

**No. 36**  
**STATE OF MICHIGAN**  
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**OF THE**  
**House of Representatives**  
**93rd Legislature**  
**REGULAR SESSION OF 2006**

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House Chamber, Lansing, Wednesday, April 19, 2006.

1:00 p.m.

The House was called to order by the Speaker Pro Tempore.

The roll was called by the Clerk of the House of Representatives, who announced that a quorum was present.

Accavitti—present	Elsenheimer—present	Law, Kathleen—present	Robertson—present
Acciavatti—present	Emmons—present	Leland—present	Rocca—present
Adamini—present	Espinoza—present	Lemmons, III—excused	Sak—present
Amos—present	Farhat—present	Lemmons, Jr.—present	Schuitmaker—present
Anderson—present	Farrah—present	Lipsey—present	Shaffer—present
Angerer—present	Gaffney—present	Marleau—present	Sheen—present
Ball—present	Garfield—present	Mayes—present	Sheltrown—present
Baxter—present	Gillard—present	McConico—present	Smith, Alma—present
Bennett—present	Gleason—present	McDowell—present	Smith, Virgil—present
Bieda—present	Gonzales—present	Meisner—present	Spade—present
Booher—present	Gosselin—present	Meyer—present	Stahl—present
Brandenburg—excused	Green—present	Miller—present	Stakoe—present
Brown—present	Hansen—present	Moolenaar—present	Steil—present
Byrnes—present	Hildenbrand—present	Moore—present	Stewart—present
Byrum—present	Hood—present	Mortimer—present	Taub—present
Casperson—present	Hoogendyk—present	Murphy—present	Tobocman—present
Caswell—present	Hopgood—present	Newell—present	Vagnozzi—present
Caul—present	Huizenga—present	Nitz—present	Van Regenmorter—present
Cheeks—present	Hummel—present	Nofs—present	Vander Veen—present
Clack—present	Hune—present	Palmer—present	Walker—present
Clemente—present	Hunter—present	Palsrok—present	Ward—excused
Condino—present	Jones—present	Pastor—present	Waters—present
Cushingberry—present	Kahn—present	Pavlov—present	Wenke—present
DeRoche—present	Kolb—present	Pearce—present	Williams—present
Dillon—present	Kooiman—present	Plakas—present	Wojno—present
Donigan—present	LaJoy—present	Polidori—present	Zelenko—present
Drolet—present	Law, David—present	Proos—present	

e/d/s = entered during session

Rep. Jerry Kooiman, from the 75th District, offered the following invocation:

“An adaptation of the prayer of St. Patrick.

Lord, we pray today for God’s strength to pilot us: God’s might to uphold us, God’s wisdom to guide us, God’s eye to look before us, God’s ear to hear us, God’s word to speak for us, God’s hand to guard us.

Grant us Lord Your blessing on this day. Bless the members of this House. We pray Lord for our troops around the world that are defending our freedoms. Bless those who protect and defend us everyday in our neighborhoods and on our streets. Lead us and guide us in our deliberations this day. Help us to seek mercy, love justice, and humbly serve You and those around us. In Thy name we pray Amen.”

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Rep. Palmer moved that Reps. Brandenburg and Ward be excused from today’s session. The motion prevailed.

Rep. Waters moved that Rep. Lemmons, III be excused from today’s session. The motion prevailed.

#### Notices

Rep. Sheltroun, under Rule 33, made the following statement:

“Mr. Speaker and members of the House:

I was absent from the Chamber when the vote was taken on Roll Call No. 351. Had I been present, I would have voted ‘yea’.”

By unanimous consent the House returned to the order of  
**Second Reading of Bills**

#### **House Bill No. 5855, entitled**

A bill to amend 1937 PA 94, entitled “Use tax act,” by amending section 5 (MCL 205.95), as amended by 2004 PA 172.

The bill was read a second time.

Rep. Sheen moved that the bill be placed on the order of Third Reading of Bills.

The motion prevailed.

#### **House Bill No. 4431, entitled**

A bill to amend 1931 PA 328, entitled “The Michigan penal code,” by amending section 316 (MCL 750.316), as amended by 2004 PA 58.

Was read a second time, and the question being on the adoption of the proposed substitute (H-2) previously recommended by the Committee on Judiciary,

The substitute (H-2) was adopted, a majority of the members serving voting therefor.

Rep. Wenke moved that the bill be placed on the order of Third Reading of Bills.

The motion prevailed.

#### Notices

Rep. Dillon, under Rule 33, made the following statement:

“Mr. Speaker and members of the House:

I was absent from the Chamber when the vote was taken on Roll Call No. 349. Had I been present, I would have voted ‘yea’.”

By unanimous consent the House returned to the order of  
**Messages from the Senate**

The Speaker laid before the House

**House Bill No. 5643, entitled**

A bill to amend 1984 PA 118, entitled “The prisoner reimbursement to the county act,” by amending section 7 (MCL 801.87), as amended by 1996 PA 544.

(The bill was received from the Senate on April 18, with substitute (S-1), full title inserted and immediate effect given by the Senate, consideration of which, under the rules, was postponed until today, see House Journal No. 35, p. 825.)

The question being on concurring in the substitute (S-1) made to the bill by the Senate,

The substitute (S-1) was concurred in, a majority of the members serving voting therefor, by yeas and nays, as follows:

**Roll Call No. 353**

**Yeas—104**

Accavitti	Elsenheimer	Law, David	Proos
Acciavatti	Emmons	Law, Kathleen	Robertson
Adamini	Espinoza	Leland	Rocca
Amos	Farhat	Lemmons, Jr.	Sak
Anderson	Farrah	Lipsev	Schuitmaker
Angerer	Gaffney	Marleau	Shaffer
Ball	Garfield	Mayer	Sheen
Baxter	Gillard	McConico	Sheltrown
Bennett	Gleason	McDowell	Smith, Alma
Bieda	Gonzales	Meisner	Smith, Virgil
Booher	Gosselin	Miller	Spade
Brown	Green	Moolenaar	Stahl
Byrnes	Hansen	Moore	Stakoe
Byrum	Hildenbrand	Mortimer	Steil
Casperson	Hood	Murphy	Stewart
Caswell	Hoogendyk	Newell	Taub
Caul	Hopgood	Nitz	Tobocman
Cheeks	Huizenga	Nofs	Vagnozzi
Clack	Hummel	Palmer	Van Regenmorter
Clemente	Hune	Palsrok	Vander Veen
Condino	Hunter	Pastor	Walker
Cushingberry	Jones	Pavlov	Waters
DeRoche	Kahn	Pearce	Wenke
Dillon	Kolb	Plakas	Williams
Donigan	Kooiman	Polidori	Wojno
Drolet	LaJoy		Zelenko

**Nays—0**

In The Chair: Kooiman

The House agreed to the full title of the bill.

The bill was referred to the Clerk for enrollment printing and presentation to the Governor.

### Third Reading of Bills

Rep. Hildenbrand moved that **House Bill No. 5855** be placed on its immediate passage. The motion prevailed, a majority of the members serving voting therefor.

#### House Bill No. 5855, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by amending section 5 (MCL 205.95), as amended by 2004 PA 172.

Was read a third time and passed, a majority of the members serving voting therefor, by yeas and nays, as follows:

#### Roll Call No. 354

#### Yeas—59

Acciavatti	Gaffney	Marleau	Robertson
Amos	Garfield	Mayes	Rocca
Ball	Gosselin	Meyer	Schuitmaker
Baxter	Green	Moolenaar	Shaffer
Booher	Hansen	Moore	Sheen
Brown	Hildenbrand	Mortimer	Stahl
Casperson	Hoogenydk	Newell	Stakoe
Caswell	Huizenga	Nitz	Steil
Caul	Hummel	Nofs	Stewart
DeRoche	Hune	Palmer	Taub
Drolet	Jones	Palsrok	Van Regenmorter
Elsenheimer	Kahn	Pastor	Vander Veen
Emmons	Kooiman	Pavlov	Walker
Farhat	LaJoy	Pearce	Wenke
Farrah	Law, David	Proos	

#### Nays—45

Accavitti	Cushingberry	Law, Kathleen	Sak
Adamini	Dillon	Leland	Sheltrown
Anderson	Donigan	Lemmons, Jr.	Smith, Alma
Angerer	Espinoza	Lipsey	Smith, Virgil
Bennett	Gillard	McConico	Spade
Bieda	Gleason	McDowell	Tobocman
Byrnes	Gonzales	Meisner	Vagnozzi
Byrum	Hood	Miller	Waters
Cheeks	Hopgood	Murphy	Williams
Clack	Hunter	Plakas	Wojno
Clemente	Kolb	Polidori	Zelenko
Condino			

In The Chair: Kooiman

The House agreed to the title of the bill.

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Rep. Hildenbrand moved that House Committees be given leave to meet during the balance of today's session. The motion prevailed.

By unanimous consent the House returned to the order of

**Motions and Resolutions**

Reps. Van Regenmorter, Accavitti, Anderson, Ball, Baxter, Bieda, Booher, Brown, Byrum, Casperson, Caul, Clack, Condino, Elsenheimer, Emmons, Farhat, Gillard, Gleason, Gosselin, Hildenbrand, Hopgood, Hummel, Jones, Kolb, LaJoy, David Law, Leland, Lemmons, Jr., Lipsey, Marleau, Mayes, McDowell, Meyer, Moore, Mortimer, Newell, Nofs, Palmer, Pearce, Polidori, Proos, Rocca, Sak, Sheen, Sheltroun, Alma Smith, Stahl, Steil, Taub, Vander Veen and Zelenko offered the following resolution:

**House Resolution No. 242.**

A resolution commemorating April 23 - 29, 2006, as Crime Victims' Rights Week in the state of Michigan.

Whereas, With the implementation of The Crime Victim Rights Act in 1985 and the passage of the Constitutional Amendment in 1988, crime victims in Michigan enjoy some of the most comprehensive, constitutionally guaranteed rights in the nation. We celebrate the fact that victims in Michigan have been an integral part of the delivery of justice for the past 21 years. Communities throughout the state are unified in their efforts to assist victims in their recovery from the aftermath of crime; and

Whereas, The support groups that have arisen are many and varied. They range from volunteers coordinated by county sheriff offices to assist victims of crime at the very first moment a crime has occurred, to the motivated and concerned individuals in each county prosecutor's office who ensure victims are afforded their rights throughout criminal justice process, to the advocates within the Michigan Department of Corrections who ensure continued implementation of victims' rights throughout the incarceration period of the criminal defendant; and

Whereas, The existence of these groups, and the visibility of victims in the criminal justice process can be largely attributed to the Crime Victim Constitutional Amendment which was overwhelmingly approved by the voters of Michigan in 1988. For 21 years, Michigan victims have been afforded a multitude of rights throughout the process. The most important of these rights is that the victim is treated with fairness, respect, dignity, and privacy throughout the entire process. The rights granted to victims have generated awareness throughout our state, making the important statement that the system created to address the wrong done to a victim does in fact include the victim, a facet of the process that was sadly missing prior to the passage of the Crime Victim Rights Act and Constitutional Amendment two decades ago; and

Whereas, The exchange of information and level of public awareness are the focus of National Crime Victims' Rights Week, and continue to serve as a driving force for changes in attitude and law in not only Michigan, but the entire country; now therefore, be it further

Resolved by the House of Representatives, That the members of this legislative body commemorate April 23 - 29, 2006, as Crime Victims' Rights Week in the state of Michigan. We celebrate the 21st anniversary of victims' rights in Michigan; and be it further

Resolved, We will pay our respects to those who have been victimized by violent crime, as well as salute the many dedicated individuals who work daily on behalf of Michigan victims, at a Candlelight Vigil to be held on Wednesday, April 26, 2006, at the State Capitol; and be it further

Resolved, That we stand united as individuals, communities, and as a state in our commitment to affording justice to victims of crime; and be it further

Resolved, That a copy of this resolution be transmitted to the coordinators of this event as evidence of our respect and best wishes.

Pending the reference of the resolution to a committee,

Rep. Hildenbrand moved that Rule 77 be suspended and the resolution be considered at this time.

The motion prevailed, 3/5 of the members present voting therefor.

The question being on the adoption of the resolution,

The resolution was adopted.

Reps. Gosselin, Garfield, Hoogendyk, Sheen, Emmons, Casperson, Marleau, LaJoy, Hildenbrand, Taub, Vander Veen, Stahl, Moolenaar, Hummel, Pastor, Shaffer, Baxter, Palmer, Booher, Caul, Meyer and Mortimer offered the following resolution:

**House Resolution No. 243.**

A resolution establishing March 31, 2006, as Terri's Day of Remembrance & Celebration of the Culture of Life Day in the state of Michigan.

Whereas, There are millions of Americans who live with profound or severe cognitive impairments and profound mental retardation or severe brain damage. Many have parents, children, and loved ones who wish to care for them; and

Whereas, Americans need to be informed about their individual and family options to obtain a living will; and

Whereas, We need to encourage and support families to spend time pursuing "Culture of Life" events on this day. These events should honor and respect some aspect of the culture of life by visiting, volunteering, or supporting a nursing home, a school for disabled youth and adults, or a long term care facility. Also by praying in a place of worship; and

Whereas, There is a need to support the establishment of a state network of Terri Schindler Schiavo Foundation professional volunteers to assist families who are confronted with making life and death choices for their loved ones, but lack the professional guidance to assist them; and

Whereas, We support the Schindler Schiavo Foundation in the establishment of health care facilities for brain-injured patients; now, therefore, be it

Resolved by the House of Representatives, That the members of this legislative body establish March 31, 2006, as Terri's Day of Remembrance & Celebration of the Culture of Life Day in the state of Michigan. We encourage activities that celebrate this designation; and be it further

Resolved, That we urge Congress and the President to establish March 31st as Terri's Day of Remembrance and Celebration of the Culture of Life and encourage activities that celebrate this designation.

The resolution was referred to the Committee on Government Operations.

### Reports of Standing Committees

The Committee on Agriculture, by Rep. Nitz, Chair, reported

#### **Senate Bill No. 777, entitled**

A bill to amend 1965 PA 329, entitled "Michigan seed law," (MCL 286.701 to 286.716) by amending the title, as amended by 1988 PA 455, and by adding section 14; and to repeal acts and parts of acts.

With the recommendation that the substitute (H-3) be adopted and that the bill then pass.

The bill and substitute were referred to the order of Second Reading of Bills.

#### Favorable Roll Call

To Report Out:

Yeas: Reps. Nitz, Ball, Newell, Casperson, Stahl, Proos, Hune, Mayes, Spade and Sheltroun

Nays: Rep. Kathleen Law

### COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Nitz, Chair, of the Committee on Agriculture, was received and read:

Meeting held on: Tuesday, April 18, 2006

Present: Reps. Nitz, Ball, Newell, Casperson, Stahl, Proos, Hune, Mayes, Spade, Kathleen Law and Sheltroun

The Committee on Energy and Technology, by Rep. Nofs, Chair, reported

#### **House Bill No. 5917, entitled**

A bill to amend 1986 PA 32, entitled "Emergency telephone service enabling act," by amending sections 401, 407, 408, 412, and 717 (MCL 484.1401, 484.1407, 484.1408, 484.1412, and 484.1717), section 401 as amended by 1999 PA 81, sections 407 and 412 as added by 1999 PA 78, section 408 as amended by 2006 PA 74, and section 717 as added by 1999 PA 79.

With the recommendation that the substitute (H-1) be adopted and that the bill then pass.

The bill and substitute were referred to the order of Second Reading of Bills.

#### Favorable Roll Call

To Report Out:

Yeas: Reps. Nofs, Proos, Emmons, Garfield, Huizenga, LaJoy, Palsrok, Stahl, Baxter, Moore, Schuitmaker, Accavitti, Mayes, Hopgood, Clemente and Gillard

Nays: None

## COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Nofs, Chair, of the Committee on Energy and Technology, was received and read:

Meeting held on: Wednesday, April 19, 2006

Present: Reps. Nofs, Proos, Drolet, Emmons, Garfield, Huizenga, LaJoy, Palsrok, Stahl, Baxter, Moore, Schuitmaker, Accavitti, Mayes, Hopgood, Clemente and Gillard

Absent: Reps. Dillon and Hunter

Excused: Reps. Dillon and Hunter

## COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Sheen, Chair, of the Committee on Tax Policy, was received and read:

Meeting held on: Wednesday, April 19, 2006

Present: Reps. Sheen, Meyer, Gosselin, Newell, Drolet, Palmer, Hoogendyk, Stakoe, Jones, Marleau, Bieda, Zelenko, Miller, Meisner, Bennett and Mayes

Absent: Rep. Farrah

Excused: Rep. Farrah

## COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Palmer, Chair, of the Committee on Education, was received and read:

Meeting held on: Wednesday, April 19, 2006

Present: Reps. Palmer, Mortimer, Gosselin, Meyer, Hoogendyk, Vander Veen, Ball, Hildenbrand, Pearce, Proos, Robertson, Hopgood, Miller, Angerer, Virgil Smith, Clack, Vagnozzi and Polidori

Absent: Rep. Wenke

Excused: Rep. Wenke

**Announcement by the Clerk of Printing and Enrollment**

The Clerk announced that the following bills had been printed and placed upon the files of the members on Wednesday, April 19:

**House Bill Nos. 5947 5948 5949 5950 5951**

**Senate Bill Nos. 1204 1205 1206**

**Introduction of Bills**

Reps. LaJoy and Nitz introduced

**House Bill No. 5952, entitled**

A bill to amend 2000 PA 403, entitled "Motor fuel tax act," by repealing section 124 (MCL 207.1124).

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

Reps. Schuitmaker and Lipsey introduced

**House Bill No. 5953, entitled**

A bill to amend 1909 PA 259, entitled "An act to provide that judgments of divorce and judgments of separate maintenance shall make provision in satisfaction of the claims of the wife in the property of the husband and in satisfaction of the claims of the husband and wife in contracts of insurance and annuity upon the life of the husband or wife, and in satisfaction of claims of the husband and wife in or to any pension, annuity, retirement allowance, or accumulated contributions in any pension, annuity, or retirement system, including any rights or contingent rights in and to unvested pension, annuity, or retirement benefits; and to change the tenure of lands owned by husband and wife in case of divorce, and to provide for the disposition or partition of such lands or the proceeds thereof," by amending section 1 (MCL 552.101), as amended by 1985 PA 42.

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

Reps. Hummel, Vander Veen, Sheen, Baxter and Hansen introduced

**House Bill No. 5954, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 40103 and 43505 (MCL 324.40103 and 324.43505), section 40103 as amended by 2004 PA 160 and section 43505 as amended by 1996 PA 585.

The bill was read a first time by its title and referred to the Committee on Conservation, Forestry, and Outdoor Recreation.

Reps. Hildenbrand, Palsrok, Nofs and Clemente introduced

**House Bill No. 5955, entitled**

A bill to amend 1917 PA 273, entitled "An act to regulate and license pawnbrokers in certain governmental units of this state; and to prescribe certain powers and duties of certain local governmental units and state agencies," by amending sections 1 and 3 (MCL 446.201 and 446.203), section 1 as amended by 2004 PA 585 and section 3 as amended by 2002 PA 469.

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

Reps. Clemente, Hildenbrand, Palsrok and Nofs introduced

**House Bill No. 5956, entitled**

A bill to amend 1945 PA 231, entitled "An act to prescribe additional regulations and requirements for pawnbrokers, secondhand dealers and junk dealers; to provide for the taking of fingerprints and the making of reports to enforcement officers; to prescribe penalties for the violation of the provisions of this act; and to declare the effect of this act," by amending sections 1 and 6 (MCL 445.471 and 445.476).

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

Reps. Palsrok, Hildenbrand, Nofs and Clemente introduced

**House Bill No. 5957, entitled**

A bill to amend 1917 PA 350, entitled "An act to regulate and license second hand dealers and junk dealers; and to prescribe penalties for the violation of the provisions of this act," by amending sections 1 and 3 (MCL 445.401 and 445.403).

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

Reps. Nofs, Hildenbrand, Palsrok and Clemente introduced

**House Bill No. 5958, entitled**

A bill to amend 1981 PA 95, entitled "The precious metal and gem dealer act," by amending sections 2 and 3 (MCL 445.482 and 445.483), section 2 as amended by 1990 PA 34.

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

By unanimous consent the House returned to the order of

**Reports of Standing Committees**

The Committee on Judiciary, by Rep. Van Regenmorter, Chair, reported

**House Bill No. 5142, entitled**

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," (MCL 760.1 to 777.69) by adding section 21c to chapter VIII.

With the recommendation that the substitute (H-1) be adopted and that the bill then pass.

The bill and substitute were referred to the order of Second Reading of Bills.

Favorable Roll Call

To Report Out:

Yeas: Reps. Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Adamini and Virgil Smith

Nays: None



The Committee on Judiciary, by Rep. Van Regenmorter, Chair, reported  
**House Bill No. 5143, entitled**

A bill to clarify the rights and duties of self-defense and the defense of others; to provide for criminal and civil immunity under certain circumstances; to regulate the investigation of incidents involving self-defense or the defense of others; and to provide for certain remedies.

With the recommendation that the substitute (H-4) be adopted and that the bill then pass.

The bill and substitute were referred to the order of Second Reading of Bills.

#### Favorable Roll Call

To Report Out:

Yeas: Reps. Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca and Virgil Smith

Nays: Reps. Lipsey, Condino and McConico

The Committee on Judiciary, by Rep. Van Regenmorter, Chair, reported  
**House Bill No. 5153, entitled**

A bill to clarify the rights and duties of self-defense and the defense of others; to provide for criminal and civil immunity under certain circumstances; to regulate the investigation of incidents involving self-defense or the defense of others; and to provide for certain remedies.

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

The bill and substitute were referred to the order of Second Reading of Bills.

#### Favorable Roll Call

To Report Out:

Yeas: Reps. Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca and Virgil Smith

Nays: Reps. Lipsey, Condino, McConico and Bieda

The Committee on Judiciary, by Rep. Van Regenmorter, Chair, reported  
**House Bill No. 5548, entitled**

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9947) by adding section 2922b.

With the recommendation that the substitute (H-1) be adopted and that the bill then pass.

The bill and substitute were referred to the order of Second Reading of Bills.

#### Favorable Roll Call

To Report Out:

Yeas: Reps. Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca and Virgil Smith

Nays: Reps. Condino and McConico

### COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Van Regenmorter, Chair, of the Committee on Judiciary, was received and read:

Meeting held on: Wednesday, April 19, 2006

Present: Reps. Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico, Bieda and Virgil Smith

Rep. Rocca moved that the House adjourn.  
The motion prevailed, the time being 2:25 p.m.

The Speaker Pro Tempore declared the House adjourned until Thursday, April 20, at 10:30 a.m.

GARY L. RANDALL  
Clerk of the House of Representatives