October 17 by Arizona, which told the federal government that its decision was “informed by the evolving national landscape concerning Medicaid community engagement programs and ongoing litigation regarding the topic.” (Letter from Jami Snyder, Director, Ariz. Health Care Cost Containment System, to Calder Lynch, Acting Director, Center for Medicare and Medicaid Svcs., Oct. 17, 2019.) New Hampshire suspended its work requirement implementation even before a court entered an injunction. (Letter from Jeffrey A. Meyers, Commissioner, N.H. Dept. of Health and Human Services, to Christopher T. Sununu, Governor, State of New Hampshire, July 8, 2019.)

Michigan has already spent \$28 million on technological and organizational changes aimed at implementing work requirements. This fiscal year, we are on track to spend \$40 million more. If the courts ultimately block these requirements, all this money will have been wasted. Even if the courts block them only temporarily, we risk causing not only waste, but needless confusion for Michigan families who already have enough on their minds.

To give one example: the Michigan Department of Health and Human Services (MDHHS) will soon send detailed information regarding compliance mandates to approximately 200,000 Michiganders, notifying these individuals of steps they must take starting January 1, 2020, if they wish to keep their health insurance. We are working hard to make these notices as clear and meaningful as possible, and the cost of the mailing is approximately \$1 million. If our statute is enjoined in the early months of 2020, then we will need to find a way to communicate to those 200,000 people that our first letter no longer applies and they need not do what we said they must do.

I hope you share my concern with risking tens of millions of taxpayer dollars on implementing a program that faces substantial legal uncertainty. As MDHHS Director Robert Gordon mentioned in letters to legislative leadership on November 25, in order that individuals have the information they need prior to the law’s effective date on January 1, 2020, the Department must begin the batch mailings no later than December 9, 2019. The Department could responsibly defer sending those notices if legislative leadership indicated prior to that deadline its willingness to suspend Michigan’s work requirements before the law’s effective date. I urge you to follow Republican efforts across the country and agree on this commonsense path.

Respectfully,
Gretchen Whitmer
Governor

The message was referred to the Secretary for record.

By unanimous consent the Senate proceeded to the order of

General Orders

Senator MacGregor 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 pro tempore, Senator Nesbitt, designated Senator Barrett as Chairperson.

After some time spent therein, the Committee arose; and the President pro tempore, Senator Nesbitt, having resumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bills:

House Bill No. 4540, entitled

A bill to amend 1933 PA 167, entitled “General sales tax act,” (MCL 205.51 to 205.78) by adding section 2d.

House Bill No. 4541, entitled

A bill to amend 1937 PA 94, entitled “Use tax act,” (MCL 205.91 to 205.111) by adding section 5c.

House Bill No. 4542, entitled

A bill to amend 1933 PA 167, entitled “General sales tax act,” (MCL 205.51 to 205.78) by adding section 2c.

House Bill No. 4543, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," (MCL 205.91 to 205.111) by adding section 5b. The bills were 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 MacGregor introduced

Senate Bill No. 659, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 248*l* (MCL 257.248*l*), as added by 2018 PA 420.

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

Senator Hollier introduced

Senate Bill No. 660, entitled

A bill to prohibit certain sports organizations from preventing a student athlete from receiving compensation for the use of his or her name, image, or likeness; and to provide for remedies.

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

Senators Ananich, Lauwers and Daley introduced

Senate Bill No. 661, entitled

A bill to amend 1995 PA 279, entitled "Horse racing law of 1995," by amending sections 2, 6a, 8, 9, and 22 (MCL 431.302, 431.306a, 431.308, 431.309, and 431.322), sections 2, 8, 9, and 22 as amended and section 6a as added by 2016 PA 271, and by adding sections 19d and 20a; 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.

Senator Hertel introduced

Senate Bill No. 662, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 14d of chapter XVII (MCL 777.14d), as amended by 2016 PA 272.

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

Senator Hertel introduced

Senate Bill No. 663, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 310d.

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

Senator Hertel introduced

Senate Bill No. 664, entitled

A bill to create the sports betting act; to impose requirements for persons to engage in sports betting; to provide for the powers and duties of state governmental officers and entities; to impose fees; to impose a tax on the conduct of licensed sports betting; to prohibit certain acts in relation to sports betting and to prescribe penalties for those violations; to require the promulgation of rules; and to provide remedies.

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

By unanimous consent the Senate returned to the order of

Third Reading of Bills

Senator MacGregor moved to reconsider the vote by which the following bill was passed:

House Bill No. 4306, entitled

A bill to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges

and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending section 3212 (MCL 600.3212), as amended by 2011 PA 301.

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

The question being on the passage of the bill,

Senator Hertel offered the following amendments:

- 1. Amend page 1, line 1, after “3212.” by inserting “(1)”.
- 2. Amend page 3, following line 6, by inserting:

“(2) The party foreclosing the mortgage shall not publish a notice of foreclosure under this chapter in a newspaper in which the party foreclosing the mortgage, or the party’s agent, has an ownership interest.”.

The question being on the adoption of the amendments,

Senator Hertel withdrew the amendments.

Senator MacGregor moved to reconsider the vote by which the amendments offered by Senator Hertel on November 13 were not adopted.

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

(For text of amendments, see Senate Journal No. 109, p. 1652.)

The question being on the adoption of the amendments,

The amendments were adopted, a majority of the members serving 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. 318

Yeas—36

Alexander	Daley	MacGregor	Santana
Ananich	Geiss	McBroom	Schmidt
Barrett	Hertel	McCann	Shirkey
Bayer	Hollier	McMorrow	Stamas
Bizon	Johnson	Moss	Theis
Brinks	LaSata	Nesbitt	VanderWall
Bullock	Lauwers	Outman	Victory
Bumstead	Lucido	Polehanki	Wojno
Chang	MacDonald	Runestad	Zorn

Nays—1

Irwin

Excused—1

Horn

Not Voting—0

In The Chair: Nesbitt

Senator MacGregor moved that the bill be given immediate effect.

The motion prevailed, 2/3 of the members serving voting therefor.

Announcements of Printing and Enrollment

The Secretary announced the enrollment printing and presentation to the Governor on Wednesday, November 20 for her approval the following bill:

Enrolled Senate Bill No. 320 at 11:03 a.m.

The Secretary announced that the following bill was printed and filed on Wednesday, November 20, and is available on the Michigan Legislature website:

House Bill No. 5261

Scheduled Meetings

Appropriations -

Subcommittees -

Community Health/Human Services and House Health Policy and Human Services Appropriations Subcommittee - Wednesday, December 4, 12:00 noon, Room 352, House Appropriations Room, Capitol Building (517) 373-2768

Universities and Community Colleges and House Higher Education and Community Colleges Appropriations Subcommittee - Tuesday, December 10, 9:00 a.m., Room 352, House Appropriations Room, Capitol Building (517) 373-2768

Families, Seniors, and Veterans - Wednesday, December 4, 3:00 p.m., Room 1200, Binsfeld Office Building (517) 373-1721

Government Operations - Wednesday, December 4, 3:00 p.m., Room 402/403, Capitol Building (517) 373-5307

Insurance and Banking - Wednesday, December 4, 9:00 a.m., Room 1100, Binsfeld Office Building (517) 373-5314

Judiciary and Public Safety - Thursday, December 5, 8:30 a.m., Room 1100, Binsfeld Office Building (517) 373-5312

Senator MacGregor moved that the Senate adjourn.

The motion prevailed, the time being 11:50 a.m.

The President pro tempore, Senator Nesbitt, declared the Senate adjourned until Wednesday, December 4, 2019, at 10:00 a.m.

MARGARET O'BRIEN
Secretary of the Senate

