

No. 12
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, February 19, 1997.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor Connie B. Binsfeld.

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

Bennett—present
Berryman—present
Bouchard—present
Bullard—present
Byrum—present
Carl—present
Cherry—present
Cisky—present
Conroy—present
DeBeaussaert—present
DeGrow—present
Dingell—present
Dunaskiss—present

Emmons—present
Gast—present
Geake—present
Gougeon—present
Hart—present
Hoffman—present
Koivisto—present
McManus—present
Miller—present
North—present
O'Brien—present
Peters—present
Posthumus—present

Rogers—present
Schuette—present
Schwarz—present
Shugars—present
A. Smith—present
V. Smith—present
Stallings—present
Steil—present
Stille—present
Van Regenmorter—present
Vaughn—present
Young—present

Deacon Joe Brooks of the Seventh-Day Adventist Church in Baldwin offered the following invocation:

We thank You for our health and strength. We thank You for this wonderful state that You have given us. We thank You for America and for watching over us. We thank You for watching over each of our families. We thank You for answering our prayers that we can't utter at times, when we reach the end our rope, the end of our capabilities. We ask that You give us the wisdom to have the knowledge and Your backing. We ask that You give us the wisdom that this Senate might act with integrity and continue to lead this state on to victory, and to continue to do the things that make this state grow. This simple prayer, Lord, we ask in Your Son Jesus' name. Amen.

Motions and Communications

Senator Young entered the Senate Chamber.

Senator DeGrow moved that Senators Carl and Schwarz be temporarily excused from today's session. The motion prevailed.

Senator DeGrow moved that rule 3.902 be suspended to allow the guests of Senators Schuette, North and Rogers admittance to the Senate floor.

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

Senator Berryman moved that Senator V. Smith be temporarily excused from today's session. The motion prevailed.

The following communication was received:
Department of State

Administrative Rules Notice of Filing

February 13, 1997

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6 this is to advise you that the Office of Regulatory Reform, Legal Division filed at 8:10 a.m. this date, administrative rule (97-2-3) for the Department of Consumer and Industry Services, Financial Institutions Bureau, entitled "Regulatory Loan Licensees," effective 15 days hereafter.

Sincerely,
Candice S. Miller
Secretary of State
Helen Kruger, Supervisor
Office of the Great Seal

The communication was referred to the Secretary for record.

Messages from the Governor

The following message from the Governor was received and read:

February 18, 1997

There is herewith presented for consideration and confirmation by the Senate, the following appointment to office:

Director of the Family Independence Agency

Ms. Marva Livingston-Hammons, 1275 Oak Ridge, Apt. 4, East Lansing, Michigan 48823, county of Ingham, succeeding Mr. Mark A. Murray of Lansing, for a term expiring at the pleasure of the Governor.

Sincerely,
John Engler
Governor

The appointment was referred to the Committee on Government Operations.

Senator Schwarz entered the Senate Chamber.

Third Reading of Bills

The following bill was read a third time:

Senate Bill No. 3, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 7410 (MCL 333.7410), as amended by 1994 PA 174.

The question being on the passage of the bill,
 Senator Bouchard moved that further consideration of the bill be postponed temporarily.
 The motion prevailed.

Senator Carl entered the Senate Chamber.

The following bill was read a third time:

Senate Bill No. 6, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 217b.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 11

Yeas—37

Bennett	DeGrow	Koivisto	Schwarz
Berryman	Dingell	McManus	Shugars
Bouchard	Dunaskiss	Miller	Smith, A.
Bullard	Emmons	North	Stallings
Byrum	Gast	O'Brien	Steil
Carl	Geake	Peters	Stille
Cherry	Gougeon	Posthumus	Van Regenmorter
Cisky	Hart	Rogers	Vaughn
Conroy	Hoffman	Schuetz	Young
DeBeaussaert			

Nays—0

Excused—1

Smith, V.

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. 50, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 316 (MCL 750.316), as amended by 1996 PA 21.

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. 12

Yeas—36

Bennett	DeGrow	Koivisto	Schwarz
Berryman	Dingell	McManus	Shugars
Bouchard	Dunaskiss	Miller	Smith, A.
Bullard	Emmons	North	Stallings
Carl	Gast	O'Brien	Steil
Cherry	Geake	Peters	Stille
Cisky	Gougeon	Posthumus	Van Regenmorter
Conroy	Hart	Rogers	Vaughn
DeBeaussaert	Hoffman	Schuetz	Young

Nays—0

Excused—1

Smith, V.

Not Voting—1

Byrum

In The Chair: President

The Senate agreed to the title of the bill.

Senator V. Smith entered the Senate Chamber.

Senators Peters, DeBeaussaert, Bouchard, Steil and Rogers moved that they be named co-sponsors of the following bill:

Senate Bill No. 50

The motion prevailed.

By unanimous consent the Senate returned to consideration of the following bill:

Senate Bill No. 3, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 7410 (MCL 333.7410), as amended by 1994 PA 174.

(This bill was read a third time earlier today and consideration postponed. See p. 124.)

The question being on the passage of the bill,

Senator Peters offered the following amendments:

1. Amend page 2, line 14, after the first "PARK" by inserting "OR PRIVATE PARK".
2. Amend page 2, line 14, after the second "PARK" by inserting "OR PRIVATE PARK".
3. Amend page 2, line 23, after "PARK" by inserting "OR PRIVATE PARK".
4. Amend page 2, line 24, after "PARK" by inserting "OR PRIVATE PARK".
5. Amend page 3, following line 18, by inserting:

"(B) "PRIVATE PARK" MEANS REAL PROPERTY OWNED OR MAINTAINED BY A PRIVATE INDIVIDUAL OR ENTITY AND WHICH IS OPEN TO THE GENERAL PUBLIC OR LOCAL RESIDENTS FOR THE PURPOSES OF RECREATION OR AMUSEMENT." and relettering the remaining subdivision.

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

Senator Bouchard offered the following amendments:

1. Amend page 2, line 12, after "minor" by striking out "who is a student".
2. Amend page 2, line 22, after "minor" by striking out "who is a student".

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. 13

Yeas—38

Bennett
Berryman
Bouchard
Bullard
Byrum
Carl
Cherry
Cisky
Conroy
DeBeaussaert

DeGrow
Dingell
Dunaskiss
Emmons
Gast
Geake
Gougeon
Hart
Hoffman
Koivisto

McManus
Miller
North
O'Brien
Peters
Posthumus
Rogers
Schuette
Schwarz

Shugars
Smith, A.
Smith, V.
Stallings
Steil
Stille
Van Regenmorter
Vaughn
Young

Nays—0

Excused—0

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Senators DeBeaussaert, Peters, Miller, Steil, Bennett, Dunaskiss, Gougeon, Conroy, Hart and Emmons moved that they be named co-sponsors of the following bill:

Senate Bill No. 3

The motion prevailed.

Recess

Senator DeGrow moved that the Senate recess subject to the call of the President.
The motion prevailed, the time being 10:27 a.m.

10:31 a.m.

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

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senators Schwarz, Byrum, Cisky and Emmons introduced

Senate Bill No. 201, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding part 94.
The bill was read a first and second time by title and referred to the Committee on Appropriations.

Senators Steil, McManus, Bennett, Hoffman and Shugars introduced

Senate Bill No. 202, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 3, 5, 6, 11a, 613, 616, 617, 661, 687, 701, 702, 703, 705, 856, 857, 858, 859, 860, 861, 932, 945, 1361, and 1732 (MCL 380.3, 380.5, 380.6, 380.11a, 380.613, 380.616, 380.617, 380.661, 380.687, 380.701, 380.702, 380.703, 380.705, 380.856, 380.857, 380.858, 380.859, 380.860, 380.861, 380.932, 380.945, 380.1361, and 380.1732), sections 3, 5, 6, and 687 as amended and section 11a as added by 1995 PA 289, section 617 as amended by 1989 PA 268, section 703 as amended by 1981 PA 87, section 705 as amended by 1994 PA 258, sections 857 and 858 as amended by 1992 PA 263, and section 945 as added by 1984 PA 154, and by adding sections 1206 and 1351c; 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 Education.

Senators Stallings, V. Smith, Miller, Vaughn, Peters and Young introduced

Senate Bill No. 203, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 266.
The bill was read a first and second time by title and referred to the Committee on Finance.

Senators O'Brien, Young, Byrum, Cherry and Dingell introduced

Senate Bill No. 204, entitled

A bill to facilitate commerce by means of reliable electronic messages; to minimize the incidence of forged digital signatures and fraud in electronic commerce; to regulate the use of certain digital signatures; to regulate the practices of certification authorities; to prescribe the powers and duties of certain state and local agencies and officials; to provide certain penalties, remedies, and presumptions; to provide for collection on certain guarantees; and to recommend reliance limits and liability.

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

Senators Emmons, Steil, Bullard, Carl, McManus, Gast, North and Shugars introduced

Senate Bill No. 205, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1246 (MCL 380.1246), as amended by 1995 PA 289.

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

Senators Cherry, Stallings, Hart, Geake, Schwarz and Young introduced

Senate Bill No. 206, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 696 (MCL 257.696).

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

Senators McManus, North, Steil, Gast, Bennett and Hoffman introduced

Senate Bill No. 207, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," (MCL 168.1 to 168.992) by adding section 17 and chapter XIV.

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

Senators Shugars, North and Dunaskiss introduced

Senate Bill No. 208, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 30 (MCL 206.30), as amended by 1996 PA 484.

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

Senator Van Regenmorter introduced

Senate Bill No. 209, entitled

A bill to codify, revise, consolidate, and classify aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating to trusts, and relating to the affairs of certain individuals under legal incapacity; to provide for the powers and procedures of the court that has jurisdiction over these matters; to provide for the validity and effect of certain transfers, contracts, and deposits that relate to death; to provide procedures to facilitate enforcement of certain trusts; 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 Judiciary.

House Bill No. 4177, entitled

A bill to amend 1964 PA 154, entitled "Minimum wage law of 1964," by amending sections 2, 4, 4a, 7, and 7a (MCL 408.382, 408.384, 408.384a, 408.387, and 408.387a), section 2 as amended by 1980 PA 97.

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.

Senator DeGrow moved that rule 3.203 be suspended and that the bill be placed on the order of Third Reading of Bills for its immediate passage.

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

House Bill No. 4226, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 523 (MCL 168.523), as amended by 1996 PA 583.

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 Government Operations.

Resolutions

The question was placed on the adoption of the following resolution consent calendar:

Senate Resolution No. 25

The resolution consent calendar was adopted.

Senator Schuette offered the following resolution:

Senate Resolution No. 25.

A resolution commemorating March 1997 as Red Cross Month in Michigan.

Whereas, The American Red Cross is chartered by the Congress of the United States and March is being designated “Red Cross Month” by the President of the United States and the United States Congress; and

Whereas, The Red Cross is also a fully qualified tax-exempt charitable corporation, not a part of nor controlled by the federal government. No public funds are appropriated to the Red Cross to carry out its basic services and programs; and

Whereas, The American Red Cross is an organization that is led by volunteers and depends on individual contributions of time and money to sustain its mission to the people of Michigan and the United States; and

Whereas, Michigan is proud to be the home of 39 active Red Cross chapters, employing 471 paid staff persons augmented and supported by more than 54,000 volunteers, and providing services to more than 1,040,570 Michigan residents last year; and

Whereas, The Red Cross in Michigan last year provided humanitarian aid to more than 60,000 families who were victims of fires, averaging a new fire every eight minutes in our state; and

Whereas, The Red Cross provides a broad range of services to the people of the state of Michigan, including: disaster assistance, first aid and cardio-pulmonary-resuscitation (CPR) training, water safety and life-guard certification, assistance in locating lost family members and contacting members of military service, assisting with food bank and heat bank programs for needy families, providing transportation to medically and/or financially needy persons for medical appointments, instructing groups and individuals regarding HIV/AIDS, maintaining telephone contact lines for elderly persons living alone and young persons who need a friend, and a wide variety of other services available to those in need; now, therefore, be it

Resolved by the Senate, That in recognition of its outstanding service to the people of the state of Michigan, we hereby commemorate March as Red Cross Month in Michigan; and be it further

Resolved, That a copy of this resolution be transmitted to the American Red Cross as a reflection of our gratitude.

Senators Dunaskiss, North, Shugars, Bullard, DeBeaussaert, DeGrow, Hart, Stallings, Van Regenmorter, Cherry, McManus, Stille and Schwarz were named co-sponsors of the resolution.

By unanimous consent the Senate returned to the order of

Third Reading of Bills

The following bill was read a third time:

House Bill No. 4177, entitled

A bill to amend 1964 PA 154, entitled “Minimum wage law of 1964,” by amending sections 2, 4, 4a, 7, and 7a (MCL 408.382, 408.384, 408.384a, 408.387, and 408.387a), section 2 as amended by 1980 PA 97.

The question being on the passage of the bill,

Senator Bennett offered the following substitute:

Substitute (S-3).

The substitute 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. 14

Yeas—35

Bennett	DeBeaussaert	Hoffman	Schwarz
Berryman	DeGrow	Koivisto	Smith, A.
Bouchard	Dingell	McManus	Smith, V.
Bullard	Dunaskiss	Miller	Stallings
Byrum	Emmons	North	Steil
Carl	Gast	O’Brien	Stille
Cherry	Geake	Peters	Vaughn
Cisky	Gougeon	Posthumus	Young
Conroy	Hart	Schuette	

Nays—3

Rogers

Shugars

Van Regenmorter

Excused—0**Not Voting—0**

In The Chair: President

Senator DeGrow moved that the bill be given immediate effect.

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

Senator Bennett offered to amend the title to read as follows:

A bill to amend 1964 PA 154, entitled "An act to fix minimum wages for employees within this state; to prohibit wage discrimination; to provide for the administration and enforcement of this act; and to prescribe penalties for the violation of this act," by amending sections 2, 4, and 4a (MCL 408.382, 408.384, and 408.384a), section 2 as amended by 1980 PA 97.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

Protests

Senators Rogers, Shugars and Van Regenmorter, under their constitutional right of protest (Art. IV, Sec. 18), protested against the passage of House Bill No. 4177.

Senator Rogers' statement, in which Senator Van Regenmorter concurred, is as follows:

As the Chairman of the Human Resources, Labor and Veterans Affairs Committee, we spent a lot of hours working on this particular issue. I think through the course of that we came to a very sensible, realistic and responsible approach to getting money to the people who truly need it in the state of Michigan—the working poor. I think what we have seen over the last several weeks, is a disintegration of that and a lack of attention to the details that, in fact, will hurt the working poor in the state of Michigan.

Two of the things specifically and the reasons I vote "no" in this particular bill: One is that they moved the date to a six month window. That's a 53% increase in the minimum wage which means an increase in taxes to the smallest of the small businesses over six months. That is a tremendous burden to ask our small businesses to bear, and the result of that, is that we have seen in the past, what the high tax burdens can do, will serve to eliminate those kinds of opportunities for the very people we are trying to help. I think it's nonsensical to tell them they are going to have to face a 53% increase in their cost within six months and make those adjustments. By the way, that's not going to hurt anyone in the state of Michigan, and I think that's simply just wrong.

Secondly, we took the age from 18 to 16. If our true intent, as we are standing here today to say that we are here to help the working poor, those individuals who are trying to support a family on \$5.15 an hour, we have done no service to them today. We have taken away opportunities I believe to those who are in high school and trying to get those first job opportunities. They're not going to pay those kids \$5.15 per hour—they're just not going to hire them at all or go somewhere else in the work force to find that labor pool. We have taken a good thing and a good concept and put some real anchors on this that, in fact, will hurt the working poor. It disadvantages the smallest employers we have in the state, our most cherished employers, as we know that almost 80% of all of our businesses in this state are small businesses.

If we want employees to still have those opportunities with those businesses, this is the wrong direction. Senate Bill No. 1, as it passed this Chamber, was the right thing to do. I supported that bill, I still support that bill and I just want to re-emphasize that this, is not to the benefit of the people we are trying to help.

Senator Shugars' statement, in which Senator Van Regenmorter concurred, is as follows:

After we passed Senate Bill No. 1, it was brought to my attention from some working moms who have children, who make \$9 or \$10 a hour, that by increasing the minimum wage on the small day care providers, what we did was increase the cost of day care to single moms that are working, that the minimum wage does not help them. What we effectively did to moms who have one, two or three children, who are working to make \$8, \$9 or \$10 a hour, are now going to see their day care costs go up because we increased the labor costs in some cases as high as 45%. If they had some supervisor who were making \$5 or \$5.50 per hour, they tell me there's a ripple effect so that the other staff of these day care providers are going to go up also.

I caution anytime the unintentional consequences that occur when government starts regulating labor costs, that we ought to look at the people we are trying to help, the people who are actually trying to work and stay off of welfare, we unintentionally increase the cost of them doing that.

Senator Shugars moved that rule 3.506 be suspended to allow him to submit, in writing, his reasons for voting “no” for inclusion in today’s Journal.

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

Senator Shugars’ statement is as follows:

The reason I voted “no” is that I have a philosophical disagreement with government coming in and setting laws on labor, how much someone is going to get paid. Next, government could set prices on the price of milk and food and other services. And, I feel that other countries over in Europe demonstrated that Socialism doesn’t work and I believe that if one goes out into the marketplace, minimum wage really doesn’t effect the person working. If you go to McDonald’s or Burger King there’s jobs at \$7.00 an hour and things of that sort. I don’t believe that the minimum wage law really is effective out there now. I think that raising it, some of the studies that I’ve read from former President Jimmy Carter and former Presidential candidate George McGovern said that they have a lot of concerns with the minimum wage that, in effect, it doesn’t help the people that you want to help. When you look at the people who are working part time, that is the second job for an individual, they’re young people who are working. So, I’m certain that it effectively helps who you are trying to help, but it does cost more money, it does get government involved in the running of the free market. I’m a supporter of the free market system.

I just want to finish with one thing—who are we kidding? I don’t believe that anybody can live on \$5.15 an hour. So if you are in fact, compassionate to people who are in poverty and you believe that government can solve everybody’s problems, then you should have supported a \$10.00 an hour minimum wage. So, that is my philosophical difference.

By unanimous consent the Senate returned to the order of

General Orders

Senator DeGrow 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, Lieutenant Governor Binsfeld, designated Senator Dingell as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Binsfeld, resumed the Chair.

Senator DeGrow moved that the Senate adjourn.

The motion prevailed, the time being 10:54 a.m.

The President, Lieutenant Governor Binsfeld, declared the Senate adjourned until Thursday, February 20, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

