

No. 21
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, March 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—present
Cisky—present
Conroy—present
DeBeausaert—present
DeGrow—present
Dingell—present
Dunaskiss—present
Emmons—present

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

Senator Jim Berryman of the 17th District offered the following invocation:

This prayer is one taken from the Reverend Billy Walker of Southgate. The Reverend says, "Lord, particularly in this season of harpoons and other intellectual combat, sometimes it seems You are far away. Remind us that You are more willing to be found than we are to seek. Remind us that Your love and voice are all around us, and You always walk beside us." And remind us that the Golden Rule has not been suspended for the duration of the election season. Amen.

Motions and Communications

Senator Bullard entered the Senate Chamber.

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

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

Senator Berryman moved that Senator Hart be excused from today's session. The motion prevailed.

Senators Conroy, Emmons and Koivisto entered the Senate Chamber.

The Secretary announced that the following House bill was received in the Senate and filed on Tuesday, March 10:
House Bill No. 4769

The Secretary announced the printing and placement in the members' files on Tuesday, March 10 of:
Senate Bill Nos. 997 999 1000 1007
House Bill Nos. 5636 5637

Messages from the Governor

The following messages from the Governor were received and read:

March 10, 1998

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

Local Government Claims Review Board

Mr. Mark A. Murray, 2211 S. Hampden Drive, Lansing, Michigan 48911, county of Ingham, as a member representing the general public and as Chair, succeeding Ms. Bess H. Jordan of Battle Creek, whose term has expired, for a term expiring on March 26, 2001.

March 10, 1998

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

Michigan Municipal Bond Authority Board of Trustees

Mr. Mark J. Burzych, 4396 Alderwood Drive, Okemos, Michigan 48864, county of Ingham, as a member representing the general public, succeeding Mr. Alan T. Ackerman of Birmingham, who has resigned, for a term expiring on March 31, 2001.

Sincerely,
John Engler
Governor

The appointments were referred to the Committee on Government Operations.

Senator Dunaskiss entered the Senate Chamber.

Messages from the House

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

Senate Bill No. 361
Senate Bill No. 371
Senate Bill No. 373
Senate Bill No. 377
Senate Bill No. 381
Senate Bill No. 384
Senate Bill No. 386

Senate Bill No. 387**Senate Bill No. 388****Senate Bill No. 400**

The motion prevailed.

Senator Young entered the Senate Chamber.

Senate Bill No. 362, entitled

A bill to amend 1974 PA 258, entitled "Mental health code," by amending section 116 (MCL 330.1116), as amended by 1995 PA 290.

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 pursuant to Joint Rule 20, inserted the full title.

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:

Senate Bill No. 789**Senate Bill No. 256****Senate Bill No. 830****Senate Bill No. 865****Senate Bill No. 897**

The motion prevailed.

Senator Jaye entered the Senate Chamber.

The following bill was read a third time:

Senate Bill No. 942, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," (MCL 400.1 to 400.119b) by adding section 57i.

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. 99**Yeas—34**

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

Nays—0**Excused—3**

Hart	Rogers	Smith, V.
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Not Voting—1

Stallings

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Senator V. Smith entered the Senate Chamber.

The following bill was read a third time:

Senate Bill No. 862, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding section 21528.

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. 100

Yeas—35

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

Nays—0

Excused—2

Hart

Rogers

Not Voting—1

Stallings

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Senator Rogers entered the Senate Chamber.

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

House Bill No. 4289

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

After some time spent therein, the Committee arose; and, the President pro tempore, Senator Schwarz, having resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 943, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," (MCL 400.1 to 400.119b) by adding section 57i.

Substitute (S-1).

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

1. Amend page 1, line 1, after "SEC. 57I." by inserting "(1)".

2. Amend page 2, following line 3, by inserting:

"(2) UNLESS FEDERAL LAW OR OTHER STATE LAW REQUIRES OTHERWISE, A PERSON NOT MEETING THE CRITERIA IN SUBSECTION (1) SHALL RECEIVE AN EXTENSION OF NOT MORE THAN 3 MONTHS IN ANY 18 MONTH PERIOD IF THEY MEET ALL OF THE FOLLOWING CRITERIA:

(A) HAVE BEEN IDENTIFIED BY THE FAMILY INDEPENDENCE AGENCY AS A VICTIM OF DOMESTIC VIOLENCE.

(B) HAVE FILED DOMESTIC VIOLENCE CHARGES WITH THE LOCAL LAW ENFORCEMENT AGENCY WITHIN THE PREVIOUS 18 MONTHS.

(C) IS CURRENTLY PARTICIPATING IN, OR WITHIN THE PREVIOUS 18 MONTHS HAS PARTICIPATED IN, DOMESTIC VIOLENCE COUNSELING."

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:

Senate Bill No. 947, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," (MCL 400.1 to 400.119b) by adding section 43b. 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. 948, entitled

A bill to amend the Initiated Law of 1996, entitled "Michigan gaming control and revenue act," (MCL 432.201 to 432.226) by adding section 11a.

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. 949, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," (MCL 400.1 to 400.119b) by adding section 10c. 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 resolutions be postponed for today:

Senate Resolution No. 71

Senate Resolution No. 134

The motion prevailed.

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

Senate Resolution No. 156

Senate Resolution No. 157

The resolution consent calendar was adopted.

Senator Bennett offered the following resolution:

Senate Resolution No. 156.

A resolution commemorating April 19 - 25, 1998, as Arbor Week, and April 24, 1998, as Arbor Day.

Whereas, Trees play a vital role in our environment and enhance the quality of our lives. With their tangle of branches reaching to the sky, they are immovable tall giants, whose roots anchor the earth, protecting our precious soil. As a first line of natural defense against pollution, they inhale dangerous carbon dioxide and exhale oxygen, helping to purify the air we breathe. In addition to providing food and shelter for many animals, their fruits, nuts, and seeds provide nourishment to us as well. For these reasons, the members of the Michigan Senate proudly commemorate Arbor Week and Arbor Day in Michigan and urge each citizen to plant a tree; and

Whereas, To children, trees are magical jungle gyms to be climbed and conquered. As we grow and learn more about the different types of trees and their myriad uses, we realize that trees are much more than a great place to hang from and swing. Aside from shading our homes, we can derive medicines from their flora and harvest materials from them which we then use to build homes and much of what is inside them. From medicines to paper products to furniture, trees are important and beautiful resources; and

Whereas, In Michigan, we are fortunate to have a rich variety of trees that present us with a striking gift of awesome color each autumn. As the fragrance of piled leaves remind us of more youthful days of frolic, the reds and golds also remind us of the cycle of life and the importance of making a difference during our time on earth. We must preserve and protect the ecosystem for future generations who will inherit the trees we plant today; now, therefore, be it

Resolved by the Senate, That a unanimous accolade of tribute be hereby accorded in commemoration of April 19 - 25, 1998, as Arbor Week, and April 24, 1998, as Arbor Day; and be it further

Resolved, That a copy of this resolution be transmitted to the organizers of Arbor Week and Arbor Day events throughout Michigan.

Senators McManus, Cherry, Stille, DeBeaussaert, Young, Shugars, Schwarz and Hoffman were named co-sponsors of the resolution.

Senators Stille, Van Regenmorter, Gougeon, Steil, Bouchard, Bullard, Dunaskiss, DeGrow, Shugars, Jaye, Rogers, Gast, Emmons and North offered the following resolution:

Senate Resolution No. 157.

A resolution commemorating May 1998 as Missing Children's Awareness Month.

Whereas, The most precious and valuable assets of our nation are our children and we must continue to make diligent efforts to curb the incidences of missing, exploited and abused children, creating a cohesive and coordinated network for tracking and finding abducted and runaway children; and

Whereas, We dedicate ourselves, our energy and our resources to the nurturing and protection of these most vulnerable individuals in our homes, neighborhoods and cities across the state and throughout the nation; and

Whereas, The epidemic of missing and abused children continues to spread. Six thousand abduction attempts and 1.3 million runaways are reported, on average, in the United States each year; and

Whereas, The efforts of parents, community agencies, law enforcement agencies and government officials, in conjunction with groups such as the Missing Children's Network of Michigan, have made the first steps to address this crisis. However, it is time for a collective, concerted effort to change the trend that has sadly become the norm. A number of recent initiatives, such as increased awareness of child abuse through the Sex Offender Identification legislation, attention to children's mental health, and continued education of parents, social agencies, law enforcement and the schools are steps in the right direction toward bringing about positive change; and

Whereas, We must now progressively continue the efforts we have begun by dedicating ourselves in unflinching, unselfish concern for the prevention of abducted, exploited and runaway children; now, therefore, be it

Resolved by the Senate, That we hereby commemorate the month of May 1998 as Missing Children's Awareness Month; and be it further

Resolved, That a copy of this resolution be transmitted to the Missing Children's Network of Michigan as evidence of our support.

Senators McManus, O'Brien, DeBeaussiaert, Young, Schwarz and Hoffman were named co-sponsors of the resolution.

Introduction and Referral of Bills

Senator Dingell introduced

Senate Bill No. 1009, entitled

A bill to amend 1986 PA 32, entitled "Emergency telephone service enabling act," by amending sections 401, 403, 404, 405, 406, and 505 (MCL 484.1401, 484.1403, 484.1404, 484.1405, 484.1406, and 484.1505), sections 401, 403, and 405 as amended and section 406 as added by 1994 PA 29.

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

Senator Van Regenmorter introduced

Senate Bill No. 1010, entitled

A bill to amend 1986 PA 32, entitled "Emergency telephone service enabling act," by amending sections 102, 303, 316, 601, 602, and 604 (MCL 484.1102, 484.1303, 484.1316, 484.1601, 484.1602, and 484.1604), section 102 as amended by 1996 PA 313, sections 303 and 602 as amended by 1994 PA 29, and section 601 as amended by 1989 PA 36, and by adding section 605.

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

Senator Peters introduced

Senate Bill No. 1011, entitled

A bill to amend 1953 PA 232, entitled "An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending section 34 (MCL 791.234), as amended by 1994 PA 345.

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

House Bill No. 4769, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 6107 (MCL 500.6107), as added by 1992 PA 174.

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.

Statements

Senators Young, Jaye, Bouchard and Miller asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Young's statement is as follows:

I have introduced legislation that I believe is critical and long overdue, and those bills were introduced on October 14 of 1997 in this chamber: Senate Bill Nos. 752 and 753. Of course, they've already been approved by the Senate, and yesterday they were also reported from the House Committee on Judiciary. So I much appreciate that support.

This legislation would allow municipal courts to become courts of record. Currently, there are five remaining municipal courts in Michigan, five of which are in my district, and that is the Grosse Pointe area. This legislation would allow the cities that maintain a municipal court to adopt a resolution to allow circuit courts to review appeals and not hear cases a second time in their entirety. Today, an offender who appeals a judgment must file in circuit court which effectually creates a new trial for that individual.

Why are these bills important? They are important because they will prevent offenders from having two complete trials. They are important because they save taxpayers' dollars, save taxpayers' money and will help stop the tremendous backlog that our courts face. These bills streamline the trial process by letting the higher court review the previous judgment and will not tie the courts with a new trial.

I am glad to see that these bills were approved by this body, reported by the House Committee on Judiciary and, hopefully, will see that same consideration provided on the House floor. So, therefore, I am looking forward to them being passed, and I appreciate your support and would hope that everyone would understand and appreciate the importance of making sure that we have a uniform court system.

Senator Jaye's statement is as follows:

Millions of Michigan homeowners who have received notices of double-digit property tax increases are being cheated out of the Proposal A cap in their property taxes due to an Attorney General's ruling. The Democrat-controlled House Taxation Committee is blocking Senate Republican legislation that would provide relief to these beleaguered homeowners.

The Democrat Attorney General Frank Kelley's opinion incredibly claimed that some property taxes are "fees" not "taxes" and, therefore, are not subject to the Proposal A property tax caps! Senate Republican legislation to overturn Frank Kelley's ruling and provide property tax relief for all Michigan homeowners is being held hostage by Democrats in the House of Representatives. Some of the communities, including Macomb County's Chesterfield Township, is overcharging taxpayers \$293,000; Macomb Township, overcharging taxpayers \$62,000; and Lenox Township, overcharging taxpayers \$55,500. This also is the situation in ten townships in Ingham County and several other of your communities that are charging special assessment taxes at the higher uncapped SEV. The total amount in overcharges to taxpayers in the state of Michigan is \$1.9 billion due to the special assessment property tax scam.

Frank Kelley's ruling, which has the force of law until a new law is passed, means that special assessment property taxes that are levied for township services like police, fire and roads are not subject to Proposal A tax caps. What does this all mean for people who don't have an attorney's degree? Quite simply: If it walks like a duck and quacks like a duck, it's a duck. If it's collected like a tax and if it hits our pocketbooks like a tax, then it's a tax.

About 70 percent of Michigan's voters approved Proposal A with the understanding that the 50 percent increase in the sales tax, plus the increase in the real estate transfer tax, increase in the cigarette tax, etc. were all in exchange for property taxes to be cut and all future increases capped at five percent or the inflation rate, whichever is less. The working people are upset with bureaucrats and politicians who are finding loopholes that allow them to collect higher and higher taxes.

My legislation which I introduced as a House member, House Bill Nos. 4688-4689 and also House Bill Nos. 4703-4706 and 4715, as well as Senate Bill Nos. 427-432, capping special assessments, are blocked in the Democratic-controlled House Taxation Committee. I've even introduced legislation, House Joint Resolution S, to permanently put a leash on tax bureaucrats to block any other future creative loopholes which would artificially increase property taxes.

I urge homeowners to call the Democrat House Taxation Chairman Kirk Profit at (517) 373-1771 and demand action by the Democrat-controlled House to get these tax-relief bills adopted and sent to the Governor.

If House Democrats had adopted these Republican tax cap laws last May when the Senate first adopted them, we'd be seeing the changes to this year's tax bill. Now homeowners are victimized by the special assessment property tax scam, and they must appeal their taxes to the local Board of Review which meets on March 9, 10 and 11; in fact, tomorrow is the last day for most people to appeal their valuation for these property tax values and this property tax scam.

I applaud the communities in my district, Shelby Township, which has converted their special assessment to general property taxes, which are capped, as well as two other communities in my district, Washington and Bruce Townships, which have slightly lowered their property tax rate so that, even though the values are uncapped, there's been no more than an inflation rate increase that's been levied against the beleaguered taxpayers.

Since these other communities have chosen to overcharge taxpayers, to take this windfall and not provide relief in the spirit of Proposal A, I believe it is incumbent upon this Legislature to use our influence on the House to make sure that the Senate bills are adopted.

I have a free copy of booklets describing techniques on how people can appeal their property taxes which are available to any citizen of this state of Michigan by calling my office at (517) 373-7670 or my web page at www.jaye.org. Thank you for your consideration.

Senator Bouchard's statement is as follows:

I appreciate the opportunity to comment briefly on legislation we worked on today. I won't reargue it, but it deals with people on public assistance receiving money from their fellow taxpayers for times of need. We have passed in the Senate almost a year ago today legislation to do just that, as it relates to the lottery, Senate Bill No. 193. And I would encourage the House to take that up as well. It passed, as I said, almost a year ago on a strong bipartisan vote. Again, the policy is simple—if you are given money from the pockets of Michigan's hardworking taxpayers, that money is given to you to pay the rent and to put food on the table, not to be wasted on other entertainment activities such as the lottery, slot machines, blackjack and such expenditures. I would encourage that the House act on that package, as well as this, when it arrives shortly.

Senator Miller's statement is as follows:

Yesterday I was reading an article—a letter to the editor from Jack Kevorkian. It was very, very appalling to me, and I wish that my members could see that letter. I know that some members here support his cause, but if you read the letter, I think the man needs to go sit down with Cardinal Maida and ask for some counseling and what it really is to help society. I strongly disagreed with him. Now the House is taking up Senate Bill No. 200. I would urge that our colleagues across the aisle would enact that legislation. It passed here with a strong bipartisan support—28-7. We've been ridiculed on national television for being the death capital of the country. I think that we need to have some guidelines. After reading the article yesterday, I thought there were low, low blows to Cardinal Maida and what he has done for people with spiritual needs in this state and this country. To rip a church leader like that, I think was very, very uncalled for. His criticism of an elected official—and I am sure that Prosecutor O'Hair from Wayne County doesn't need me to defend his decisions, but I think that when you have to call a leader who is there making tough decisions, whether they are right or wrong, Mr. Kevorkian should realize that he is not above the law in this state or this country. Sooner or later we are going to have legislation in this state that is going to make him accountable for his actions and his so-called followers, and I question their intentions and their actions. I am going to make a copy of that article and distribute it on the floor so people will see how he goes after members and leaders of our community and our state.

I would finally say that I can't wait until the day that that bill gets out of the House and is on the Governor's desk. Then Mr. Kevorkian is finally going to have to answer to a law that all of us here have to answer to.

Scheduled Meetings Canceled

Higher Education Appropriations Subcommittee - Friday, March 13, at 10:00 a.m., Western Michigan University, Aviation Education Center Building, Room 1207, W.K. Kellogg Airport, 237 North Helmer Road, Battle Creek (3-3447).

Natural Resources and Environmental Affairs Committee - Thursday, March 12, at 1:00 p.m., 8th Floor Conference Room, Farnum Building (3-7350).

Senator DeGrow moved that the Senate adjourn.

The motion prevailed, the time being 11:26 a.m.

The President pro tempore, Senator Schwarz, declared the Senate adjourned until Thursday, March 12, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.