

No. 6
STATE OF MICHIGAN
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REGULAR SESSION OF 2009

Senate Chamber, Lansing, Wednesday, February 4, 2009.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor John D. Cherry, Jr.

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

Allen—present
Anderson—present
Barcia—present
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—present
Jacobs—present
Jansen—present
Jelinek—excused
Kahn—present
Kuipers—present
McManus—present

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

Reverend Roy Ackerman of Faith Reformed Church of Portage offered the following invocation:

Our gracious heavenly Father, we thank You for this new day of life. We acknowledge Your masterful work of creation. You are amazing. Yet, we are all too aware of brokenness and pain all around us and throughout the world.

Father, You raise up men and women to give direction to society and to govern it. Some introduce legislation; others interpret and apply laws. Our prayer is for great wisdom in this complex and exceedingly difficult endeavor. We now find ourselves in particularly troubling times in our state. We recognize our need for divine help. Heal our land, we pray.

God, on this day, bring a spirit of unity here in the Senate. May there be ears to listen to one another as well as to Your still, small voice. Grant us humility to accept and endorse ideas which are not our own. May there be a sense of when it is time to speak and when it is best to be silent. Give direction to what is good and right. When we find it, give us courage to speak up and to stand up for it without counting the personal cost.

God, at this time, many people are looking to their governmental leaders for direction. Bless our new President and his Cabinet and our national legislators in dealing with extremely difficult issues. Bless also this Senate of the state of Michigan as they deal with difficult issues in our state. God, we also ask Your protection and blessing this day on the families of the Senators involved in this governmental service.

We ask this all, knowing that You are not only a powerful God, but one who is interested and cares about every single person, right down to the details of life. We are precious in Your sight. We matter to You. For this we are grateful.

In Your precious name, we pray. Amen.

The President, Lieutenant Governor Cherry, led the members of the Senate in recital of the *Pledge of Allegiance*.

Motions and Communications

The following communication was received and read:

Office of the Auditor General

February 2, 2009

Enclosed is a copy of the Comprehensive Annual Financial Report of the Bureau of State Lottery for the fiscal years ended September 30, 2008 and 2007.

If you have questions regarding this report, please call me; Scott M. Strong, C.P.A., Deputy Auditor General; or Laura J. Hirst, C.P.A., Audit Division Administrator for contract audits.

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

The audit report was referred to the Committee on Government Operations and Reform.

Senator Cropsey moved that Senators Birkholz and Garcia be temporarily excused from today's session. The motion prevailed.

Senator Cropsey moved that Senator Jelinek be excused from today's session. The motion prevailed.

Senator Thomas moved that Senators Gleason and Hunter be temporarily excused from today's session. The motion prevailed.

Senators Brater, Gleason, Garcia and Hunter entered the Senate Chamber.

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, Lieutenant Governor Cherry, designated Senator Kuipers as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Cherry, having resumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bills:

Senate Bill No. 10, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 40107b.

Senate Bill No. 91, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 503 (MCL 208.1503).
The bills were 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. 89, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 429 (MCL 208.1429).
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. 90, 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.

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. 92, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 117 (MCL 208.1117).
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. 98, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 501 (MCL 208.1501).
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.

Introduction and Referral of Bills

Senators Pappageorge, Richardville, Gilbert and Sanborn introduced

Senate Bill No. 186, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," (MCL 436.1101 to 436.2303) by adding section 545.

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

Senators Kahn, Pappageorge and Hardiman introduced

Senate Bill No. 187, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 30104b, 30301, 30302, 30304, 30305, 30307, 30308, 30309, 30310, 30311, 30313, 30317, 30321, and 30323 (MCL 324.30104b, 324.30301, 324.30302, 324.30304, 324.30305, 324.30307, 324.30308, 324.30309, 324.30310, 324.30311, 324.30313, 324.30317, 324.30321, and 324.30323), section 30104b as added by 2006 PA 592, sections 30301 and 30305 as amended by 2003 PA 14, sections 30302, 30308, 30309, 30310, 30311, 30313, and 30323 as added by 1995 PA 59, section 30304 as amended by 2004 PA 325, section 30307 as amended by 2006 PA 430, section 30317 as amended by 1998 PA 228, and section 30321 as amended by 1996 PA 530; 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 Natural Resources and Environmental Affairs.

Senator Cropsey introduced

Senate Bill No. 188, entitled

A bill to amend 1966 PA 189, entitled "An act to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts," by amending sections 1, 2, and 4 (MCL 780.651, 780.652, and 780.654), section 1 as amended by 2003 PA 185 and section 4 as amended by 2002 PA 112.

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

Senator Thomas introduced

Senate Bill No. 189, entitled

A bill to require disclosure of certain information in connection with refund anticipation loans; to prescribe certain duties and obligations of the parties to a refund anticipation loan; and to prescribe penalties.

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

Senator Thomas introduced

Senate Bill No. 190, entitled

A bill to amend 2006 PA 480, entitled "Uniform video services local franchise act," by amending section 10 (MCL 484.3310).

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

Senator Cassis introduced

Senate Bill No. 191, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending sections 520 and 522 (MCL 206.520 and 206.522), section 520 as amended by 1995 PA 245 and section 522 as amended by 2000 PA 41.

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

Senator Cassis introduced

Senate Bill No. 192, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 113 (MCL 208.1113), as amended by 2008 PA 472.

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

Senator Birkholz entered the Senate Chamber.

Statements

Senators Scott, Sanborn, Kahn, Jansen, Switalski and Gleason asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Scott's statement is as follows:

I am very pleased to hear Governor Granholm call for a freeze on insurance rates, while the Legislature works on bills to reform insurance rate setting. Insurance rates are simply too high for many drivers and homeowners in Detroit and other cities across Michigan. This is especially true as our economy continues to struggle and our citizens face job losses.

The Governor's proposal will help us in our quest for affordable and equitable insurance rates that are not based on where a person lives. I look forward to working with the Governor and my colleagues to write and pass this legislation. So move my bills.

Senator Sanborn's statement is as follows:

I was very disappointed, in rebuttal to the previous statement here, for the Governor to get all caught up last night in this political gamesmanship that has been going on for years. I have tried to refrain in some capacity from commenting on it. But the fact of the matter is, and by political gamesmanship, the Governor talking about freezing insurance rates, well, she always had the ability to do that to some degree in that Michigan is a file-and-use state, which means that she has an insurance commissioner who can make a determination that these rates are not actuarially sound. He can, quite frankly, turn that down.

Now I realize we are moving to becoming a socialist nation and, clearly, after last night, a socialist state where government will step in. I realize the truth sometimes hurts, but with that being said, as we move down the slippery slope of socialism, both nationally and, apparently, after last night's speech, and the state, where the government will step in and tell the private sector how to run their business, even more so trying to influence their cost. There goes the end of free-market capitalism as we know it.

If insurance rates are not actuarially sound, the insurance commissioner in file-and-use can simply deny those rates. The Governor knows that, so I was disappointed to hear her get involved in this political gamesmanship—very disappointing.

So, comrades, I say to you, "Nyet, nyet." Don't get caught up in this gamesmanship. If the rates are not actuarially sound, they should just have the insurance commissioner step in and say so. Then you will find out what is going to happen. Those insurance companies will leave Michigan, as they have in Florida, making it less and less companies doing business here. With less competition, you will have higher rates. So let's stop the gamesmanship. Let's get back to free-market capitalism and get away from this slippery slope of socialism.

Senator Kahn's statement is as follows:

As part of the last night's speech, note that the Governor remarks on a need to consolidate parts of government. To that happy task, the Lieutenant Governor will be looking to consolidate to eight administrative departments. One guesses that the purpose of this is in part, maybe wholly, to create efficiencies and to save money for our people. Yet, within departments, there are also areas where consolidation should, in my opinion, be strongly considered.

For example, in the Department of Community Health budget, which I chair, we have separate areas for substance abuse and for mental health. The reality is that virtually every person who suffers from a substance abuse issue has a mental health issue. These two areas have been considered for consolidation for a long time, and it needs to be done not just for the administrative savings, but for the efficient delivery of care to people who have enough difficulty getting their health care from one provider, let alone two.

Furthermore, I offer for consideration the moving together of the mental health care and the prepaid inpatient health plans, the PIHPs. Consolidating them, the community mental health and substance abuse, I hope, will be something you will strongly consider. In the framework of DCH looking for savings, there are other things that really need to be looked at. The estate recovery program that we have passed is weak. We still see people with \$500,000 homes and \$40,000 automobiles having these disregarded and qualifying to receive Medicaid. This is a sad travesty of the work that we do here.

Our most expensive drugs are psych drugs. Where we can, we need to allow generics. Boilerplate section 272 of the 2007 DCH budget bill had within it areas of suggested consolidation. I hope that that will be looked at and explored carefully.

As you know, we have the government efficiency commission whose final report will be out later this year. Its preliminary findings are available department by department, and there were 11 pages of suggestions for the Department of Community Health. We ought to be looking at expanding managed care wherever we can; for example, MICHild. We need an HMO of last resort that actually has some teeth in it. Yes, it exists, but it only has 100 people in it. When we find folks who go to the emergency room 50 times in a month, it is clear they need a coach to help them understand appropriate usefulness of emergency rooms and to understand what their health needs really are.

If we expand the Federally Qualified Health Care Centers, FQHCs, we may provide cost savings by promoting wellness. Discussions of this nature I would hope will be part of what constitutes looking at efficiencies in government and consolidation. There have been talks in the past of changing nursing home reimbursements to equity-based reimbursement. That is, you get paid more if the patient is sicker and less if they are not so sick. This seems like a common-sense idea and at least needs to be piloted.

What we are using for our PBMs or for our drug rebates, if we expand the number of folks who are included in that, that will help as well. I hope you will consider these.

Senator Jansen's statement is as follows:

I want to acknowledge the passing of Millard Fuller, who was the founder of Habitat for Humanity. He died Tuesday at 3 a.m. I got to meet him when I was working in the House of Representatives. We did a number of projects with Habitat. Mr. Fuller, who had a vision 30 years ago to eliminate substandard housing and help folks get back on their feet, took that vision and ran with it and really changed the face of the world that we live in.

I think we have lost a tremendous person in this world that we live in. I know that I appreciated what he did and how he did it. He was not afraid to go after anybody to get them to change their attitude about helping those in need. His approach, he felt, was a calling. He was one who led by example, and I want to acknowledge his passing and wish the best for his wife Linda down in Georgia. Many of you probably have met either him or somebody connected with Habitat over the years.

We have lost a giant. I hope that in this world there will be people who replace folks like him and that is the job of the next generation. I just want to acknowledge that today and ask that my colleagues also recognize the loss of Mr. Fuller.

Senator Switalski's statement is as follows:

I just wanted to respond to my colleague from Macomb County on his observations on the sites on the road to socialism. If you look at the federal bailout of AIG, a huge insurance company, it's a \$150 billion bailout. As a result of that, the United States acquired an 80 percent stake in the company. When you are a lender to that extent, you get rights to dictate what the terms of the loan will be, and if AIG didn't like those terms, they could seek loans elsewhere in the market. But the idea that the government has no right to impose any rules or regulations on its loan, I think, is only fair economics in my opinion.

Senator Gleason's statement is as follows:

I rise with a great deal of Irish pride today in announcing that earlier this morning, there was a celebration in the rotunda. A.J. O'Neil was in our presence earlier today, along with the author Karen Wilhelm. There has been an introduction of a book today that was written on an occurrence here in Michigan last March.

Fifty hours of song after song of "Danny Boy" was sung in A.J. O'Neil's café to establish a world record right here in our great state. Representative Andy Meisner and I took part in this, along with our fabulous Governor. She sang one of the refrains from "Danny Boy" herself. I would like to congratulate A.J. O'Neil for this effort and just, if I could, read a few remarks in regard to this publication.

"A tender book which will be enjoyed by many," was a quote by Michael Ilitch.

"We came to A.J.'s expecting to participate in a marathon, but we experienced something much greater—caring people from all walks of life, celebrating community together," is by Sandra Elling. She is a member of the Presbyterian church in the community.

"A.J. is very persuasive. It was totally fun," Michigan Governor Jennifer Granholm.

In regard to the remarks of the Michigan icon, Ernie Harwell, this is what he said about the book: "Those folks had the exuberance of baseball fans whose team had won the World Series. Stories of joy and sorrow will make readers want to laugh and cry. We all stand in sunlight and shadow when we journey through our lives. People at the marathon stood in the sunlight and shadow together. I felt like I was there."

I would like to congratulate A.J. O'Neil and recommend to the members of the Senate, on March 20, he is going to have another foray to promote and encourage the Big Three automakers here in the state of Michigan. He is going to have another sing-along. This time he is looking at an even greater effort to enhance and memorialize the workers here in Michigan.

Committee Reports

COMMITTEE ATTENDANCE REPORT

The Committee on Commerce and Tourism submitted the following:

Meeting held on Tuesday, February 3, 2009, at 2:42 p.m., Room 100, Farnum Building

Present: Senators Allen (C), Gilbert and Clarke

Excused: Senators Stamas and Hunter

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Economic Development submitted the following:

Meeting held on Wednesday, February 4, 2009, at 8:30 a.m., Room 110, Farnum Building

Present: Senators Jansen (C), George, Stamas, Scott and Anderson

Scheduled Meetings

Appropriations -

Subcommittees -

Economic Development - Wednesday, February 11, 8:30 a.m., Room 110, Farnum Building (373-2768)

State Police and Military Affairs - Tuesday, February 10 and Wednesday, February 11, 3:00 p.m., Room 405, Capitol Building (373-2768)

Energy Policy and Public Utilities - Thursday, February 5, 1:00 p.m., Room 210, Farnum Building (373-7350)

Legislative Commission on Statutory Mandates - Friday, February 27, 12:00 noon, Oakland County Executive Office Building, Oakland County Conference Center, Waterford Room, Building 41-West, 2100 Pontiac Lake Road, Waterford (373-0212)

Senator Cropsey moved that the Senate adjourn.
The motion prevailed, the time being 10:42 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Thursday, February 5, 2009, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

