

No. 89
STATE OF MICHIGAN
Journal of the Senate
95th Legislature
REGULAR SESSION OF 2009

Senate Chamber, Lansing, Thursday, October 22, 2009.

10:00 a.m.

The Senate was called to order by the President pro tempore, Senator Randy Richardville.

The roll was called by the Secretary of the Senate, who announced that a quorum was present.

Allen—present
Anderson—present
Barcia—excused
Basham—present
Birkholz—present
Bishop—present
Brater—present
Brown—present
Cassis—present
Cherry—present
Clark-Coleman—present
Clarke—present
Cropsey—present

Garcia—present
George—present
Gilbert—present
Gleason—present
Hardiman—present
Hunter—excused
Jacobs—present
Jansen—present
Jelinek—present
Kahn—present
Kuipers—present
McManus—present

Olshove—present
Pappageorge—present
Patterson—present
Prusi—present
Richardville—present
Sanborn—present
Scott—excused
Stamas—present
Switalski—present
Thomas—present
Van Woerkom—present
Whitmer—present

Pastor Paul Mabry of Bethel Church of the Nazarene of Macomb offered the following invocation:

Almighty God, Creator and Sustainer of all that is, we are encouraged to know that if You have the wisdom to control the movement of countless stars and galaxies, You most certainly have the wisdom that is needed to guide this great state of Michigan. I ask that You grant the needed wisdom, courage, humility, and integrity to each man and woman who has been elected to serve the people of Michigan.

May the decisions that are made be marked by Your guidance and bear the fruit of peace and prosperity in the lives of the people of this great state. This I ask in the name of Your Son and our Savior, Jesus Christ. Amen.

The President pro tempore, Senator Richardville, led the members of the Senate in recital of the *Pledge of Allegiance*.

Motions and Communications

Senators Thomas, Brater and Cropsey entered the Senate Chamber.

Senator Thomas moved that Senators Hunter, Barcia and Scott be excused from today's session. The motion prevailed.

The following communications were received:
Department of State

Administrative Rules Notices of Filing

October 16, 2009

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Michigan Department of Environmental Quality and the State Office of Administrative Hearings and Rules filed Administrative Rule #2005-038-EQ (Secretary of State Filing #09-10-09) on this date at 3:54 p.m. for the Department of Environmental Quality, entitled "Part 15. Emission Limitations and Prohibitions - Mercury."

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

October 16, 2009

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Michigan Department of Environmental Quality and the State Office of Administrative Hearings and Rules filed Administrative Rule #2008-008-EQ (Secretary of State Filing #09-10-10) on this date at 3:56 p.m. for the Department of Environmental Quality, entitled "Part 10. Intermittent Testing and Sampling."

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

October 16, 2009

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Michigan Department of Environmental Quality and the State Office of Administrative Hearings and Rules filed Administrative Rule #2008-009-EQ (Secretary of State Filing #09-10-11) on this date at 3:58 p.m. for the Department of Environmental Quality, entitled "Part 11. Continuous Emission Monitoring."

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

Sincerely,
Terri Lynn Land
Secretary of State
Robin L. Houston, Departmental Supervisor
Office of the Great Seal

The communications were referred to the Secretary for record.

The Secretary announced that the following House bills were received in the Senate and filed on Wednesday, October 21:
House Bill Nos. 4876 5213

The Secretary announced that the following official bills and joint resolutions were printed on Wednesday, October 21, and are available at the legislative website:

Senate Bill Nos.	907	908	909	910	911	912	913	914	915	916	917	918	919	920
	921	922	923	924	925	926	927							
House Bill Nos.	5522	5523	5524	5525	5526	5527	5528	5529	5530					
House Joint Resolutions	KK	LL												

By unanimous consent the Senate proceeded to the order of
Resolutions

Senators Brown and Kahn entered the Senate Chamber.

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

Senate Resolution No. 41

Senate Resolution No. 75

The motion prevailed.

Senator Bishop offered the following concurrent resolution:

Senate Concurrent Resolution No. 27.

A concurrent resolution offered as a memorial for Robert W. Davis, former member of the Michigan House of Representatives and Senate and the United States House of Representatives.

Whereas, The members of the Michigan Legislature were saddened to learn of the passing of Robert W. Davis, a gentleman who served in elective posts at the local, state, and federal level. With his commitment to his beloved Northern Michigan, he left a legacy of service and accomplishment that will long be remembered; and

Whereas, A native of Marquette, Bob Davis studied at Hillsdale College and Northern Michigan University and was a graduate of Wayne State University. After working with his father operating a funeral home in St. Ignace, he became active in local affairs, serving on the St. Ignace City Council. In 1967, he brought his talents and energies to Lansing to work on behalf of his community as State Representative, and in 1970, he was elected to the Michigan Senate, where he served as the Senate Republican Leader throughout his second term; and

Whereas, From 1979 until his retirement in 1992, Congressman Bob Davis fought for the people of Northern Michigan and our entire state in the United States House of Representatives. A hallmark of his tenure was his strong sense of identity with the needs of his district, one of the larger ones in the country. He was especially known for his dedication to public policies to protect the Great Lakes and was a pioneer in recognizing the need to control invasive species. His accomplishments include his leadership in the creation of the Keweenaw National Historic District and the Thunder Bay National Marine Sanctuary; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we offer this expression of our highest tribute to honor the memory of Robert W. Davis, former member of the Michigan House of Representatives, Michigan Senate, and the United States House of Representatives; and be it further

Resolved, That copies of this resolution be transmitted to the Davis family as evidence of the lasting esteem that will be held for his memory throughout our state.

Pending the order that, under rule 3.204, the concurrent resolution be referred to the Committee on Government Operations and Reform,

Senator Cropsey moved that the rule be suspended.

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

The concurrent resolution was adopted by a unanimous standing vote of the Senate.

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

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

A moment of silence was observed in memory of Robert W. Davis, former member of the House of Representatives, Senate, and the U.S. House of Representatives.

By unanimous consent the Senate returned to the order of
Messages from the House

House Bill No. 4922, entitled

A bill to amend 1995 PA 24, entitled “An act to promote economic growth and job creation within this state; to create and regulate the Michigan economic growth authority; to prescribe the powers and duties of the authority and of state and local officials; to assess and collect a fee; to approve certain plans and the use of certain funds; and to provide qualifications for and determine eligibility for tax credits and other incentives for authorized businesses and for qualified taxpayers,” by amending section 8 (MCL 207.808), as amended by 2008 PA 257.

The House of Representatives has amended the Senate substitute (S-8) as follows:

1. Amend page 12, line 2, after “**SUBSECTION,**” by inserting “**BEGINNING CALENDAR YEAR 2010,**”.
2. Amend page 15, line 14, by striking out all of subsection (12).

The House of Representatives has concurred in the Senate substitute (S-8) as amended and agreed to the full title.

Pending the order that, under rule 3.202, the bill be laid over one day,

Senator Cropsey moved that the rule be suspended.

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

The question being on concurring in the House amendments made to the Senate substitute,

The amendments were concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 551

Yeas—30

Anderson	Clark-Coleman	Kahn	Richardville
Basham	Clarke	Kuipers	Sanborn
Birkholz	George	McManus	Stamas
Bishop	Gilbert	Olshove	Switalski
Brater	Gleason	Pappageorge	Thomas
Brown	Hardiman	Patterson	Van Woerkom
Cassis	Jansen	Prusi	Whitmer
Cherry	Jelinek		

Nays—4

Allen	Cropsey	Garcia	Jacobs
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Excused—3

Barcia	Hunter	Scott
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Not Voting—0

In The Chair: Richardville

The Senate agreed to the full title.

Protests

Senators Cropsey, Garcia and Jacobs, under their constitutional right of protest (Art. 4, Sec. 18), protested against concurring in the House amendments to the Senate substitute for House Bill No. 4922.

Senator Cropsey’s statement, in which Senators Garcia and Jacobs concurred, is as follows:

I voted against House Bill No. 4922 as a protest. I know that this legislation must pass, and I just wanted to say thank you to the chair of the committee, Senator Nancy Cassis, and to the Majority Leader, Senator Mike Bishop, for allowing the issue of Federal Mogul to be raised.

This body had passed legislation to try and save jobs in my area in Greenville, which has been hit terribly hard by the economic problems the state has been facing. It has also hit Sparta in Kent County. Federal Mogul has been a longtime parts supplier for the automotive industry. As part of the whole economic problem here in the state of Michigan, they have gone through bankruptcy. They have now emerged out of bankruptcy, but after that had happened, General Motors and Chrysler went into bankruptcy. Federal Mogul has been trying to keep jobs here in the state, so they came to me saying they need special consideration due to the dire economic times that this state is facing.

Unfortunately, the House of Representatives and the administration have seen fit not to offer a helping hand to them at this time. I think that is unfortunate. I do want to say thank you once again, though, to this body for trying, several times now, to see if we could help out Federal Mogul. But I also understand that when the House of Representatives and the administration say no and that the legislation must be passed, Federal Mogul is not in it.

So, for that reason, I wish to give my “no” vote. This legislation does have to go through, but at the same time, I think much more could have been done to help out one of the leading parts suppliers in this state, Federal Mogul.

By unanimous consent the Senate proceeded to the order of
Third Reading of Bills

Senator Cropsey moved that the following bill be placed at the head of the Third Reading of Bills calendar:

House Bill No. 5055

The motion prevailed.

The following bill was read a third time:

House Bill No. 5055, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 30101, 30102, 30103, and 30104 (MCL 324.30101, 324.30102, 324.30103, and 324.30104), section 30101 as amended by 2006 PA 275, section 30102 as added by 1995 PA 59, section 30103 as amended by 2006 PA 33, and section 30104 as amended by 2008 PA 276, and by adding section 30106a.

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. 552

Yeas—34

Allen	Clark-Coleman	Jansen	Prusi
Anderson	Clarke	Jelinek	Richardville
Basham	Cropsey	Kahn	Sanborn
Birkholz	Garcia	Kuipers	Stamas
Bishop	George	McManus	Switalski
Brater	Gilbert	Olshove	Thomas
Brown	Gleason	Pappageorge	Van Woerkom
Cassis	Hardiman	Patterson	Whitmer
Cherry	Jacobs		

Nays—0

Excused—3

Barcia	Hunter	Scott
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Not Voting—0

In The Chair: Richardville

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

“An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.”.

The Senate agreed to the full title.

By unanimous consent the Senate proceeded to the order of

General Orders

Senator Cropsey 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 Richardville, designated Senator Pappageorge as Chairperson.

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

Senate Bill No. 786, entitled

A bill to amend 1943 PA 148, entitled “An act to provide for the regulation and licensing of proprietary schools in the state; to require surety; to provide for collection and disposition of fees; and to prescribe penalties for the violation of this act,” by amending sections 1, 1a, 2, 2a, and 2b (MCL 395.101, 395.101a, 395.102, 395.102a, and 395.102b), sections 1, 2, 2a, and 2b as amended and section 1a as added by 1983 PA 60.

The bill was placed on the order of Third Reading of Bills.

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

Senate Bill No. 744, entitled

A bill to amend 1956 PA 218, entitled “The insurance code of 1956,” (MCL 500.100 to 500.8302) by adding section 3829a.

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.

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senators Barcia, Kahn, Van Woerkom, Gleason, Hardiman, Garcia, Cropsey, Allen, Birkholz and Pappageorge introduced

Senate Bill No. 941, entitled

A bill to amend 1939 PA 280, entitled “The social welfare act,” by amending sections 10a and 10b (MCL 400.10a and 400.10b), as added by 1996 PA 190, and by adding section 10c.

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

Senators Kahn, Patterson, George, Hardiman, Kuipers, Jansen, Sanborn, Pappageorge, Allen, Barcia, Cropsey and Birkholz introduced

Senate Bill No. 942, entitled

A bill to create the office of medicaid inspector general; to prescribe the manner of appointment and qualifications of the medicaid inspector general; to prescribe the powers, functions, and duties of the office of medicaid inspector general; to transfer and assign staff and other resources to the office of medicaid inspector general; to allow for appointment of

deputies, assistants, and other officers and employees as may be needed to perform the duties and responsibilities of the office of medicaid inspector general; to allow for the office of medicaid inspector general to enter into contracts; to provide access to information pertaining to the responsibilities of the medicaid inspector general; to authorize investigation into the administration of programs and operations of the Michigan medicaid system; to authorize the medicaid inspector general to review and approve contracts, policies, and procedures pertaining to medicaid; and to mandate assistance and cooperation from state and local entities and to prescribe the powers and duties of certain state departments and agencies.

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

Senator Thomas introduced

Senate Bill No. 943, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 913 (MCL 436.1913), as amended by 2006 PA 131.

The bill was read a first and second time by title and referred to the Committee on Economic Development and Regulatory Reform.

Senators Allen, Pappageorge, Patterson, George, Kahn and Clarke introduced

Senate Bill No. 944, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 435 (MCL 208.1435), as amended by 2008 PA 448.

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

House Bill No. 4876, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 703 (MCL 436.1703), as amended by 2006 PA 443.

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 Judiciary.

House Bill No. 5213, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7523, 7524, and 7524a (MCL 333.7523, 333.7524, and 333.7524a), section 7523 as amended by 2006 PA 130, section 7524 as amended by 2006 PA 558, and section 7524a as amended by 1994 PA 8.

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 Judiciary.

Statements

Senators McManus, Basham and Brown asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator McManus' statement is as follows:

Ladies and gentlemen, just like I did back in March of this year, I rise today to call to your attention one of the bright spots in the state of Michigan and the Governor's continued efforts to snuff it out. Most of you know that agriculture is one of Michigan's top industries. It's a growing industry with jobs guaranteed to stay right here in our state. And our agricultural research and extension programs are the job engines of that industry.

The Senate passed a balanced budget back in June that funded these important programs. But now extension agents from across the state are telling me that their payments have been cut off, and they fear the Governor will finally succeed in eliminating these programs from the state budget. Maybe the Granholm Administration doesn't understand agriculture and what these programs mean to each of the counties that the farmers live in. Maybe they take for granted this one bright spot in our economy, and they don't believe it needs any attention.

I guess the Governor just doesn't think farming is cool. After all, there are no state grants for cool corn fields or vibrant vineyards. Maybe that is why they have tried to cut the extension program year after year in their annual budget and why they have now dug in their heels against growing opposition to the Governor's executive order to strip the Agriculture Commission of its long-standing right to appoint the department's director.

At a time when Michigan's economy continues to sputter, we no doubt face difficult choices in balancing our budget, but this one just doesn't add up. I cannot understand why the Governor would choose to let our agriculture industry wither away by taking away access to the vital research and job engines and losing this very important economic boost it brings our state.

Why wouldn't we cultivate an industry that continues to grow and thrive despite our troubling times? It's one that is well-positioned to help our state get back on the road to recovery. I urge the Governor to reconsider this troubling decision.

Senator Basham's statement is as follows:

I have a few comments that I was going to say, but I thought I would also respond to a few of the comments of the previous speaker about what our priorities are. Certainly, my priorities are about funding the Promise grant, school readiness programs, making sure our children are educated, and making sure there is adequate funding for the foundation allowance. I think they are also priorities that this chamber should look at as well. We actually also need some revenue in this state.

But that is not what I am going to talk about. I won't mention those things. What I would like to mention is one of the topics that I personally think is important. I was reading *USA Today* and I see that in Las Vegas, Nevada, a second strip casino is being sued over the allegations that the health of its workers is affected by secondhand smoke. Lawyers for Las Vegas casino employees are seeking a class-action lawsuit because of secondhand smoke in the casinos. Certainly, that is not unique to Nevada.

Secondhand smoke is prevalent here in Michigan, and I would encourage members to think about that as being a priority here also, inasmuch as 3,000 people die each year in Michigan as a result of secondhand smoke.

Senator Brown's statement is as follows:

Yesterday, a number of you co-sponsored a resolution I will introduce that asks the U.S. Congress to include on the 2010 census form a statement of citizenship. And why is this important? It is important because citizenship should always be the basis upon which we apportion congressional districts, the basis upon which we establish equal representation, the foundation of representative government, and the basis of our democracy. It is also important to Michigan's future representation in Congress as compared to the other 49 states.

This simple request is fundamental to the preservation of our democracy. The absence of this statement does not protect and preserve our freedoms but creates a slow erosion of that protection for which we have all pledged our fidelity to the U.S. Constitution.

Committee Reports

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Higher Education submitted the following:

Meeting held on Wednesday, October 21, 2009, at 9:15 a.m., Rooms 402 and 403, Capitol Building

Present: Senators Stamas (C), George, Hardiman, Kahn, Barcia, Anderson and Brater

COMMITTEE ATTENDANCE REPORT

The Committee on Natural Resources and Environmental Affairs submitted the following:

Joint meeting held on Wednesday, October 21, 2009, at 1:00 p.m., Room 110, Farnum Building

Present: Senators Birkholz (C), Van Woerkom, Basham and Gleason

Excused: Senator Patterson

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Department of Natural Resources submitted the following:

Joint meeting held on Wednesday, October 21, 2009, at 1:00 p.m., Room 110, Farnum Building

Present: Senators McManus (C), Jelinek and Brater

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Federal Stimulus Oversight submitted the following:

Meeting held on Wednesday, October 21, 2009, at 2:30 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Jelinek (C), Gilbert, Pappageorge, Kahn, Jansen, Switalski, Cherry and Clark-Coleman

COMMITTEE ATTENDANCE REPORT

The Committee on Health Policy submitted the following:

Meeting held on Wednesday, October 21, 2009, at 2:35 p.m., Senate Hearing Room, Ground Floor, Boji Tower

Present: Senators George (C), Patterson, Allen, Clarke, Gleason and Jacobs

Excused: Senator Sanborn

COMMITTEE ATTENDANCE REPORT

The Committee on Agriculture and Bioeconomy submitted the following:

Joint meeting held on Wednesday, October 21, 2009, at 3:00 p.m., Room 110, Farnum Building

Present: Senators Van Woerkom (C), Gilbert and Gleason

Excused: Senators Birkholz and Whitmer

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Agriculture submitted the following:

Joint meeting held on Wednesday, October 21, 2009, at 3:00 p.m., Room 110, Farnum Building

Present: Senators Brown (C) and Jelinek

Excused: Senator Scott

COMMITTEE ATTENDANCE REPORT

The Committee on Energy Policy and Public Utilities submitted the following:

Meeting held on Wednesday, October 21, 2009, at 3:00 p.m., Room 210, Farnum Building

Present: Senators Patterson (C), Birkholz, Kuipers, Richardville, Olshove, Clarke and Thomas

Excused: Senator Brown

Scheduled Meetings

Legislative Commission on Statutory Mandates - Monday, October 26, 9:00 a.m., Waterford Room, 1st Floor, Oakland County Executive Office Building, 2100 North Pontiac Lake Road, Waterford (373-0212)

Legislative Retirement Board of Trustees - Thursday, December 3, 2:00 p.m., Room H-252, Capitol Building (373-0575)

Natural Resources and Environmental Affairs - Wednesday, October 28, 1:00 p.m., Room 110, Farnum Building (373-3447)

Senator Cropsey moved that the Senate adjourn.

The motion prevailed, the time being 10:37 a.m.

The President pro tempore, Senator Richardville, declared the Senate adjourned until Tuesday, October 27, 2009, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

