

No. 20
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Tuesday, March 9, 1999.

10:00 a.m.

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

The roll was called by the Assistant Secretary of the Senate, who announced that a quorum was not present.

Bennett—present
Bullard—present
Byrum—present
Cherry—present
DeBeaussaert—present
DeGrow—present
Dingell—present
Dunaskiss—excused
Emerson—present
Emmons—present
Gast—present
Goschka—present
Gougeon—present

Hammerstrom—present
Hart—present
Hoffman—present
Jaye—present
Koivisto—present
Leland—present
McCotter—present
McManus—present
Miller—present
Murphy—present
North—present
Peters—present

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

Senator Dale L. Shugars of the 21st District offered the following invocation:

Heavenly Father, we want to thank You for all the blessings You have bestowed upon us.

We want to thank You for the wonderful basketball season for Michigan State University, and we wish that all the participants play as hard as they can, be as good sports as they can. We thank You, Father, for the story of Stephen; that we all have the courage to walk the talk, and to tell the truth; that we are willing to do the best we can at everything we do.

Today, as we deliberate on all the decisions for the citizens of Michigan, that we do Your will. In Your name, we pray. Amen.

Recess

Senator Rogers moved that the Senate recess until 10:20 a.m.

The motion prevailed, the time being 10:04 a.m.

The Senate reconvened at the expiration of the recess and was called to order by the President, Lieutenant Governor Posthumus.

Senators Miller, Gougeon, Steil, DeGrow, Schwarz, Van Regenmorter, Sikkema, Hammerstrom, Stille, Jaye, Goschka, Bennett, Gast, Hoffman, Emmons, Schuette, Bullard, North, McCotter, Murphy and McManus entered the Senate Chamber during recess.

A quorum of the Senate was present.

Motions and Communications

Senator Rogers moved that Senator Dunaskiss be excused from today's session.

The motion prevailed.

Senator Dunaskiss is attending a conference on the Year 2000 problem.

Senator Emerson moved that Senator V. Smith be temporarily excused from today's session.

The motion prevailed.

Senator Rogers moved that rule 3.902 be suspended to allow Senator Schuette's guests admittance to the Senate floor.

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

The Secretary announced that the following House bills were received in the Senate and filed on Thursday, March 4:

House Bill Nos. 4013 4247

The Secretary announced the printing and placement in the members' files on Thursday, March 4 of:

Senate Bill No. 407

The Secretary announced the printing and placement in the members' files on Monday, March 8 of:

Senate Bill Nos. 401 402 403 404 405 406 409 411 412 413 414

**House Bill Nos. 4363 4364 4365 4366 4367 4368 4369 4370 4371 4372 4373 4374 4375 4376
4377 4378 4379 4380 4381**

House Joint Resolution F

Recess

Senator Rogers moved that the Senate recess subject to the call of the President.

The motion prevailed, the time being 10:21 a.m.

10:27 a.m.

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

During the recess, Senator Schuette introduced to the Senate Charlie Batch, Detroit Lions quarterback, and Chuck Schmidt, Executive Vice President and Chief Operating Officer of the Detroit Lions.

During the recess, Senator V. Smith entered the Senate Chamber.

Messages from the Governor

The following messages from the Governor were received and read:

March 5, 1999

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

Director of the Family Independence Agency

Mr. Douglas E. Howard, 235 S. Grand Avenue, Lansing, Michigan 48909, county of Ingham, succeeding Ms. Marva Livingston Hammons of Denver, who has resigned, for a term expiring at the pleasure of the Governor.

March 5, 1999

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

Commission on Law Enforcement Standards

Mr. Robert M. Denslow, 408 Leeson Avenue, Cadillac, Michigan 49601, county of Wexford, as a member representing the Michigan Association of Chiefs of Police, succeeding Mr. Martin E. Trombley of Mt. Pleasant, who has resigned, for a term expiring on January 1, 2000.

Sincerely,
John Engler
Governor

The appointments were referred to Committee on Government Operations.

Third Reading of Bills

The following joint resolution was announced:

Senate Joint Resolution G, entitled

A joint resolution proposing an amendment to the state constitution of 1963, by amending section 21 of article V, to provide for the filling of the office of lieutenant governor upon a vacancy.

(This joint resolution was read a third time on March 4 and consideration postponed. See Senate Journal No. 19, pp. 272, 276.)

The question being on the adoption of the joint resolution,

Senator DeBeaussiaert offered the following amendment:

1. Amend page 2, line 8, after "governor" by inserting "FROM A LIST OF NOMINEES SUBMITTED BY THE STATE PARTY THAT NOMINATED THE ELECTED SECRETARY OF STATE OR ATTORNEY GENERAL THAT CREATED THE VACANCY".

The question being on the adoption of the amendment,

Senator A. Smith requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

Roll Call No. 52

Yeas—15

Byrum
Cherry
DeBeaussiaert
Dingell

Emerson
Hart
Koivisto
Leland

Miller
Murphy
Peters
Smith, A.

Smith, V.
Vaughn
Young

Nays—21

Bennett
Bullard
DeGrow
Emmons
Gast
Goschka

Gougeon
Hammerstrom
Hoffman
Jaye
McCotter

McManus
North
Rogers
Schuette
Schwarz

Shugars
Sikkema
Steil
Stille
Van Regenmorter

Excused—1

Dunaskiss

Not Voting—0

In The Chair: President

Senator A. Smith offered the following amendment:

1. Amend page 2, line 5, after “WITH” by striking out the balance of the line through “SENATE” on line 6 and inserting “THE CONCURRENCE OF A MAJORITY OF BOTH THE HOUSE OF REPRESENTATIVES AND SENATE”.

The amendment was not adopted, a majority of the members serving not voting therefor.

The question being on the adoption of the joint resolution,

The joint resolution was not adopted, 2/3 of the members serving not voting therefor, as follows:

Roll Call No. 53**Yeas—20**

Bennett
Bullard
DeGrow
Emmons
Gast

Goschka
Gougeon
Hammerstrom
Hoffman
Jaye

McCotter
North
Rogers
Schuette
Schwarz

Shugars
Sikkema
Steil
Stille
Van Regenmorter

Nays—14

Byrum
Cherry
DeBeaussaert
Emerson

Hart
Koivisto
Leland
Miller

Murphy
Peters
Smith, A.

Smith, V.
Vaughn
Young

Excused—1

Dunaskiss

Not Voting—2

Dingell

McManus

In The Chair: President

Senator Rogers moved to reconsider the vote by which the joint resolution was not adopted.
 The question being on the motion to reconsider,
 Senator Rogers moved that further consideration of the joint resolution be postponed for today.
 The motion prevailed.

The following bill was read a third time:

Senate Bill No. 379, entitled

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 18f of chapter XII (MCL 712A.18f), as amended by 1998 PA 480.

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. 54

Yeas—36

Bennett	Gast	McCotter	Shugars
Bullard	Goschka	McManus	Sikkema
Byrum	Gougeon	Miller	Smith, A.
Cherry	Hammerstrom	Murphy	Smith, V.
DeBeaussiaert	Hart	North	Steil
DeGrow	Hoffman	Peters	Stille
Dingell	Jaye	Rogers	Van Regenmorter
Emerson	Koivisto	Schuette	Vaughn
Emmons	Leland	Schwarz	Young

Nays—0

Excused—1

Dunaskiss

Not Voting—0

In The Chair: President

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

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 18f of chapter XIIA (MCL 712A.18f), as amended by 1998 PA 480.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

General Orders

Senator Rogers 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 Posthumus, designated Senator Gougeon as Chairperson.

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

Senate Bill No. 287, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 626c. Substitute (S-6).

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. 390, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 12 of chapter XVII (MCL 777.12), as added by 1998 PA 317.

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.

Resolutions

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

Senate Resolution No. 31

The resolution consent calendar was adopted.

Senators Schuette, Miller, Bennett, Steil, DeGrow, Gast, Hammerstrom, Rogers, Jaye, North, Gougeon, McManus, Sikkema, Bullard, Vaughn, Hart, Peters, Murphy, Koivisto, Dingell, Emerson, DeBeaussaert, Young, Cherry, Byrum, A. Smith, V. Smith and McCotter offered the following resolution:

Senate Resolution No. 31.

A resolution to memorialize the National Football League to maintain the Thanksgiving Day tradition in Detroit by guaranteeing the Detroit Lions be a host team.

Whereas, The Detroit Lions began the tradition of playing football on Thanksgiving Day on November 29, 1934, which was the same year the team located in Detroit; and

Whereas, The Detroit Lions hosted the Chicago Bears before a crowd of 26,000 loyal fans in that same game. Since then, over three million Detroit Lions fans have attended the game on Thanksgiving Day; and

Whereas, A Thanksgiving Day football game hosted by the Detroit Lions has been a part of the history and tradition of the National Football League and of the entire state of Michigan for the past 65 years, interrupted only by the Second World War; and

Whereas, The Thanksgiving Day game itself predates the admission of 23 current franchises into the National Football League; and

Whereas, Four generations of Michiganians have shown tremendous support of the Thanksgiving Day football tradition; and

Whereas, The Ford Family has made significant contributions to the state of Michigan and the National Football League; now, therefore, be it

Resolved by the Senate, That we memorialize the National Football League to keep the Thanksgiving Day football tradition alive in Detroit; and be it further

Resolved, That copies of this resolution be transmitted to each National Football League franchise owner, Commissioner Paul Tagliabue, and the members of the Michigan Senate.

Senator Rogers moved that rule 3.204 be suspended to name the entire membership of the Senate as co-sponsors of the resolution.

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

Introduction and Referral of Bills

Senators McCotter, Bennett, Shugars, Dingell, North, McManus, Gougeon, Goschka, Hart, Miller, Young, Jaye, Peters, Sikkema, DeBeaussaert, Leland, Hammerstrom, Koivisto, Byrum, Emerson, A. Smith and Van Regenmorter introduced

Senate Joint Resolution J, entitled

A joint resolution proposing an amendment to the state constitution of 1963, by adding sections 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48 to article I, to provide access to certain public records of public bodies; to permit certain fees; to prescribe the powers and duties of certain public officers and public bodies; to require certain meetings of certain public bodies to be open to the public; to require notice and the keeping of minutes of meetings; to provide for enforcement; to provide for invalidation of governmental decisions under certain circumstances; and to provide remedies and penalties.

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

Senators Emmons, Dingell and Jaye introduced

Senate Bill No. 415, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 227 (MCL 750.227), as amended by 1986 PA 8.

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

Senators Hammerstrom and Rogers introduced

Senate Bill No. 416, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 411r. The bill was read a first and second time by title and referred to the Committee on Judiciary.

Senators Hammerstrom, Dingell, McCotter, Dunaskiss, Hoffman and Shugars introduced

Senate Bill No. 417, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 952 (MCL 168.952), as amended by 1993 PA 137.

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

Senators Hammerstrom, Young, McCotter, Shugars, Steil and Goschka introduced

Senate Bill No. 418, entitled

A bill to amend 1975 PA 228, entitled "Single business tax act," (MCL 208.1 to 208.145) by adding section 39d. 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. 419, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9948) by adding chapter 55; 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. 4013, entitled

A bill to amend 1931 PA 285, entitled "An act to provide for city, village and municipal planning; the creation, organization, powers and duties of planning commissions; the regulation and subdivision of land; and to provide penalties for violation of the provisions of this act," by amending section 8 (MCL 125.38).

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 Local, Urban and State Affairs.

House Bill No. 4247, entitled

A bill to designate the part of highway M-5 located in the area lying between the interchange of highways I-96, I-696, and I-275 and 8 Mile road in the city of Farmington Hills and the city of Farmington as the "Keith Deacon Memorial highway"; and to prescribe the duties of the state transportation department.

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 Transportation and Tourism.

Committee Reports

The Committee on Judiciary reported

Senate Bill No. 334, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 231 (MCL 750.231), as amended by 1998 PA 510.

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

William Van Regenmorter
Chairperson

To Report Out:

Yeas: Senators Van Regenmorter, McCotter, Bullard, Rogers, Peters and Dingell

Nays: None

The bill was referred to the Committee of the Whole

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submits the following:

Meeting held on Wednesday, March 3, 1999, at 1:00 p.m., Rooms 402 and 403, Capitol Building

Present: Senators Van Regenmorter (C), McCotter, Bullard, Rogers, Peters and Dingell

Excused: Senator V. Smith

The Committee on Transportation and Tourism reported

Senate Bill No. 178, entitled

A bill to amend 1927 PA 150, entitled "An act to prescribe a privilege tax for the use of the public highways by owners and drivers of motor vehicles by imposing a specific tax upon the sale or use, within the state of Michigan, of motor fuel; to prescribe the manner and the time of paying this tax and the duties of officials and others respecting the payment and collection of this tax; to provide for the licensing of wholesale distributors, certain retail dealers, exporters, and suppliers as defined in this act; to fix a time when this tax and interest and penalties thereon become a lien upon the property of persons, firms, partnerships, associations, or corporations, subject to the payment of this tax; to provide for the enforcement of this lien; to permit the inspection and testing of petroleum products; to provide for certain exemptions and refunds and for the disposition of the proceeds of this tax; and to prescribe penalties for the violation of this act," by amending section 12 (MCL 207.112), as amended by 1996 PA 56.

With the recommendation that the following amendment be adopted and that the bill then pass:

1. Amend page 6, line 1, by striking out all of subsection (4) and renumbering the remaining subsection.

The committee further recommends that the bill be given immediate effect.

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Bennett, North, Leland and Hart

Nays: None

The bill and the amendment recommended by the committee were referred to the Committee of the Whole.

The Committee on Transportation and Tourism reported

Senate Bill No. 335, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 710d and 710e (MCL 257.710d and 257.710e), section 710d as amended by 1990 PA 90 and section 710e as amended by 1991 PA 25.

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

The committee further recommends that the bill be given immediate effect.

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Leland and Hart

Nays: Senators Bennett and North

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Transportation and Tourism submits the following:

Meeting held on Thursday, March 4, 1999, at 1:00 p.m., Room 110, Farnum Building

Present: Senators Bullard (C), Bennett, North, Leland and Hart

COMMITTEE ATTENDANCE REPORT

The Committee on Hunting, Fishing and Forestry submits the following:

Meeting held on Monday, March 1, 1999, at 7:00 p.m., Mount Clemens Public Library, Mount Clemens, Michigan

Present: Senators Jaye (C) and Dingell

Excused: Senators Bullard, Hoffman and Byrum

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Family Independence Agency submits the following:
Meeting held on Tuesday, March 2, 1999, at 1:00 p.m., Senate Appropriations Room, Capitol Building
Present: Senators Goschka (C), Gougeon and Emerson

COMMITTEE ATTENDANCE REPORT

The Committee on Economic Development, International Trade and Regulatory Affairs submits the following:
Meeting held on Tuesday, March 2, 1999, at 1:10 p.m., Room 210, Farnum Building
Present: Senators Schuette (C), McCotter, Jaye, Leland and Peters

COMMITTEE ATTENDANCE REPORT

The Committee on Natural Resources and Environmental Affairs submits the following:
Meeting held on Tuesday, March 2, 1999, at 3:00 p.m., Room 810, Farnum Building
Present: Senators Sikkema (C), Dunaskiss, Peters and Young
Excused: Senator Gast

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Consumer and Industry Services submits the following:
Meeting held on Tuesday, March 2, 1999, at 3:00 p.m., Senate Appropriations Room, Capitol Building
Present: Senators Steil (C), Stille and Young

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Natural Resources submits the following:
Meeting held on Wednesday, March 3, 1999, at 8:00 a.m., Senate Appropriations Room, Capitol Building
Present: Senators McManus (C), Gast, Hoffman, Koivisto and DeBeaussaert

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Environmental Quality submits the following:
Meeting held on Wednesday, March 3, 1999, at 1:00 p.m., Senate Appropriations Room, Capitol Building
Present: Senators Bennett (C), Gast, North, A. Smith and DeBeaussaert

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Transportation submits the following:
Meeting held on Wednesday, March 3, 1999, at 3:00 p.m., Room 100, Farnum Building
Present: Senators Hoffman (C), Stille and Young

COMMITTEE ATTENDANCE REPORT

The Subcommittee on State Police and Military Affairs submits the following:
Meeting held on Thursday, March 4, 1999, at 8:30 a.m., Room 110, Farnum Building
Present: Senators Hoffman (C), North and Vaughn

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Joint Capital Outlay submits the following:
Meeting held on Thursday, March 4, 1999, at 8:45 a.m., Senate Appropriations Room, Capitol Building
Present: Senators Gast (C), Schwarz, McManus, Gougeon, Goschka, Young and Emerson
Excused: Senator Koivisto

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Family Independence Agency submits the following:

Meeting held on Thursday, March 4, 1999, at 1:00 p.m., Senate Appropriations Room, Capitol Building

Present: Senators Goschka (C), Gougeon and Emerson

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Judiciary submits the following:

Meeting held on Thursday, March 4, 1999, at 2:00 p.m., Room 100, Farnum Building

Present: Senators North (C) and Vaughn

Excused: Senator Steil

COMMITTEE ATTENDANCE REPORT

The Committee on Technology and Energy submits the following:

Meeting held on Friday, March 5, 1999, at 1:30 p.m., Detroit Regional Chamber of Commerce Offices, One Woodward Avenue, Detroit, Michigan

Present: Senators Dunaskiss (C), Sikkema, Leland and Dingell

Excused: Senators Schuette, Rogers and Byrum

Scheduled Meetings

Administrative Rules Joint Committee - Thursday, March 11, at 2:30 p.m., Rooms 402 and 403, Capitol Building (3-6476).

Appropriations Committee - Tuesday, March 16 and Wednesday, March 17, at 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (3-6960).

Capital Outlay Joint Subcommittee - Thursday, March 11, at 8:45 a.m., House Appropriations Room, 3rd Floor, Capitol Building (3-6960).

Government Operations Committee - Thursday, March 11, at 1:00 p.m., Room 110, Farnum Building (3-1758).

Higher Education Appropriations Subcommittee - Fridays, April 9, at 9:15 a.m., Western Michigan University, Aviation Education Center Building, W.K. Kellogg Airport, 237 North Helmer Road, Battle Creek; April 16, at 10:00 a.m., Hope College, Cook Hall, 115 East Tenth Street, Holland; April 23, at 10:00 a.m., Wayne State University, McGregor Conference Center, 495 West Ferry Mall, Detroit; April 30, at 9:00 a.m., Northern Michigan University, Don H. Bottum University Center, Great Lakes Rooms, 1401 Presque Isle, Marquette; and Thursday, May 6, at 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (3-4447).

Judiciary Committee - Wednesday, March 10, at 1:00 p.m., Rooms 402 and 403, Capitol Building (3-6920).

Senator Rogers moved that the Senate adjourn.

The motion prevailed, the time being 11:08 a.m.

The President, Lieutenant Governor Posthumus, declared the Senate adjourned until Wednesday, March 10, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.