

No. 18
STATE OF MICHIGAN
Journal of the Senate
92nd Legislature
REGULAR SESSION OF 2003

Senate Chamber, Lansing, Wednesday, February 26, 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—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—excused
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 Beverly S. Hammerstrom of the 17th District offered the following invocation:

Heavenly Father, look upon us this morning as we gather in this Senate Chamber to conduct our session. Provide each of us with the wisdom and compassion to do what is right in our decision making and the humility to realize that it is only through Your goodness that we have been granted the privilege to serve the people of Michigan. Be with each of us all through the day as we continue about our tasks.

We ask that You provide our colleagues in the federal government guidance as they consider so many difficult decisions in this time of unrest.

And finally, Father, watch over the men and women who are serving in the armed forces on foreign shores, and be with their families as they continue to carry on here at home.

In Thy holy name we pray. 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 Senators Garcia and Goschka be temporarily excused from today's session. The motion prevailed.

Senators Garcia and Goschka entered the Senate Chamber.

Senator Hammerstrom moved that rule 3.902 be suspended to allow the guests of Senator Kuipers 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.

Recess

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

The motion prevailed, the time being 10:05 a.m.

10:13 a.m.

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

During the recess, Senator Kuipers introduced to the Senate the Grand Valley State University Football Team, Division II National Champion, Head Coach Brian Kelly, and Matthew McLogan, Vice President for University Relations, and presented them with a special tribute.

Senator Hammerstrom moved that the rules be suspended and that the following appointment, now on Committee Reports, be placed on the order of Messages from the Governor for consideration today:

Director, Department of Transportation

Gloria Jeff, 6304 16th Street NW, Washington, DC 20011, for a term commencing on January 30, 2003, and expiring at the pleasure of the Governor.

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

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, February 25:
House Bill Nos. 4160 4206

Messages from the Governor

Director, Department of Transportation

Gloria Jeff, 6304 16th Street NW, Washington, DC 20011, for a term commencing on January 30, 2003, and expiring at the pleasure of the Governor.

The question being on advising and consenting to the said appointment to office,

The Senate advised and consented to the said appointment to office, a majority of the members serving voting therefor, as follows:

Roll Call No. 15

Yeas—37

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

Nays—0

Excused—1

Leland

Not Voting—0

In The Chair: President

Senators Sikkema, Clark-Coleman, Johnson, Scott, Barcia and Toy asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Sikkema's statement is as follows:

I rise to urge my colleagues here in the Senate to confirm this nomination. Gloria Jeff's experience, preparation, and qualifications to be Director of the Michigan Department of Transportation are very extensive. In fact, that's probably even an understatement.

I would also say that anybody who was at the Government Operations Committee hearing yesterday, where we questioned her for over an hour on a number of detailed aspects of transportation, would have to say that she clearly knows her stuff. This is a person who has served two Governors in Michigan, in the Michigan Department of Transportation, and then went on to serve the entire country at the Federal Highway Administration. In fact, she served in very, very high positions, as well as in the private sector.

This person is eminently well-qualified. She's very smart, and she understands the issues that she has to deal with as a department. I would urge that my colleagues here in the Senate confirm this nomination.

The department I will say, as I said to her yesterday, I think this department is going to be in very good hands, and she is going to serve the people of Michigan admirably.

Senator Clark-Coleman's statement is as follows:

To my Senate colleagues, I also rise to support the appointment of Ms. Gloria Jeff to the position of Director of the Michigan Department of Transportation.

Ms. Jeff was born and raised in my city, the city of Detroit, and received her bachelor's and two master's degrees from the University of Michigan. Ms. Jeff has had a long and exceptional career in both the state and federal government. Clearly, her qualifications speak for themselves.

As you all know, February is African American History Month, and I am very proud and also honored to support the Governor's selection of an African American woman for this very important position—and I might add a very qualified African American woman. The Governor's commitment to diversity in her administration is seen in appointments such as Ms. Jeff's. It is also very appropriate that I stand in support today since we are celebrating the rich legacy of African Americans this afternoon at 4:30 p.m. in the Capitol Rotunda.

I hope my colleagues will join me in supporting the appointment of the first African American woman to head the Michigan Department of Transportation.

Senator Johnson's statement is as follows:

I don't wish to throw a monkey wrench into the appointment, but I would like to at least inform the body that a report was due to the Appropriations Committee, both House and Senate, on February 1. The soon-to-be Director of the Department of Transportation has made it very clear that that report will not be given to the Appropriations Committee until she has reviewed it, etc. We'll get it on March 31 at best.

I don't like the attitude. I don't support the appointment.

Senator Scott's statement is as follows:

To my colleagues, I rise in support of Ms. Gloria Jeff. I worked with her in another lifetime as I was the mayor of Highland Park. This woman was the beginning of us revitalizing the Davison Freeway. I am so grateful that our Governor has seen fit to select this woman as the Director of the Department of Transportation. We so vitally need her there. She comes with so much knowledge that we all need in order to deal with the transits of the city of Detroit and the state of Michigan. I believe she is someone who can work with all of us and pull the needs together as we go through these transit bills now.

I don't have any written remarks, but this comes from my heart because I have known this lady. I would hope that my colleagues would see fit to appoint this woman as the Director of the Department of Transportation because she comes with the educational skills and the qualifications that she needs. I am here today, just being honored as another Black woman, to say please support this woman because she is what we need for the state of Michigan.

Senator Barcia's statement is as follows:

I rise today to support the Governor's appointment of Gloria Jeff to the position of Director of the Michigan Department of Transportation. Her education and professional experience make her a uniquely qualified individual for this position.

In 1993, Ms. Jeff was appointed by President Clinton to the position of associate administrator for policy within the Federal Highway Administration. In 1997, she was elevated to the position of deputy federal highway administrator where she served until 2000. During her time with the Highway Administration, Ms. Jeff was responsible for the management of a 3,400-member workforce and an annual budget in excess of \$27 billion.

Previous to her work at the federal level, Ms. Jeff served right here in Michigan in the Department of Transportation. During her 10-plus years at MDOT, Ms. Jeff worked on both multi-regional and urban planning initiatives. She ultimately served as deputy director of the Bureau of Transportation Planning where her duties included working closely with members of the state Legislature on transportation-related issues. Gloria Jeff's resume and credentials are outstanding. She is clearly well-qualified for position of Director of the Department of Transportation, and I would ask my colleagues to join me in supporting her appointment.

Senator Toy's statement is as follows:

I rise because of a concern I just heard one of my colleagues express. I don't care if people are men or women; what they need to be is qualified. My concern becomes—after serving on Appropriations for four years—when we ask a department head, or any person who works in this state, to help out our Appropriations team at this point, regardless of what side of the aisle you sit on, those folks should cooperate with particularly the chair of Appropriations and those members. I would hope that this is just a subtle mistake by this individual because it sounds like this individual has the qualifications. But yet, I would say that in these budget times that are unlike those budget times back in '91, we need timely reports, and we need folks who will cooperate with our Appropriations Committees. And I would hope that we take the high ground on this.

Third Reading of Bills

The following bill was read a third time:

Senate Bill No. 160, entitled

A bill to provide for the audit and examination of this state and state funds; to provide for the audit and examination of the books and accounts of all branches, departments, offices, boards, commissions, agencies, authorities, and institutions of this state; to prescribe powers and duties of certain state officers and employees; to provide for access to certain records; to provide for the subpoena of witnesses and production of documents and records; and to provide for the administration of this act.

The question being on the passage of the bill,

Senator Patterson offered the following amendment:

1. Amend page 3, following line 9, by inserting:

“(6) Any person who gives or offers to any examiner, accountant, clerk, or other employee of the auditor general, any money, gift, emolument, or thing of value for the purpose of influencing the action of the examiner or other employee, in any matter relating to the examination of any public account authorized by this act, or for the purpose of preventing or delaying the examination of any public account, or for the purpose of influencing the action of the examiner or other employee, in framing, changing, withholding, or delaying any report of any examination of any public account, is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 nor less than \$200.00, or imprisonment for not more than 6 months and not less than 30 days, or both.

(7) Any person appointed by the auditor general to make the examinations provided for under this act, or any officer, clerk, or other employee of the auditor general, who receives or solicits any money, gift, emolument, or anything of value for the purpose of being influenced in the matter of the examination of any public account authorized by this act, or for the purpose of being influenced to prevent or delay the examination of any public account, is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 and not less than \$200.00, or imprisonment for not more than 6 months and not less than 30 days, or both.” and renumbering the remaining subsection.

The amendment was 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. 16

Yeas—37

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

Nays—0

Excused—1

Leland

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. 117, entitled

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

The 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. 17

Yeas—37

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

Nays—0

Excused—1

Leland

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. 118, entitled

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

The 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. 18

Yeas—37

Allen	Clark-Coleman	Hardiman	Sanborn
Barcia	Clarke	Jacobs	Schauer
Basham	Cropsey	Jelinek	Scott
Bernero	Emerson	Johnson	Sikkema
Birkholz	Garcia	Kuipers	Stamas
Bishop	George	McManus	Switalski
Brater	Gilbert	Olshove	Thomas

Brown
Cassis
Cherry

Goschka
Hammerstrom

Patterson
Prusi

Toy
Van Woerkom

Nays—0

Excused—1

Leland

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Introduction and Referral of Bills

Senators Hammerstrom, Kuipers, Jacobs, Van Woerkom and Goschka introduced
Senate Bill No. 214, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” (MCL 324.101 to 324.90106) by adding part 413.

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

Senators Hammerstrom, Kuipers, Jacobs, Van Woerkom and Goschka introduced
Senate Bill No. 215, entitled

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” by amending section 13e of chapter XVII (MCL 777.13e), as added by 2002 PA 30.

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

Senator Patterson introduced
Senate Bill No. 216, entitled

A bill to amend 1967 PA 281, entitled “Income tax act of 1967,” by amending section 30 (MCL 206.30), as amended by 2002 PA 615.

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

Senators Van Woerkom, Jelinek and Goschka introduced
Senate Bill No. 217, entitled

A bill to amend 1956 PA 40, entitled “The drain code of 1956,” by amending sections 1, 2, 3, 6, 8, 10, 12, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 51, 52, 53, 54, 101, 102, 103, 104, 105, 106, 151, 152, 153, 154, 155, 156, 157, 158, 161, 191, 192, 199, 200, 221, 222, 223, 241, 242, 243, 244, 245, 247, 261, 262, 263, 265, 266, 267, 269, 270, 273, 274, 275, 276, 277, 278, 279, 280, 282, 283, 301, 302, 303, 304, 306, 307, 322, 322b, 323, 324, 326, 327, 328, 391, 392, 393, 395, 421, 422, 423, 425, 429, 430, 431, 433, 463, 464, 465, 466, 467, 468, 469, 472, 473, 474, 476, 478, 483, 490, 491, 499, 513, 515, 517, 518, 519, 520, 521, 524, 525, 532, 540, 541, 601, 602, 626, and 627 (MCL 280.1, 280.2, 280.3, 280.6, 280.8, 280.10, 280.12, 280.21, 280.23, 280.24, 280.25, 280.26, 280.27, 280.28, 280.29, 280.30, 280.31, 280.32, 280.33, 280.51, 280.52, 280.53, 280.54, 280.101, 280.102, 280.103, 280.104, 280.105,

280.106, 280.151, 280.152, 280.153, 280.154, 280.155, 280.156, 280.157, 280.158, 280.161, 280.191, 280.192, 280.199, 280.200, 280.221, 280.222, 280.223, 280.241, 280.242, 280.243, 280.244, 280.245, 280.247, 280.261, 280.262, 280.263, 280.265, 280.266, 280.267, 280.269, 280.270, 280.273, 280.274, 280.275, 280.276, 280.277, 280.278, 280.279, 280.280, 280.282, 280.283, 280.301, 280.302, 280.303, 280.304, 280.306, 280.307, 280.322, 280.322b, 280.323, 280.324, 280.326, 280.327, 280.328, 280.391, 280.392, 280.393, 280.395, 280.421, 280.422, 280.423, 280.425, 280.429, 280.430, 280.431, 280.433, 280.463, 280.464, 280.465, 280.466, 280.467, 280.468, 280.469, 280.472, 280.473, 280.474, 280.476, 280.478, 280.483, 280.490, 280.491, 280.499, 280.513, 280.515, 280.517, 280.518, 280.519, 280.520, 280.521, 280.524, 280.525, 280.532, 280.540, 280.541, 280.601, 280.602, 280.626, and 280.627), sections 21 and 464 as amended by 1989 PA 134, section 33 as amended by 1982 PA 356, section 223 as amended by 1989 PA 61, sections 275, 278, and 280 as amended by 2002 PA 406, section 282 as amended by 1984 PA 80, sections 283 and 499 as amended by 1989 PA 149, section 323 as amended by 2002 PA 353, section 423 as amended by 1996 PA 552, and section 433 as amended by 1982 PA 449, and by adding sections 7, 7a, 7b, 7c, 13, 14, 34, 35, 53a, 55, 56, 57, 58, 59, 60, 61, 62, 63, 103a, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 201, 275a, 277a, 329, 330, 467a, 467b, 474a, 500, 519a, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 603, 604, 605, 606, 607, 615, 616, and 617; 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 Allen and Schauer introduced

Senate Bill No. 218, entitled

A bill to amend 1972 PA 284, entitled "Business corporation act," by amending sections 506, 511, 611, and 798 (MCL 450.1506, 450.1511, 450.1611, and 450.1798), sections 506 and 511 as amended by 1989 PA 121, section 611 as amended by 1997 PA 118, and section 798 as added by 1988 PA 58.

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

Senators Garcia, Brater, Jacobs, Bishop, Toy, Goschka, Barcia, Jelinek and Cropsey introduced

Senate Bill No. 219, entitled

A bill to amend 1976 PA 331, entitled "Michigan consumer protection act," by amending section 3 (MCL 445.903), as amended by 2002 PA 613.

The bill was read a first and second time by title and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

Senators Garcia, Brater, Jacobs, Toy, Goschka, Jelinek and Cropsey introduced

Senate Bill No. 220, entitled

A bill to amend 1976 PA 331, entitled "Michigan consumer protection act," by amending section 3 (MCL 445.903), as amended by 2002 PA 613.

The bill was read a first and second time by title and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

Senators Garcia, Bishop, McManus, Goschka, Barcia, Jelinek and Cropsey introduced

Senate Bill No. 221, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 43510 and 43516 (MCL 324.43510 and 324.43516), section 43510 as amended by 1996 PA 585 and section 43516 as added by 1995 PA 57.

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

Senators Garcia, Cropsey, Bishop and Goschka introduced

Senate Bill No. 222, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding section 1163. The bill was read a first and second time by title and referred to the Committee on Education.

Senators Garcia, Goschka, Barcia and Jelinek introduced

Senate Bill No. 223, entitled

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

House Bill No. 4160, entitled

A bill to amend 1964 PA 154, entitled "Minimum wage law of 1964," by amending the title and section 3 (MCL 408.383). 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 Commerce and Labor.

House Bill No. 4206, entitled

A bill to provide for the approval of certain contracts involving the operation of city and village water and sewer systems; to create an authority; and to provide for the powers and duties of certain governmental officials and entities.

The House of Representatives has passed the bill.

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

Committee Reports

The Committee on Government Operations reported the following appointment to office:

Director of Department of Transportation

Gloria Jeff, 6304 16th Street NW, Washington, DC 20011, for a term commencing on January 30, 2003, and expiring at the pleasure of the Governor.

With the recommendation that the Senate advise and consent to the said appointment.

Kenneth R. Sikkema
Chairperson

To Report Out:

Yeas: Senators Sikkema, Hammerstrom, Allen, Cassis, Emerson, Jacobs and Thomas

Nays: None

The appointment was placed on the order of Messages from the Governor.

COMMITTEE ATTENDANCE REPORT

The Committee on Government Operations submitted the following:

Meeting held on Tuesday, February 25, 2003, at 1:02 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower)

Present: Senators Sikkema (C), Hammerstrom, Allen, Cassis, Emerson, Jacobs and Thomas

COMMITTEE ATTENDANCE REPORT

The Committee on Education submitted the following:

Meeting held on Thursday, February 20, 2003, at 2:00 p.m., Room 210, Farnum Building

Present: Senators Kuipers (C), Cassis, Van Woerkom and Clark-Coleman

Excused: Senator Leland

COMMITTEE ATTENDANCE REPORT

The Subcommittee on General Government submitted the following:

Meeting held on Tuesday, February 25, 2003, at 1:00 p.m., Rooms 402 and 403, Capitol Building

Present: Senators Garcia (C), McManus and Switalski

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submitted the following:

Meeting held on Tuesday, February 25, 2003, at 1:00 p.m., Room 210, Farnum Building

Present: Senators Cropsey (C), Bishop, Patterson, Schauer, Bernero and Brater

Excused: Senator Sanborn

COMMITTEE ATTENDANCE REPORT

The Committee on Natural Resources and Environmental Affairs submitted the following:
Meeting held on Tuesday, February 25, 2003, at 3:00 p.m., Room 110, Farnum Building
Present: Senators Birkholz (C), Patterson, Van Woerkom, Brater and Basham

COMMITTEE ATTENDANCE REPORT

The Committee on Commerce and Labor submitted the following:
Meeting held on Tuesday, February 25, 2003, at 3:00 p.m., Room 100, Farnum Building
Present: Senators Allen (C), Kuipers, McManus, Schauer and Olshove

Scheduled Meetings**Appropriations -****Subcommittees -**

Agriculture - Thursday, February 27, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-5932)

Commerce, Labor and Economic Development - Wednesday, March 5, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2420)

Family Independence Agency, Joint Senate/House - Thursday, February 27, 2:30 p.m., Wedgwood Christian Youth and Family Services, Nagel Chapel and Training Center, 3300 36th Street, Grand Rapids (373-1801)

Appropriations, Joint Senate/House - Thursday, March 6, 12:00 noon, House Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Education - Thursday, February 27, 2:00 p.m., Room 210, Farnum Building (373-6920)

Local, Urban and State Affairs - Thursday, February 27, 1:00 p.m., Room 110, Farnum Building (373-1707)

Michigan Capitol Committee - Thursday, February 27, 11:00 a.m., Room 405, Capitol Building (373-0289)

Senator Hammerstrom moved that the Senate adjourn.
The motion prevailed, the time being 10:48 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Thursday, February 27, 2003, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate