

No. 2
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House of Representatives
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House Chamber, Lansing, Tuesday, January 17, 2006.

1:00 p.m.

The House was called to order by the Speaker Pro Tempore.

The roll was called by the Clerk of the House of Representatives, who announced that a quorum was present.

Accavitti—present	Elsenheimer—present	Law, Kathleen—present	Robertson—present
Acciavatti—present	Emmons—present	Leland—present	Rocca—present
Adamini—excused	Espinoza—present	Lemmons, III—excused	Sak—present
Amos—present	Farhat—present	Lemmons, Jr.—present	Schuitmaker—present
Anderson—present	Farrah—present	Lipsey—present	Shaffer—present
Angerer—present	Gaffney—present	Marleau—present	Sheen—present
Ball—present	Garfield—present	Mayes—present	Sheltrown—present
Baxter—present	Gillard—present	McConico—present	Smith, Alma—present
Bennett—present	Gleason—present	McDowell—present	Smith, Virgil—present
Bieda—present	Gonzales—present	Meisner—present	Spade—present
Booher—present	Gosselin—present	Meyer—present	Stahl—present
Brandenburg—present	Green—present	Miller—present	Stakoe—present
Brown—present	Hansen—present	Moolenaar—present	Steil—present
Byrnes—present	Hildenbrand—present	Moore—present	Stewart—present
Byrum—present	Hood—excused	Mortimer—present	Taub—present
Casperson—present	Hoogendyk—present	Murphy—present	Tobocman—present
Caswell—present	Hopgood—present	Newell—present	Vagnozzi—present
Caul—present	Huizenga—present	Nitz—present	Van Regenmorter—excused
Cheeks—present	Hummel—present	Nofs—present	Vander Veen—present
Clack—excused	Hune—present	Palmer—present	Walker—present
Clemente—present	Hunter—excused	Palsrok—present	Ward—present
Condino—present	Jones—present	Pastor—present	Waters—present
Cushingberry—present	Kahn—present	Pavlov—present	Wenke—excused
DeRoche—present	Kolb—present	Pearce—present	Whitmer—present
Dillon—present	Koiman—present	Plakas—present	Williams—present
Donigan—present	LaJoy—present	Polidori—present	Wojno—present
Drolet—present	Law, David—present	Proos—present	Zelenko—present

e/d/s = entered during session

Rep. Tom Casperson, from the 108th District, offered the following invocation:

“Heavenly Father, we come before You today and we ask, Lord, that You would forgive us where we fall short. Lord, we ask that You would guide us and lead us, Lord, in Your direction and that Your will, Lord, would be done. Lord, as we deal with the business at hand today, we ask for Your guidance, Lord, and wisdom. Lord, help us to be Legislators that are pleasing in Your sight. Lord, we ask this in Jesus’ precious name, Amen.”

Rep. Palmer moved that Reps. Van Regenmorter and Wenke be excused from today’s session.
The motion prevailed.

Rep. Sak moved that Reps. Adamini, Clack, Hood, Hunter and Lemmons, III be excused from today’s session.
The motion prevailed.

Motions and Resolutions

Rep. Ward moved that Rule 75 be suspended.
The motion prevailed, 3/5 of the members present voting therefor.

Reps. Ward and Waters offered the following resolution:

House Resolution No. 179.

A resolution to amend the Standing Rules of the House of Representatives.

Resolved by the House of Representatives, That Rule 35 of the Standing Rules of the House of Representatives be amended to read as follows:

“Names and Number of Members.

Rule 35. (1) All standing committees shall be appointed by the Speaker, except where the House shall otherwise order.

(2) The standing committees of the House and the number of Members shall be as follows:

- (a) Agriculture (11)
- (b) Appropriations (29)
- (c) Banking and Financial Services (9)
- (d) Commerce (19)
- (e) Conservation, Forestry, and Outdoor Recreation (11)
- (f) Education (19)
- (g) Employment Relations, Training, and Safety (7)
- (h) Energy and Technology (19)
- (i) Family and Children Services (9)
- (j) Government Operations (~~8~~) (9)
- (k) Health Policy (17)
- (l) Higher Education and Career Preparation (7)
- (m) House Oversight, Elections, and Ethics (5)
- (n) Insurance (17)
- (o) Judiciary (15)
- (p) Local Government and Urban Policy (11)
- (q) Natural Resources, Great Lakes, Land Use, and Environment (15)
- (r) Regulatory Reform (9)
- (s) Senior Health, Security, and Retirement (9)
- (t) Tax Policy (17)

(U) TORT REFORM (8)

(V) ~~(u)~~ Transportation (17)

(W) ~~(v)~~ Veterans Affairs and Homeland Security (9)

(3) Statutory Standing Committees:

- (a) Administrative Rules (5)
- (b) House Fiscal Agency (6)
- (c) Legislative Council (6)
- (d) Legislative Retirement (4)
- (e) Michigan Capitol Committee (4)

(4) Any Member of any committee who is absent from attendance at any such committee meetings for three committee meetings, unless excused from attendance by the committee according to Rule 36, shall be automatically dropped from membership on such committee, and the committee automatically reduced unless the Speaker of the House shall fill such vacancy. Each committee clerk shall keep a record of attendance at all committee meetings, and shall make a written report to the office of the Clerk of the House showing the names of those present, the names of those absent, and the names of those excused from attendance, which shall be entered upon the House Journal. When a Member has been absent for three meetings of a committee without proper excuse, the Clerk of the House shall report the name of such Member, together with the dates of said meetings, to the Speaker of the House, and advise the Member of such action. The Speaker of the House shall then fill such vacancy by appointing a Member to the committee.

(5) The daily House Journal shall report the roll call on all motions to report bills, joint resolutions and reorganization orders. (See Const 1963, Art 4 § 17).

(6) Committees shall adopt a meeting schedule at the commencement of each term which shall be printed in the House Journal. Additional meetings may be called by the Chair or by a majority of the Members in writing to the Clerk of the House. The Chair may cancel any scheduled meeting, except one called by a majority of the Members, by notice to the Members.”

Pending the reference of the resolution to a committee,

Rep. Ward moved that Rule 77 be suspended and the resolution be considered at this time.

The motion prevailed, 3/5 of the members present voting therefor.

The question being on the adoption of the resolution,

The resolution was adopted.

Reports of Standing Committees

The Speaker laid before the House

House Resolution No. 149.

A resolution to memorialize the Congress of the United States to increase efforts to protect our borders.

(For text of resolution, see House Journal No. 96 of 2005, p. 2081.)

(The resolution was reported by the Committee on Transportation on December 13, 2005, consideration of which, under the rules, was postponed until December 14, 2005.)

The question being on the adoption of the resolution,

The resolution was adopted.

The Committee on Commerce, by Rep. Huizenga, Chair, reported

House Bill No. 5447, entitled

A bill to amend 1974 PA 154, entitled “Michigan occupational safety and health act,” (MCL 408.1001 to 408.1094) by adding section 17.

With the recommendation that the substitute (H-1) be adopted and that the bill then pass.

The bill and substitute were referred to the order of Second Reading of Bills.

Favorable Roll Call

To Report Out:

Yeas: Reps. Huizenga, Baxter, Emmons, Palsrok, Green, Hildenbrand, Jones, David Law, Marleau, Pavlov and Schuitmaker

Nays: Reps. Meisner, Tobocman, Murphy, Dillon, Bennett and Accavitti

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Huizenga, Chair, of the Committee on Commerce, was received and read:

Meeting held on: Tuesday, January 17, 2006

Present: Reps. Huizenga, Baxter, Emmons, Palsrok, Green, Hildenbrand, Jones, David Law, Marleau, Pavlov, Schuitmaker, Meisner, Tobocman, Murphy, Dillon, Bennett and Accavitti

Absent: Reps. Wenke and McConico

Excused: Reps. Wenke and McConico

Notices

January 17, 2006

Mr. Gary L. Randall, Clerk
Michigan House of Representatives
State Capitol Building
Lansing, Michigan 48913

Dear Mr. Clerk:

I hereby make the following changes to the House Standing Committees for the 2005-2006 Legislative Session:
Representative Vagnozzi will fill the vacancy left on Education by Representative Kehrl.
Representative Polidori replaces Representative Lemmons III on Education.
Representative Robertson replaces Representative Elsenheimer on Education.
Representative Dillon replaces Representative Accavitti as Minority Vice Chair of Energy and Technology.
Representative Spade will fill the vacancy left on Higher Education and Career Preparation by Representative Kehrl.
Representative Judy Emmons is added as a member of Government Operations.
Representative Virgil Smith replaces Representative Tobocman on Local Government and Urban Policy.
Representative Accavitti is designated as Minority Vice Chair.
Representative Mayes replaces Representative Condino on Tax Policy. Representative Bieda is designated as Minority Vice Chair of Tax Policy.

In addition, the following appointments are made to the newly established House Standing Committee on Tort Reform.
Tort Reform: Representatives Elsenheimer (C), Kahn (Maj. VC), Gaffney, Huizenga, Hune, Adamini (Min. VC), McConico, Bieda

Sincerely,
Representative Craig DeRoche, Speaker
Michigan House of Representatives

Announcement by the Clerk of Printing and Enrollment

The Clerk announced that the following bills and joint resolution had been printed and placed upon the files of the members on Thursday, January 12:

House Bill Nos.	5538	5539	5540	5541	5542	5543	5544	5545						
House Joint Resolution		R												
Senate Bill Nos.	939	940	941	942	943	944	945	946	947	948	949	950	951	952
	953	954	955	956	957									

Communications from State Officers

The following communication from the Auditor General was received and read:

January 10, 2006

Enclosed is a copy of the following audit report and/or report summary:
Performance audit of Carson City Correctional Facility and Boyer Road Correctional Facility,
Department of Corrections
January 2006

Sincerely,
Thomas H. McTavish, C.P.A.
Auditor General

The communication was referred to the Clerk and the accompanying report referred to the Committee on Government Operations.

By unanimous consent the House returned to the order of
Second Reading of Bills

House Bill No. 5447, entitled

A bill to amend 1974 PA 154, entitled "Michigan occupational safety and health act," (MCL 408.1001 to 408.1094) by adding section 17.

Was read a second time, and the question being on the adoption of the proposed substitute (H-1) previously recommended by the Committee on Commerce,

The substitute (H-1) was adopted, a majority of the members serving voting therefor.

Rep. Jones moved that the bill be placed on the order of Third Reading of Bills.

The motion prevailed.

Rep. Ward moved that the bill be placed on its immediate passage.

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

By unanimous consent the House returned to the order of

Third Reading of Bills

House Bill No. 5447, entitled

A bill to amend 1974 PA 154, entitled "Michigan occupational safety and health act," (MCL 408.1001 to 408.1094) by adding section 17.

Was read a third time and passed, a majority of the members serving voting therefor, by yeas and nays, as follows:

Roll Call No. 1

Yeas—56

Acciavatti	Gaffney	Law, David	Proos
Amos	Garfield	Marleau	Robertson
Ball	Gosselin	Meyer	Rocca
Baxter	Green	Moolenaar	Schuitmaker
Booher	Hansen	Moore	Shaffer
Brandenburg	Hildenbrand	Mortimer	Sheen
Casperson	Hoogendyk	Newell	Stahl
Caswell	Huizenga	Nitz	Stakoe
Caul	Hummel	Nofs	Steil
DeRoche	Hune	Palmer	Stewart
Drolet	Jones	Palsrok	Taub
Elsenheimer	Kahn	Pastor	Vander Veen
Emmons	Kooiman	Pavlov	Walker
Farhat	LaJoy	Pearce	Ward

Nays—45

Accavitti	Dillon	Lemmons, Jr.	Sheltrown
Anderson	Donigan	Lipsey	Smith, Alma
Angerer	Espinoza	Mayes	Smith, Virgil
Bennett	Farrah	McConico	Spade
Bieda	Gillard	McDowell	Tobocman
Brown	Gleason	Meisner	Vagnozzi
Byrnes	Gonzales	Miller	Waters
Byrum	Hopgood	Murphy	Whitmer
Cheeks	Kolb	Plakas	Williams
Clemente	Law, Kathleen	Polidori	Wojno
Condino	Leland	Sak	Zelenko
Cushingberry			

In The Chair: Kooiman

The House agreed to the title of the bill.

Rep. Ward moved that the bill be given immediate effect.

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

Rep. Bieda, having reserved the right to explain his protest against the passage of the bill, made the following statement:

“Mr. Speaker and members of the House:

I voted ‘no’ on House Bill 5447 (H-1) because I believe that this bill will, contrary to its proponents claims, result in higher business costs due to more workplace injuries. Currently, testimony from the Michigan Occupational Safety and Health Act (MIOSHA) indicates that 50% of all worker compensation claims are from strains, sprains and repetitive motion injuries. Many of Michigan’s premier employers recognize this fact, indeed General Motors, Ford, and Daimler-Chrysler all have their own ergonomic standards. It has been conservatively estimated by OSHA that ergonomic injuries are costing our nation’s economy more than \$50 billion annually. It seems to me that workers and businesses would benefit from a well thought out ergonomic standard that would prevent expensive crippling repetitive motion injuries.

I also note that the Ergonomic Advisory Committee was created by MIOSHA under the Engler Administration to look at ergonomics issues within the state. This committee was composed of individuals representing management and labor as well as representatives from the Department of Consumer and Industry Services. The legislature should allow the committee to continue its work in promulgating workplace rules under the Michigan Occupational Safety and Health Act.

Because of these concerns, I voted ‘no’ on House Bill 5447.”

Second Reading of Bills

House Bill No. 5374, entitled

A bill to amend 1961 PA 236, entitled “Revised judicature act of 1961,” by amending sections 507, 508, 517, 518, 542, 549a, 549g, 803, 8134, and 8135 (MCL 600.507, 600.508, 600.517, 600.518, 600.542, 600.549a, 600.549g, 600.803, 600.8134, and 600.8135), section 507 as amended by 2001 PA 252, sections 508 and 8134 as amended by 2001 PA 253, sections 517 and 803 as amended by 2002 PA 715, section 518 as amended by 2001 PA 256, section 542 as amended by 1984 PA 95, section 549g as added by 1981 PA 182, and section 8135 as amended by 1982 PA 161.

Was read a second time, and the question being on the adoption of the proposed substitute (H-2) previously recommended by the Committee on Judiciary,

The substitute (H-2) was adopted, a majority of the members serving voting therefor.

Rep. Kahn moved to amend the bill as follows:

1. Amend page 4, line 25, by striking out all of section 8135.

The motion prevailed and the amendment was adopted, a majority of the members serving voting therefor.

Rep. Robertson moved to amend the bill as follows:

1. Amend page 1, following line 4, by inserting:

“Sec. 508. The seventh judicial circuit consists of the county of Genesee and has ~~7~~ **9** judges. Subject to section 550, this judicial circuit may have 1 additional judge effective January 1, ~~2003 and 1 additional judge effective January 1, 2005~~ **2007**.”

The motion prevailed and the amendment was adopted, a majority of the members serving voting therefor.

Reps. Virgil Smith and McConico moved to amend the bill as follows:

1. Amend page 3, line 2, by striking out all of section 803.

The motion prevailed and the amendment was adopted, a majority of the members serving voting therefor.

Rep. Ward moved that the bill be placed on the order of Third Reading of Bills.

The motion prevailed.

Rep. Ward moved that House Committees be given leave to meet during the balance of today’s session.
The motion prevailed.

By unanimous consent the House returned to the order of

Motions and Resolutions

Reps. Schuitmaker, Gosselin, Drolet, LaJoy, Stakoe, Garfield, Elsenheimer, Gaffney, Mortimer, Pavlov, Huizenga, Hildenbrand, Ward, Palmer, Pastor, Rocca, Ball, Baxter, Casperson, Hoogendyk, Hummel, Meyer, Newell, Robertson, Shaffer, Taub, Vander Veen and Jones offered the following concurrent resolution:

House Concurrent Resolution No. 28.

A concurrent resolution to call upon the Governor to remove Paul Mitchell and Doyle O'Connor from their positions as members of the Board of State Canvassers.

Whereas, On December 14, 2005, the Board of State Canvassers defied an order from the Michigan Court of Appeals to certify a certain ballot question and place the measure on the ballot for the November 2006 General Election. Board members Paul Mitchell, who voted against certification of the initiative, and Doyle O'Connor, who did not vote, have effectively violated their legal and moral obligations to uphold the Michigan Constitution and our state's laws. This is a serious matter; and

Whereas, The two board members who disregarded the order of the Court of Appeals are effectively attempting to disenfranchise 500,000 people who signed ballot initiative petitions. Their actions, however, go much farther. They are an offense to all of Michigan's citizens, who have every right to expect that their public officers will adhere to the provisions of our constitution and laws; and

Whereas, The rule of law is the foundation of our system of self-government. Defying a court order represents an attempt to exert authority beyond that intended. This flagrant violation of a court order erodes public trust in the board and, most likely, many aspects of the elections process and state government as a whole. The appropriate paths of adjudication must be followed. Sworn public servants cannot undermine the law and our courts; and

Whereas, Article V, Section 10, of the Michigan Constitution provides that "The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial"; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we call upon the Governor to remove Paul Mitchell and Doyle O'Connor from their positions as members of the Board of State Canvassers, pursuant to the provisions of Article V, Section 10, of the Michigan Constitution, and replace them with board members who will uphold Michigan's constitutional and statutory provisions; and be it further

Resolved, That copies of this resolution be transmitted to the Office of the Governor.

The concurrent resolution was referred to the Committee on House Oversight, Elections, and Ethics.

Introduction of Bills

Rep. Cushingberry introduced

House Bill No. 5546, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding section 1164. The bill was read a first time by its title and referred to the Committee on Education.

Rep. Condino introduced

House Bill No. 5547, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending section 20 (MCL 388.1620), as amended by 2005 PA 155.

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

Reps. Moore, Jones, Pavlov, Baxter, Marleau, Casperson, LaJoy, Shaffer, Stakoe, Hune, Hildenbrand, Garfield, Hansen, Newell, Nofs, Polidori, Robertson, Rocca, Sheltroun, Kahn, Mortimer, Elsenheimer, Taub, Hummel, Kooiman, Drolet, Gosselin, Farhat, Acciavatti, David Law, Espinoza and Gleason introduced

House Bill No. 5548, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9947) by adding section 2922b.

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

Reps. Rocca, Gaffney, Hildenbrand, Schuitmaker, Stewart, Garfield, Caul, Moore, Ward, Mortimer, Proos, Vander Veen, Taub, Huizenga, Booher, Casperson and Farhat introduced

House Bill No. 5549, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," (MCL 205.1 to 205.78) by adding section 4cc.
The bill was read a first time by its title and referred to the Committee on Energy and Technology.

Reps. Rocca, Gaffney, Hildenbrand, Schuitmaker, Stewart, Garfield, Caul, Moore, Ward, Mortimer, Proos, Vander Veen, Taub, Huizenga, Booher, Casperson and Farhat introduced

House Bill No. 5550, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," (MCL 205.91 to 205.111) by adding section 4z.
The bill was read a first time by its title and referred to the Committee on Energy and Technology.

By unanimous consent the House returned to the order of
Notices

January 17, 2006

Mr. Gary L. Randall
Clerk of the House of Representatives
Room 70, Ground Floor
Capitol Building
Lansing, MI 48909

Dear Mr. Clerk,

Please be advised that I am appointing the following members of the House of Representatives to the Joint Select Committee on Oversight of the 21st Century Jobs Funds:

Representative Bill Huizenga (House Co-Chair)

Representative Jack Brandenburg

Representative Leon Drolet

Representative Andy Dillon

Sincerely,
Craig M. DeRoche
Speaker of the House
Michigan House of Representatives

Rep. Baxter moved that the House adjourn.
The motion prevailed, the time being 2:45 p.m.

The Speaker Pro Tempore declared the House adjourned until Wednesday, January 18, at 1:00 p.m.

GARY L. RANDALL
Clerk of the House of Representatives