

No. 9
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, February 11, 1998.

10:00 a.m.

The Senate was called to order by the President pro tempore, Senator John J.H. Schwarz.

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—excused
Cisky—present
Conroy—present
DeBeussaert—present
DeGrow—present
Dingell—present
Dunaskiss—present
Emmons—present

Gast—present
Geake—present
Gougeon—present
Hart—present
Hoffman—present
Jaye—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—excused
Steil—present
Stille—present
Van Regenmorter—present
Vaughn—present
Young—present

Reverend Roger Greeley of Peoples Church in Kalamazoo offered the following invocation:

At the end of each day, may you be able to look in the mirror and say to the person reflected there, "You did an honest day's work. You voted your conscience and your sole special interest was the people of this state. Your great concerns, truly, were justice, equality of opportunity and keeping the respect of the voters of this state."

The principal challenge to this body is to be both responsive and responsible in coping with the complex problems now confronting Michigan and its people. Avoid the temptation to throw life preservers to the able. Instead, do offer them lessons in swimming.

The 20th century is fast drawing to a close. May the people of Michigan be able to look back and say, "Our government did well, but still we can do better." We must and we shall. Please accept and respond to this challenge today, tomorrow and every day you serve in this body. Vote with integrity and you cannot fail. Vote without integrity and you can never succeed.

I ask this in the name of Michigan's people who want their government to respond effectively to the host of challenges and problems facing us today.

Let us now observe a moment of silence in which you embrace and express silently those convictions that shall guide you in the deliberations of this body. So be it.

Motions and Communications

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

Senators Dunaskiss and Jaye entered the Senate Chamber.

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

Senator V. Smith moved that Senators Cherry and Stallings be excused from today's session. The motion prevailed. Senator Cherry is attending a family funeral.

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, February 10:
House Bill Nos. 4784 5343

The Secretary announced the printing and placement in the members' files on Tuesday, February 10 of:
Senate Bill No. 870

Third Reading of Bills

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

Senate Bill No. 565

The motion prevailed.

The following bill was read a third time:

House Bill No. 5223, entitled

A bill to amend 1974 PA 198, entitled "An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties," by amending section 9 (MCL 207.559), as amended by 1996 PA 513.

The question being on the passage of the bill,

Senator Stille offered the following amendment:

1. Amend page 9, following line 19, following subsection (10), by inserting:

"(11) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF A LOCAL GOVERNMENTAL UNIT PASSED A RESOLUTION APPROVING AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE FOR A FACILITY ON FEBRUARY 10, 1997, THE COMMISSION SHALL ISSUE FOR THAT PROPERTY AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE THAT BEGINS DECEMBER 30, 1997 AND ENDS

DECEMBER 2009. THE REPLACEMENT FACILITY DESCRIBED IN THIS SUBSECTION SHALL BE TAXED UNDER THIS ACT AS IF IT WAS GRANTED AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE ON DECEMBER 30, 1997.”.

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. 38**Yeas—27**

Bennett	Dingell	Koivisto	Schwarz
Berryman	Dunaskiss	McManus	Shugars
Bullard	Emmons	Miller	Steil
Cisky	Gast	North	Stille
Conroy	Geake	Posthumus	Van Regenmorter
DeBeussaert	Gougeon	Rogers	Young
DeGrow	Hoffman	Schuette	

Nays—6

Bouchard	Peters	Smith, V.	Vaughn
Jaye	Smith, A.		

Excused—3

Cherry	O'Brien	Stallings
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Not Voting—2

Byrum	Hart
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In The Chair: Schwarz

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.
The Senate agreed to the title of the bill.

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 pro tempore, Senator Schwarz, designated Senator Dunaskiss as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Binsfeld, having assumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 104, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending section 17708 (MCL 333.17708), as amended by 1994 PA 384.

Substitute (S-4).

The following are the amendments to the substitute recommended by the Committee of the Whole:

1. Amend page 4, line 5, after “PHYSICIANS.” by inserting “A PHYSICIAN SHALL NOT ENTER INTO A COLLABORATIVE AGREEMENT, AS DESCRIBED IN THIS SUBPARAGRAPH, WITH MORE THAN 10 REGISTERED PROFESSIONAL NURSES WITH SPECIALITY CERTIFICATION AT ANY 1 TIME.”.

2. Amend page 4, line 15, after “(C)” by striking out “EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (D).”.

3. Amend page 5, line 4, after "SECTION" by inserting a comma and "AND MAY INCLUDE MONTHS PRIOR TO THE EFFECTIVE DATE OF THIS SECTION".
 4. Amend page 5, line 6, after "(C)" by striking out "IS WAIVED" and inserting "SHALL BE MET".
 5. Amend page 5, line 6, after "PHYSICIAN" by inserting "OR PHYSICIANS".
 6. Amend page 5, line 10, by striking out all of line 10 through "INTERNSHIP" on line 11 and inserting "FULFILLED THE REQUIREMENTS FOR A PRESCRIBING INTERNSHIP AS DEFINED UNDER SUBSECTION (C)".
 7. Amend page 5, line 13, after the first "MEDICINE" by inserting "IN MICHIGAN".
 8. Amend page 5, line 14, by inserting "IN MICHIGAN".
 9. Amend page 5, line 14, after "THE" by striking out "EDUCATION AND".
 10. Amend page 6, following line 20, by inserting:
 "(C) HE OR SHE SHALL NOT PRESCRIBE OR DISPENSE DRUGS OUTSIDE OF A LICENSED HEALTH CARE PROVIDER'S PRIVATE PRACTICE OFFICE OR A HEALTH CARE FACILITY, HOME HEALTH AGENCY, CLINIC, OR AGENCY LICENSED UNDER ARTICLE 17 EXCEPT BY TELEPHONE FOR PATIENTS WHO ARE A PART OF HIS OR HER ESTABLISHED PRACTICE."
 11. Amend page 6, line 21, after "(8)" by striking out the balance of the line through "SECTION." on line 24.
 12. Amend page 7, following line 16, by inserting:
 "(11) IT IS THE INTENT OF THE LEGISLATURE IN ENACTING THE AMENDATORY ACT THAT ADDED THIS SUBSECTION THAT A PUBLIC OR PRIVATE HEALTH CARE PAYMENT OR BENEFITS PLAN NOT LIMIT AN ENROLLEE'S OR SUBSCRIBER'S CHOICE OF PROVIDERS.
 (12) IT IS THE INTENT OF THE LEGISLATURE IN ENACTING THE AMENDATORY ACT THAT ADDED THIS SUBSECTION THAT A PUBLIC OR PRIVATE HEALTH CARE PAYMENT OR BENEFITS PLAN NOT LIMIT AN ENROLLEE'S, SUBSCRIBER'S, OR INSURED'S CHOICE OF PROVIDERS TO A REGISTERED PROFESSIONAL NURSE WITH SPECIALITY CERTIFICATION WHO IS A PRESCRIBER UNDER THIS SECTION."
- The Senate agreed to the substitute, as amended, 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:

House Bill No. 4382, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 8904, 8905a, and 8905b (MCL 324.8904, 324.8905a, and 324.8905b), section 8904 as amended and sections 8905a and 8905b as added by 1995 PA 111; and to repeal acts and parts of acts.

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 amendment, the following bill:

House Bill No. 5222, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 2102a.

The following is the amendment recommended by the Committee of the Whole:

1. Amend page 1, line 5, after "TRAILWAY." by inserting "IF THE TRAIL OR TRAILWAY AT ISSUE IS SUBJECT TO AN INTEREST BY WHICH THE TRAIL OR TRAILWAY COULD BE TRANSFORMED INTO OR REACTIVATED AS A RAILROAD, THEN THE SALE OR TRANSFER OF THE TRAIL OR TRAILWAY IS SUBJECT TO THE RAIL INTEREST AND ANY EASEMENT RETAINED BY THE STATE ON THE TRAIL OR TRAILWAY IS ALSO SUBJECT TO THE RAIL INTEREST."

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

During the Committee of the Whole, Senator O'Brien entered the Senate Chamber.

Resolutions

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

Senate Resolution No. 71

Senate Concurrent Resolution No. 52

Senate Resolution No. 112

The motion prevailed.

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

Senate Resolution No. 135

Senate Resolution No. 136

The resolution consent calendar was adopted.

Senators A. Smith, Schwarz, V. Smith, Miller, DeBeaussaert, Byrum, Cherry, Dingell, DeGrow, Vaughn, Geake, Gast, Steil, Jaye, Rogers, Shugars and Bennett offered the following resolution:

Senate Resolution No. 135.

A resolution to honor the University of Michigan Men's Glee Club.

Whereas, The University of Michigan Men's Glee Club was founded in 1859 and is the second oldest collegiate chorus in the United States; and

Whereas, The Men's Glee Club is the oldest continuing student organization on the University of Michigan campus; and

Whereas, The Men's Glee Club is chosen by audition and represents nearly all of the 17 schools and colleges of the University of Michigan; and

Whereas, The University of Michigan Men's Glee Club has been long acclaimed as one of the finest male choruses in the world; and

Whereas, The University of Michigan Men's Glee Club was the first American male choir to win first place at the International Musical Eisteddfod in Llangollen, Wales, and has since won three more first-place prizes; and

Whereas, The University of Michigan Men's Glee Club is renowned for its wide repertoire, which includes Renaissance motets, Romantic anthems, opera choruses, spirituals, contemporary works and Michigan songs; and

Whereas, The University of Michigan Men's Glee Club, under the direction of Dr. Jerry Blackstone, regularly appears in concert throughout Michigan, the United States and the world, and is everywhere enthusiastically received by capacity audiences; now, therefore, be it

Resolved by the Senate, That we offer this tribute to the University of Michigan Men's Glee Club and its director, Dr. Jerry Blackstone, and extend to them our gratitude for the honor and recognition they bring to our state; and be it further

Resolved, That a copy of this resolution be transmitted to the Men's Glee Club as evidence of our esteem.

Senator A. Smith moved that rule 3.204 be suspended to name the entire membership of the Senate and the Lieutenant Governor as co-sponsors of the resolution.

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

Senators Schuette, Byrum and McManus offered the following resolution:

Senate Resolution No. 136.

A resolution commemorating March, 1998 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 Congress; and

Whereas, The Red Cross has been designated as the nation's number one charity by Money Magazine for its high ratio of contribution dollar to benefactor programs or services, and overhead expense nationally approximating eight percent; and

Whereas, The American Red Cross is an organization which is led by volunteers, a nonprofit, nonsectarian organization depending solely on the generous contributions of citizens and thousands of dedicated volunteers who offer their services in times of need; and

Whereas, Today, Michigan is proud to be the home of 36 active Red Cross chapters, employing 538 paid staff members, and supported by more than 52,000 compassionate volunteers; and

Whereas, Last year, more than one million citizens of Michigan benefitted from the broad range of services provided by the Red Cross which includes: disaster assistance, CPR and first aid training, water safety, food and heat bank programs, transportation for medically or financially needy patients and educational instruction on HIV and AIDS; and

Whereas, The Red Cross continues to refine, upgrade and improve safety courses designed to prevent, prepare for, and respond to emergencies, as affirmed by the United States Olympic Committee endorsement of the new Red Cross Sports Safety Training Program for athletic coaches; 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, 1998 as Red Cross month in Michigan; and be it further

Resolved, That a copy of this resolution be provided to each Senator to present to the American Red Cross chapter(s) in his or her Senatorial District.

Senators Young, Bouchard, Stille and Shugars were named co-sponsors of the resolution.

By unanimous consent the Senate returned to the order of
Motions and Communications

Senator DeGrow moved that the Committee on Human Resources, Labor and Veterans Affairs be discharged from further consideration of the following bill:

Senate Bill No. 568, entitled

A bill to amend 1943 PA 240, entitled "State employees' retirement act," by amending sections 21, 22, 23, 24, 25, 27, 33, and 34 (MCL 38.21, 38.22, 38.23, 38.24, 38.25, 38.27, 38.33, and 38.34), section 22 as amended by 1987 PA 57, sections 23 and 27 as amended by 1987 PA 241, and section 25 as amended by 1986 PA 1, and by adding section 35.

The motion prevailed, a majority of the members serving voting therefor, and the bill was placed on the order of General Orders.

Senator DeGrow moved that the bill be referred to the Committee on Appropriations.

The motion prevailed.

Senator DeGrow moved that the Committee on Human Resources, Labor and Veterans Affairs be discharged from further consideration of the following bill:

House Bill No. 5304, entitled

A bill to amend 1997 PA 16, entitled "The playground equipment safety act," by amending section 4 (MCL 408.684).

The motion prevailed, a majority of the members serving voting therefor, and the bill was placed on the order of General Orders.

Senator DeGrow moved that the bill be referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

The motion prevailed.

Introduction and Referral of Bills

Senators Stille, Bennett, Dunaskiss, North, Emmons, McManus, Rogers, Cisky, Steil, Geake, Gougeon, Gast, Dingell, A. Smith, DeBeaussaert, Koivisto and Shugars introduced

Senate Bill No. 876, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 1901 and 1902 (MCL 324.1901 and 324.1902), section 1901 as added by 1995 PA 60 and section 1902 as amended by 1996 PA 134.

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

Senator Emmons introduced

Senate Bill No. 877, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1233 and 1703 (MCL 380.1233 and 380.1703), as amended by 1995 PA 289, and by adding section 1237.

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

House Bill No. 4784, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding section 2211.

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 Financial Services.

House Bill No. 5343, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 43513 (MCL 324.43513), as amended by 1996 PA 585.

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 Hunting, Fishing and Agriculture.

Statements

Senator DeBeaussaert asked and was granted unanimous consent to make a statement and moved that the statement be printed in the Journal.

The motion prevailed.

Senator DeBeaussaert's statement is as follows:

I just wanted to point out to the members that they should pay attention to the actions that occurred yesterday in the court action brought about by the Governor to try to force the federal government to stop withholding payment to the state of Michigan from \$15.7 million in job search funds. It goes back to the issue that we tried to debate on this side just two weeks ago—the question about whether the Governor's Executive Order related to the Michigan Employment Security Agency would, in fact, be approved by the federal government; whether, in fact, we were jeopardizing federal funds; whether, in fact, we were putting the ability of Michigan workers seeking employment at risk. Unfortunately, we were unable that day to bring about the debate. We raised questions at that time about the implications that would occur if the funds would be withheld. We were not allowed to have that debate to go with the resolution which would have overturned the Executive Order, which was sent to committee. The Executive Order was then implemented as the time ran out for Senate consideration.

Since that time, we have seen what has happened. The Governor had his plan before the federal government. The government at the federal level indicated their concerns that it would not be approved and rather than seeking further approval, the Governor withdrew the plan and tried to implement it. He then tried to force the federal government to consider the payments and yesterday, U.S. District Judge Robert Holmes Bell refused to stay the request to force the release of those funds. The concern is that the federal law is quite clear—that any state wanting federal employment services money must fill out a plan that works for employers needing workers as well as unemployed workers needing jobs. The U.S. Department of Labor has said the Governor's plans do not necessarily follow the law—it may violate federal law and ordered him to go back to the drawing board to redesign it. As we said, instead, the Governor withdrew the plan before or without approval. Without the approval, we put those funds at risk. This was an important ruling yesterday.

On behalf of those who are concerned about the ability of this state to provide adequate services for unemployed workers and then for businesses trying to find workers, it's unfortunate that this Senate refused to be a part of the debate. But I do think we bear some of the responsibility for this jeopardy of federal dollars that we are now seeing debated.

Committee Reports

COMMITTEE ATTENDANCE REPORT

The Trial Court Assessment Commission submits the following:

Meeting held on Friday, February 6, 1998, at 10:00 a.m., 8th Floor Conference Room, Farnum Building

Present: Senators Van Regenmorter and Dingell

Senator DeGrow moved that the Senate adjourn.

The motion prevailed, the time being 11:07 a.m.

The President, Lieutenant Governor Binsfeld, declared the Senate adjourned until Thursday, February 12, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

