

JOURNAL OF THE SENATE

No. 72

Senate Chamber, Lansing, Wednesday, October 8, 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
Cherry—present
Cisky—present
Conroy—present
DeBeausaert—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

Pastor Cecil Sanders of the Holt Baptist Church offered the following invocation:

Our Father, we stand before You this morning realizing that it is a tremendous privilege to call You our God and our Father. We are reminded in Your word that from everlasting to everlasting You are God. We stand this morning before You—accountable to You—thankful for the privilege of serving You. And we thank You for the access that we have before You through the work that Jesus Christ did on the cross.

Father, I pray for the men and women standing before me this morning, that You would bless each one personally; that each one would know Your grace in a personal way. That they would know what it means to walk with Christ. I pray, Lord, for the homes they represent. I pray for their spouses and their families; that they would be models in leading their homes in a way that pleases You and in a way that is modeled before our people in the state of Michigan.

Father, I pray for them as public servants today. They have been elected by their constituents to serve them, and Lord, more importantly, they've been elected by You and are accountable. I pray Your blessing upon their deliberations today. I pray that You would guide their thought processes and that the Holy Spirit would have its way in this chamber today.

Father, I thank You for the privilege of being a citizen of this state; of being subservient to You and to these who serve us. We pray for Your richest blessings upon this chamber, these men and women and upon our state. In the name of Jesus we pray. Amen.

Motions and Communications

Senator Geake entered the Senate Chamber.

The following communications were received:
Department of State

Administrative Rules Notices of Filing

September 25, 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 1:02 p.m. this date, administrative rule (97-9-4) for the Department of Community Health, Legislation and Policy Development, entitled "*Blood Lead analysis Reporting*," effective 15 days hereafter.

September 25, 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 1:04 p.m. this date, administrative rule (97-9-5) for the Department of Community Health, Health Legislation and Policy Development, entitled "*General Rules*," effective 15 days hereafter.

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

The communications were referred to the Secretary for record.

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, October 7:
House Bill Nos. 4923 5083

The Secretary announced the printing and placement in the members' files on Monday, October 6 of:

House Bill Nos.	5100	5101	5102	5103	5104	5105	5106	5107	5108	5109	5110	5111	5112	5113
	5114	5115	5117	5118	5119	5120	5121	5122	5123	5124	5125	5126	5127	5128
	5129	5130	5131	5132	5133	5134	5135	5136	5137	5138	5139	5140	5141	5142
	5143	5144	5145	5146	5147	5148	5149	5150	5151	5152	5153	5154	5155	5156
	5157	5158	5159	5160	5161	5162	5163	5164	5165	5166	5167	5168	5169	5170
	5171	5172	5173	5174	5175	5176	5177	5178	5179	5180	5181	5182	5183	5184
	5185	5186	5187	5188	5189	5190	5191	5192	5193	5194	5195	5196	5197	5198
	5199	5200	5201	5202	5203	5204	5205	5206	5207	5208				

House Joint Resolution BB

The Secretary announced the printing and placement in the members' files on Tuesday, October 7 of:

Senate Bill Nos. 722 723 724 725 726 727 728 729 730 731 741 743 744 745
746

House Bill Nos. 5209 5210 5211 5212 5213 5214 5215 5216 5217 5218 5219 5220

Senator V. Smith moved that Senator Stallings be temporarily excused from the balance of today's session.
The motion prevailed.

Senators Miller and Stallings entered the Senate Chamber.

Messages from the House

Senator DeGrow moved that consideration of the following bill be postponed for today:

Senate Bill No. 178

The motion prevailed.

Senate Bill No. 227, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," by amending section 2001 (MCL 339.2001), as amended by 1992 PA 103.

The House of Representatives has passed the bill, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title of the bill.

The question being on concurring in the committee recommendation to give the bill immediate effect,
Senator DeGrow moved that further consideration of the bill be postponed for today.

The motion prevailed.

Senate Bill No. 228, entitled

A bill to amend 1993 PA 23, entitled "Michigan limited liability company act," by amending section 904 (MCL 450.4904).

The House of Representatives has substituted (H-1) the bill.

The House of Representatives has passed the bill as substituted (H-1), ordered that it be given immediate effect and amended the title to read as follows:

A bill to amend 1993 PA 23, entitled "An act to provide for the organization and regulation of limited liability companies; to prescribe their duties, rights, powers, immunities, and liabilities; to prescribe the powers and duties of certain state departments and agencies; and to provide for penalties and remedies," by amending section 904 (MCL 450.4904), as amended by 1997 PA 52.

Pursuant to rule 3.202, the bill was laid over one day.

Third Reading of Bills

Senator DeGrow moved that consideration of the following bills be postponed for today:

House Bill No. 4509

House Bill No. 4773

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 717, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 4g (MCL 205.54g), as amended by 1996 PA 576.

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. 495**Yeas—36**

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

Nays—1

Smith, V.

Excused—0**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

Protest

Senator V. Smith, under his constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill No. 717.

Senator V. Smith's statement is as follows:

I voted "no" on Senate Bill No. 717. It just slid through here as all these other tax breaks slide through here. I voted "no" because the reductions in state tax revenues will continue to haunt us in the future. I know times are very good right now and I know we are probably in the best economy Michigan has ever seen in its history. The upside has been up for quite a while, but at some point, we will see the other side of the coin. And when we do see the other side of the coin, we are going to regret the day that we continue to reduce state revenues.

I think we should surely regret the fact of reducing even further the single business tax revenues. This Legislature, on behalf of my Republican colleagues, put the change in the single business tax which they felt the business community had to have. It reduced single business tax revenues by 16%. That means that as revenues increase in income tax, and as revenues increase in every other taxing area of the state, which created some \$200 million surplus, your constituents who elected you are paying more, but the business community is paying less. We continue to see the business revenue slide under the present administration. It is an outright travesty of using other tax giveaways to the business community, which has already seen most of the large 21 tax cuts that are bragged about so vividly by the other side of the aisle.

So, I only have one vote and I've cast it. I cast it in opposition of Senate Bill No. 717 and I will continue to cast votes in opposition of these continued tax giveaways to the business community that has already been able to stuff its pockets with tax revenues which my constituents pay.

The following bill was read a third time:

Senate Bill No. 705, entitled

A bill to amend 1975 PA 228, entitled "Single business tax act," by amending section 38c (MCL 208.38c), as amended by 1994 PA 231.

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. 496**Yeas—36**

Bennett
Berryman
Bouchard
Bullard
Byrum
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.
Stallings
Steil
Stille
Van Regenmorter
Vaughn
Young

Nays—1

Smith, V.

Excused—0**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

Senators Shugars, Rogers, Young, Peters, DeBeaussaert, Hart, Stallings, Steil, Bennett, Bouchard, Schuette, McManus and Stille moved that they be named co-sponsors of the following bill:

Senate Bill No. 705

The motion prevailed.

The following bill was read a third time:

House Bill No. 4091, entitled

A bill to amend 1975 PA 228, entitled "Single business tax act," (MCL 208.1 to 208.145) by adding section 38f.

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. 497**Yeas—36**

Bennett
Berryman
Bouchard
Bullard
Byrum
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.
Stallings
Steil
Stille
Van Regenmorter
Vaughn
Young

Nays—1

Smith, V.

Excused—0

Not Voting—0

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,

The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the bill shall read as follows:

“An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation.”

The Senate agreed to the full title of the bill.

Protest

Senator V. Smith, under his constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill No. 705 and House Bill No. 4091 and moved that the statement he made during the discussion of Senate Bill No. 705 be printed as his reasons for voting “no.”

The motion prevailed.

Senator V. Smith’s statement is as follows:

I voted “no” against Senate Bill No. 705 because I am beginning to wonder where this Legislature is beginning to go on taxes. I, as much as everyone else, would like to have a good business climate, but I do think there needs to be some fairness and some equity between what businesses have to pay in order to support state government and what individuals have to pay to support state government. I do think that we continue to see an increase of taxes for the average tax paying individual, as we see continued reductions in taxes that the business community has to pay. Therefore, I am rethinking whether we should continue to support all of these tax breaks, and as for this one, it is probably a good tax break if you have to give a tax break. I still wonder why you have to pay the business community in order for them to consider to be charitable.

The following bill was read a third time:

Senate Bill No. 706, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 14801, 14802, 14804, 14805, and 14808 (MCL 324.14801, 324.14802, 324.14804, 324.14805, and 324.14808), as added by 1996 PA 132.

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. 498

Yeas—37

Bennett
Berryman
Bouchard
Bullard
Byrum
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 Shugars, Gougeon and Young moved that they be named co-sponsors of the following bill:

Senate Bill No. 706

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 707, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending section 14809 (MCL 324.14809), as added by 1996 PA 132.

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. 499

Yeas—37

Bennett
Berryman
Bouchard
Bullard
Byrum
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 Young, Shugars, Rogers and Gougeon moved that they be named co-sponsors of the following bill:

Senate Bill No. 707

The motion prevailed.

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 Gougeon as Chairperson.

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

Senate Bill No. 546, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 8117 (MCL 600.8117). The bill was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 695, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 261 (MCL 206.261), as amended by 1996 PA 484.

Substitute (S-1).

The Senate agreed to the substitute recommended by the Committee of the Whole and the bill as substituted was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 633, entitled

A bill to authorize certain interceptions of communications and the use of interception devices for certain offenses; to provide for and regulate the application, issuance, and execution of interception orders; to prescribe the powers and duties of certain agencies, officers, and employees; to regulate the use and disclosure of communications and evidence intercepted or obtained under this act; to provide remedies and exemptions from liability; to prescribe penalties; and to repeal acts and parts of acts.

Substitute (S-2).

The Senate agreed to the substitute recommended by the Committee of the Whole and the bill as substituted was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 139, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 17401 (MCL 333.17401), as amended by 1994 PA 384.

Substitute (S-1).

The Senate agreed to the substitute recommended by the Committee of the Whole and the bill as substituted was placed on the order of Third Reading of Bills.

Resolutions

Senator DeGrow moved that consideration of the following resolution be postponed for today:

Senate Resolution No. 71

The motion prevailed.

Senate Resolution No. 69.

A resolution to memorialize the Congress of the United States to provide for the distribution of the Leaking Underground Storage Tank Trust Fund's proceeds to the states for cleanup projects determined by the states.

The question being on the adoption of the resolution,

The resolution was adopted.

Senate Concurrent Resolution No. 36.

A concurrent resolution to memorialize the Congress of the United States to provide for the distribution of the Leaking Underground Storage Tank Trust Fund's proceeds to the states for cleanup projects determined by the states.

The question being on the adoption of the concurrent resolution,

The concurrent resolution was adopted.

Senate Concurrent Resolution No. 41.

A concurrent resolution to urge the U.S. Army Corps of Engineers to restore the original harbor of refuge at Grand Marais, Michigan.

The question being on the adoption of the concurrent resolution,

The concurrent resolution was adopted.

Introduction and Referral of Bills

Senators Cisky and Rogers introduced

Senate Bill No. 747, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 8132 (MCL 600.8132).

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

Senators Geake, Young and Shugars introduced

Senate Bill No. 748, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 1821 and 2910 (MCL 600.1821 and 600.2910).

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

Senators Stallings, Miller, Vaughn, Peters, DeBeaussaert, A. Smith, Conroy, Young, Dingell, Koivisto, Byrum, Hart, Berryman, North, Schwarz, Hoffman, Cisky, Bennett, Shugars, Steil, Bullard, Rogers, Stille, Gast, Geake, Bouchard, DeGrow, Posthumus, McManus, Emmons, V. Smith, O'Brien, Cherry and Schuette introduced

Senate Bill No. 749, entitled

A bill to designate a portion of the Davison freeway in the city of Detroit as the Father William Thomas Cunningham freeway; and to prescribe the duties of the state transportation department.

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

House Bill No. 5083, entitled

A bill to amend 1984 PA 431, entitled "The management and budget act," (MCL 18.1101 to 18.1594) by adding section 353e.

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 Appropriations.

Senator DeGrow moved that the Senate adjourn.

The motion prevailed, the time being 11:12 a.m.

The President pro tempore, Senator Schwarz, declared the Senate adjourned until Thursday, October 9, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

