No. 71
STATE OF MICHIGAN

Journal of the Senate

95th Legislature
REGULAR SESSION OF 2009

Senate Chamber, Lansing, Thursday, September 17, 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—excused
George—present
Gilbert—present
Gleason—excused
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—excused
Van Woerkom—present
Whitmer—present

Reverend Maurice Rudds of Greater Mount Tabor Missionary Baptist Church of Detroit offered the following invocation:

O kind and gracious God, we thank You for our glorious past with You. We are mindful of how You have been a provider, a sustainer, and have never let us down. Although these are troublesome times, we appreciate that You are unchangeable. Your abilities and attributes are not based on circumstance, but based upon the fact that You are sovereign.

Father, in Your sovereignty, bless the proceedings in this session. May pride be replaced with prudence; may ego be replaced with ethics; may greed be replaced with gratitude; and Your will be done.

Father, we seek Your guidance today. We pray for wisdom, for You give wisdom freely to those who ask. Help us to trust in You with all of our hearts and lean not onto our own understanding and allow You to direct our paths.

Father, forgive us our trespasses, though they be many, and lend Your compassion to our cause. Father, order the course of the state of Michigan. Go before us and make our way prosperous. Hear our supplications, O Lord, and heal our land. Restore dignity and hope to our citizens. Restore our ability to produce and provide for our families.

Father, when we regain our rightful place as producers and providers in this country, when blight is lifted from our land, we will remember what we asked You and remember how You responded and give Your name praise and glory. In the name of the Father, the Son, and the Holy Spirit. Amen.

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

Motions and Communications

Senators Kahn, Patterson, George, Barcia and Jansen entered the Senate Chamber.

Senator Cropsey moved that Senator Garcia be excused from today's session.

The motion prevailed.

Senator Cropsey moved that the rules be suspended and that the following bills, now on Committee Reports, be placed on the General Orders calendar for consideration today:

Senate Bill No. 689

Senate Bill No. 722

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

Senator Cropsey moved that when the Senate adjourns today, it stand adjourned until Monday, September 21, at 10:00 a.m.

The motion prevailed.

Senator Anderson moved that Senators Thomas and Gleason be excused from today's session.

The motion prevailed.

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

The motion prevailed.

The following communication was received and read:

Office of the Auditor General

September 15, 2009

Enclosed is a copy of the following audit report:

Performance audit of Substance Abuse Services, Department of Corrections.

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

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

The Secretary announced that the following House bills were received in the Senate and filed on Wednesday, September 16:

House Bill Nos. 5127 5223

The Secretary announced that the following official bills and joint resolution were printed on Wednesday, September 16, and are available at the legislative website:

Senate Bill Nos.	**802**	**803**	**804**	**805**	**806**	**807**	**808**	**809**	**810**	**811**	**812**	**813**	**814**	**815**
	816	**817**	**818**	**819**	**820**	**821**	**822**	**823**	**824**	**825**	**826**	**827**	**828**	
House Bill Nos.	**5356**	**5357**	**5358**	**5359**	**5360**	**5361**	**5362**	**5363**	**5364**	**5365**	**5366**	**5367**	**5368**	**5369**
	5370	**5371**	**5372**	**5373**	**5374**	**5375**	**5376**							
House Joint Resolution		**GG**												

Messages from the House

Recess

Senator Cropsey moved that the Senate recess subject to the call of the Chair.

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

11:06 a.m.

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

Senate Bill No. 237, entitled

A bill to make appropriations for the department of agriculture for the fiscal year ending September 30, 2010; to provide for the expenditure of the appropriations; to create funds; to provide for the imposition of fees; to require reports, audits, and plans; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by certain state agencies.

The House of Representatives has appointed Reps. Espinoza, McDowell and Lori as conferees to join with Sens. Brown, Jelinek and Scott.

The bill was referred to the Conference Committee on September 16, 2009.

Senate Bill No. 243, entitled

A bill to make appropriations for the department of energy, labor, and economic growth and certain other state purposes for the fiscal year ending September 30, 2010; to provide for the expenditure of those appropriations; to provide for the imposition of certain fees; to provide for the disposition of fees and other income received by the state agencies; to provide for reports to certain persons; and to prescribe powers and duties of certain state departments and certain state and local agencies and officers.

The House of Representatives has appointed Reps. Hammel, Switalski and Rogers as conferees to join with Sens. Jansen, George and Scott.

The bill was referred to the Conference Committee on September 16, 2009.

Senate Bill No. 245, entitled

A bill to make, supplement, and adjust appropriations for the departments of attorney general, civil rights, information technology, management and budget, state, and treasury, the executive office, and the legislative branch for the fiscal year ending September 30, 2010; to provide for the expenditure of these appropriations; to provide for the funding of certain work projects; to provide for the imposition of certain fees; to establish or continue certain funds, programs, and categories; to transfer certain funds; to prescribe certain requirements for bidding on state contracts; to provide for disposition of year-end balances; to prescribe the powers and duties of certain principal executive departments and state agencies, officials, and employees; and to provide for the disposition of fees and other income received by the various principal executive departments and state agencies.

The House of Representatives has appointed Reps. Durhal, Cushingberry and Rogers as conferees to join with Sens. Pappageorge, Jansen and Cherry.

The bill was referred to the Conference Committee on September 16, 2009.

Senate Bill No. 248, entitled

A bill to make appropriations for the department of human services and certain state purposes related to public welfare services for the fiscal year ending September 30, 2010; to provide for the expenditure of the appropriations; to create

funds; to provide for the imposition of fees; to provide for reports; to provide for the disposition of fees and other income received by the state agency; and to provide for the powers and duties of certain individuals, local governments, and state departments, agencies, and officers.

The House of Representatives has appointed Reps. Spade, Tlaib and Agema as conferees to join with Sens. Hardiman, Kahn and Scott.

The bill was referred to the Conference Committee on September 16, 2009.

Senate Bill No. 249, entitled

A bill to make appropriations for the judicial branch for the fiscal year ending September 30, 2010; to provide for the expenditure of these appropriations; to place certain restrictions on the expenditure of these appropriations; to prescribe the powers and duties of certain state and local departments, officials, and employees; to require certain reports; and to provide for the disposition of fees and other income received by the judicial branch.

The House of Representatives has appointed Reps. Tlaib, Terry Brown and Schuitmaker as conferees to join with Sens. Cropsey, Kahn and Brater.

The bill was referred to the Conference Committee on September 16, 2009.

Senate Bill No. 250, entitled

A bill to make appropriations for the department of military and veterans affairs for the fiscal year ending September 30, 2010; to provide for the expenditure of the appropriations; to provide for certain powers and duties of the department of military and veterans affairs, other state agencies, and local units of government related to the appropriations; and to provide for the preparation of certain reports related to the appropriations.

The House of Representatives has appointed Reps. LeBlanc, Espinoza and Genetski as conferees to join with Sens. Garcia, Cropsey and Barcia.

The bill was referred to the Conference Committee on September 16, 2009.

Senate Bill No. 254, entitled

A bill to make appropriations for the state transportation department and certain transportation purposes for the fiscal year ending September 30, 2010; to provide for the imposition of fees; to provide for reports; to create certain funds and programs; to prescribe requirements for certain railroad and bus facilities; to prescribe certain powers and duties of certain state departments and officials and local units of government; and to provide for the expenditure of the appropriations.

The House of Representatives has appointed Reps. Gonzales, LeBlanc and Agema as conferees to join with Sens. Hardiman, Cropsey and Anderson.

The bill was referred to the Conference Committee on September 16, 2009.

House Bill No. 4435, entitled

A bill to make appropriations for community colleges and certain state purposes related to education for the fiscal year ending September 30, 2010; to provide for the expenditure of those appropriations; to establish or continue certain funds, programs, and categories; and to prescribe the powers and duties of certain state departments, institutions, agencies, employees, and officers.

The House of Representatives has non-concurred in the Senate substitute (S-1) and appointed Reps. Miller, Bauer and Booher as conferees.

The message was referred to the Secretary for record.

House Bill No. 4436, entitled

A bill to make appropriations for the department of community health and certain state purposes related to mental health, public health, and medical services for the fiscal year ending September 30, 2010; to provide for the expenditure of those appropriations; to create funds; to require and provide for reports; to prescribe the powers and duties of certain local and state agencies and departments; and to provide for disposition of fees and other income received by the various state agencies.

The House of Representatives has non-concurred in the Senate substitute (S-1) and appointed Reps. McDowell, Hammel and Green as conferees.

The message was referred to the Secretary for record.

House Bill No. 4437, entitled

A bill to make appropriations for the department of corrections and certain state purposes related to corrections for the fiscal year ending September 30, 2010; to provide for the expenditure of the appropriations; to provide for reports; to provide for the creation of certain advisory committees and boards; to prescribe certain powers and duties of the department of corrections, certain other state officers and agencies, and certain advisory committees and boards; to provide for the collection of certain funds; and to provide for the disposition of fees and other income received by certain state agencies.

The House of Representatives has non-concurred in the Senate substitute (S-1) and appointed Reps. Smith, Durhal and Proos as conferees.

The message was referred to the Secretary for record.

House Bill No. 4438, entitled

A bill to make appropriations for the department of education and certain other purposes relating to education for the fiscal year ending September 30, 2010; to provide for the expenditure of the appropriations; and to provide for the disposition of fees and other income received by the state agency.

The House of Representatives has appointed Reps. Terry Brown, Cushingberry and Moss as conferees to join with Sens. Jelinek, Brown and Switalski.

The bill was referred to the Conference Committee on September 16, 2009.

House Bill No. 4441, entitled

A bill to make appropriations for the state institutions of higher education and certain state purposes related to education for the fiscal year ending September 30, 2010; to provide for the expenditures of those appropriations; and to prescribe the powers and duties of certain state departments, institutions, agencies, employees, and officers.

The House of Representatives has non-concurred in the Senate substitute (S-1) and appointed Reps. Bauer, Cushingberry and Caul as conferees.

The message was referred to the Secretary for record.

House Bill No. 4446, entitled

A bill to make appropriations for the departments of environmental quality and natural resources for the fiscal year ending September 30, 2010; to provide for the expenditure of those appropriations; to create funds and accounts; to require reports; to prescribe certain powers and duties of certain state agencies and officials; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by the various state agencies.

The House of Representatives has non-concurred in the Senate substitute (S-1) and appointed Reps. Lahti, Espinoza and Booher as conferees.

The message was referred to the Secretary for record.

House Bill No. 4447, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending sections 3, 6, 8b, 11, 11a, 11g, 11j, 11k, 11m, 11n, 15, 18, 20, 20d, 20j, 22a, 22b, 22d, 22e, 24, 24a, 24c, 26a, 26b, 29, 31a, 31d, 31f, 32b, 32c, 32d, 32j, 32*l*, 32n, 39, 39a, 41, 51a, 51c, 51d, 53a, 54, 54a, 54c, 56, 57, 61a, 62, 64, 65, 74, 81, 94a, 98, 99, 99a, 99n, 99p, 101, 104, 107, 147, and 164c (MCL 388.1603, 388.1606, 388.1608b, 388.1611, 388.1611a, 388.1611g, 388.1611j, 388.1611k, 388.1611m, 388.1611n, 388.1615, 388.1618, 388.1620, 388.1620d, 388.1620j, 388.1622a, 388.1622b, 388.1622d, 388.1622e, 388.1624, 388.1624a, 388.1624c, 388.1626a, 388.1626b, 388.1629, 388.1631a, 388.1631d, 388.1631f, 388.1632b, 388.1632c, 388.1632d, 388.1632j, 388.1632*l*, 388.1632n, 388.1639, 388.1639a, 388.1641, 388.1651a, 388.1651c, 388.1651d, 388.1653a, 388.1654, 388.1654a, 388.1654c, 388.1656, 388.1657, 388.1661a, 388.1662, 388.1664, 388.1665, 388.1674, 388.1681, 388.1694a, 388.1698, 388.1699, 388.1699a, 388.1699n, 388.1699p, 388.1701, 388.1704, 388.1707, 388.1747, and 388.1764c), sections 3, 6, 11, 11a, 11g, 11j, 11k, 11m, 15, 18, 20d, 22a, 22b, 22d, 24, 24a, 24c, 26a, 26b, 29, 31a, 31d, 31f, 32c, 32d, 32j, 32*l*, 39, 39a, 41, 51a, 51c, 51d, 53a, 54, 54a, 54c, 56, 57, 61a, 62, 64, 65, 74, 81, 94a, 98, 99, 99p, 104, 107, 147, and 164c as amended and sections 11n, 22e, and 99a as added by 2008 PA 268, section 8b as amended by 2007 PA 92, sections 20, 20j, and 32b as amended by 2008 PA 561, section 32n as added by 2007 PA 137, section 99n as added by 2008 PA 112, and section 101 as amended by 2006 PA 342, and by adding sections 22f, 32a, and 98a; and to repeal acts and parts of acts.

The House of Representatives has non-concurred in the Senate substitute (S-1) and appointed Reps. Terry Brown, Cushingberry and Moss as conferees.

The message was referred to the Secretary for record.

Senate Bill No. 480, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 515 (MCL 208.1515), as amended by 2007 PA 145.

The House of Representatives has passed the bill, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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.

The Senate agreed to the full title.

The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

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 Clarke 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 with a substitute therefor, the following bill:

Senate Bill No. 689, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 7333 (MCL 333.7333), as amended by 2006 PA 451.

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. 722, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding section 21529; and to repeal acts and parts of acts.

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.

By unanimous consent the Senate returned to the order of

Third Reading of Bills

Senator Cropsey moved that the rules be suspended and that the following bill, now on the order of Third Reading of Bills, be placed on its immediate passage:

Senate Bill No. 689

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

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

House Bill No. 4744

Senate Bill No. 689

The motion prevailed.

The following bill was read a third time:

House Bill No. 4744, entitled

A bill to amend 1913 PA 380, entitled "An act to regulate gifts of real and personal property to cities, villages, townships, and counties, and the use of those gifts and other funds; and to validate all gifts made before the enactment of this act," by amending section 2 (MCL 123.872), as amended by 2003 PA 122.

The question being on the passage of the bill,

Senator Van Woerkom offered the following amendments:

1. Amend page 1, line 6, after "**OR**" by striking out "**LOAN**" and inserting "**THE PROCEEDS OF A LOAN FROM A FEDERAL AGENCY AS PART OF AN INTERMEDIARY RELENDING PROGRAM**".

2. Amend page 3, line 23, after "**LOAN**" by inserting "**FROM A FEDERAL AGENCY AS PART OF AN INTERMEDIARY RELENDING PROGRAM**".

The amendments were adopted, a majority of the members serving voting therefor.

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. 457 **Yeas—33**

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

Nays—0

Excused—4

Garcia	Gleason	Jelinek	Thomas

Not Voting—0

In The Chair: President

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.

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 689, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 7333 (MCL 333.7333), as amended by 2006 PA 451.

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. 458 **Yeas—33**

Allen	Cherry	Jacobs	Prusi
Anderson	Clark-Coleman	Jansen	Richardville
Barcia	Clarke	Kahn	Sanborn
Basham	Cropsey	Kuipers	Scott
Birkholz	George	McManus	Stamas
Bishop	Gilbert	Olshove	Switalski

Brater	Hardiman	Pappageorge	Van Woerkom
Brown	Hunter	Patterson	Whitmer
Cassis			

Nays—0

Excused—4

Garcia	Gleason	Jelinek	Thomas

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

By unanimous consent the Senate returned to the order of

Motions and Communications

The following communications were received and read:

Office of the Senate Majority Leader

September 17, 2009

Pursuant to Joint Rule 3, the House having non-concurred in the Senate substitute (S-1) to House Bill 4435, the Senate appoints the following members to sit on the conference committee:

Senator Bill Hardiman
Senator Valde Garcia
Senator Irma Clark-Coleman

Thank you for your prompt consideration of this matter.

September 17, 2009

Pursuant to Joint Rule 3, the House having non-concurred in the Senate substitute (S-1) to House Bill 4436, the Senate appoints the following members to sit on the conference committee:

Senator Roger Kahn
Senator John Pappageorge
Senator Deborah Cherry

Thank you for your prompt consideration of this matter.

September 17, 2009

Pursuant to Joint Rule 3, the House having non-concurred in the Senate substitute (S-1) to House Bill 4437, the Senate appoints the following members to sit on the conference committee:

Senator Alan Cropsey
Senator Roger Kahn
Senator Liz Brater

Thank you for your prompt consideration of this matter.

September 17, 2009

Pursuant to Joint Rule 3, the House having non-concurred in the Senate substitute (S-1) to House Bill 4441, the Senate appoints the following members to sit on the conference committee:

Senator Tony Stamas
Senator Tom George
Senator Jim Barcia

Thank you for your prompt consideration of this matter.

September 17, 2009

Pursuant to Joint Rule 3, the House having non-concurred in the Senate substitute (S-1) to House Bill 4446, the Senate appoints the following members to sit on the conference committee:

Senator Michelle McManus
Senator Ron Jelinek
Senator Liz Brater

Thank you for your prompt consideration of this matter.

September 17, 2009

Pursuant to Joint Rule 3, the House having non-concurred in the Senate substitute (S-1) to House Bill 4447, the Senate appoints the following members to sit on the conference committee:

Senator Ron Jelinek
Senator Cameron Brown
Senator Michael Switalski

Thank you for your prompt consideration of this matter.

Sincerely,
Senator Michael D. Bishop
Majority Leader
State Senate, 12th District

The communications were referred to the Secretary for record.

By unanimous consent the Senate proceeded to the order of

Resolutions

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

Senate Resolution No. 41
Senate Resolution No. 75

The motion prevailed.

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

Senate Resolution No. 82

The resolution consent calendar was adopted.

Senator Basham offered the following resolution:

Senate Resolution No. 82.

A resolution proclaiming the week of September 21, 2009, as Pollution Prevention Week in Michigan.

Whereas, The people of Michigan value our natural resources, which are the basis for outdoor activities, state tourism, and making Michigan a Great Lakes State; and

Whereas, The people of Michigan support and deserve a clean and safe environment in which to raise our children; and

Whereas, The benefits of pollution prevention are well documented and achieved through reducing waste at its source, or where this is not feasible, recycling; and

Whereas, Pollution prevention can improve environmental conditions; protect the health and safety of workers; strengthen our community; and provide an assurance for the future; and

Whereas, Pollution prevention can increase industrial efficiency, competitiveness, and help Michigan develop a "bio-economy" and green business practices to increase the adoption of clean and pollution-free technology that can save businesses money; and

Whereas, By focusing on pollution prevention, Michigan can meet the challenges of having healthy communities, clean watersheds, efficient government, and competitive businesses; and

Whereas, Pollution Prevention Week is an opportunity for government to join forces with businesses, industries, environmental groups, community organizations, and the citizens of Michigan to ensure a prosperous and sustainable future; now, therefore, be it

Resolved by the Senate, That we hereby proclaim the week of September 21, 2009, as Pollution Prevention Week in Michigan. We encourage all citizens to join in this observance and incorporate pollution prevention into their everyday activities; and be it further

Resolved, That a copy of this resolution be transmitted the to Michigan Department of Environmental Quality as a token of our esteem.

Senators Barcia, Birkholz, Cherry, Clark-Coleman, Clarke, Jacobs, Prusi and Scott were named co-sponsors of the resolution.

Senate Resolution No. 17.

A resolution to affirm Michigan's sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not enumerated and granted to the federal government.

The question being on the adoption of the resolution,

Senator Cropsey requested the yeas and nays.

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

The resolution was adopted, a majority of the members voting therefor, as follows:

Roll Call No. 459 **Yeas—33**

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

Nays—0

Excused—4

Garcia	Gleason	Jelinek	Thomas

Not Voting—0

In The Chair: President

Senators Cropsey and Patterson asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Cropsey's statement is as follows:

This resolution, if taken to heart, probably would affect us as a state legislature maybe more so than any place else in the United States, when every state legislature says, "You know what? The federal government has enumerated powers that are spelled out in the United States Constitution."

There was a lot of controversy when the Constitution was adopted. The controversy was why do you need a Bill of Rights? If the federal government is only supposed to do what is enumerated in the current Constitution, then you don't need a Bill of Rights because they can't do anything beyond that. They can't worry about freedom of speech and freedom of the press because they aren't even supposed to get into that area. The people's rights are safe in the sense that the federal government will not encroach upon it. That was the Federalist viewpoint.

The anti-Federalist viewpoint was, "We understand what you are saying as Federalists, but we still don't trust the government to do what it is really supposed to do; that it will stay within its enumerated powers." They said, "We want to make sure that we have these rights enshrined in our Constitution."

The Tenth Amendment was added basically to say to the people of the country, "Just because we have put these first nine amendments onto the Constitution doesn't mean that that is giving any power to the federal government." It's like the Constitution is putting on a belt, and this also puts on the suspenders to make sure that we are binding the federal government to its delegated powers. The Tenth Amendment is saying just because you have enumerated certain things the federal government can't do, doesn't mean that they can start doing other things.

The Tenth Amendment was critical in reaffirming what the Federalists said, and it was critical in order to get things passed as far as our Bill of Rights. It is very unfortunate when you take a look at our federal government today that it has been going into areas that are way beyond the scope of the Constitution of the United States. I wish that every federal judge, every United States Senator, every United States Representative, and the President would take a good look at the Tenth Amendment, the history of our Constitution, and get back to a constitutional form of government. They have gone so far beyond where they are supposed to be and what the founders envisioned. A lot of what the federal government is doing should have been left up to the people and the states.

I want to thank the sponsor of this resolution and the following resolution for bringing this to our attention to once again remind us that we need to get back to federal principles and fundamental principles that made this country great.

Senator Patterson's statement is as follows:

Today is a most auspicious day. It is Constitution Day. On this date in 1787—222 years ago; perhaps some might even remember—famous words, "We the People," were adopted by our Founding Fathers as a part of our Federal Constitution. The Constitution is a document rich in history and unique to the fact that this country has established the blueprint for self-governance.

As we know, but sometimes now and again we need to be reminded, a few years later in 1791, ten amendments to that Constitution were adopted. Thus, the Bill of Rights were enshrined in order to accentuate the intent of the Founding Fathers who had a protracted and vigorous debate over what type of country they wanted to hand on to future generations.

One of those Bill of Rights amendments was the Tenth Amendment, which we will all recall states that the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states and we the people. Senate Concurrent Resolution No. 4 and Senate Resolution No. 17 serve to remind us, those serving we the people, that a positive grant of select authority—select, specific limited authority—was being extended by we the people to those whom they chose and entrusted to serve.

The resolutions that we have today are really very simple votes to cast. Every one of us knows, before we undertook the responsibilities and obligations of our office, we, in accordance with our Michigan Constitution, swore an oath under Article 11, Section 1, to uphold the Constitution and to embrace the intent of those limited specific authorities granted by we the people. It is not an all-encompassing grant, but rather a specific limited authority extended by we the people.

The votes on these two items are relatively simple. We have already sworn that we will faithfully discharge and uphold, but we must understand that we are always being tempted; thus, the fulfillment of the obligations. The honor that we swore, in spite of the temptations extended by both the Democrats and the Republicans to exceed the limited delegation, is always before us. Please be cautious in not to violate your oath by exceeding the limited delegation in the discharge of your sworn duties.

I know that you will all do the right thing. We owe it to the people.

Senate Concurrent Resolution No. 4.

A concurrent resolution to affirm Michigan's sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not enumerated and granted to the federal government.

The question being on the adoption of the concurrent resolution,

Senator Cropsey requested the yeas and nays.

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

The concurrent resolution was adopted, a majority of the members voting therefor, as follows:

Roll Call No. 460 **Yeas—33**

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

Nays—0

Excused—4

Garcia Gleason Jelinek Thomas

Not Voting—0

In The Chair: President

Introduction and Referral of Bills

Senators Kuipers, Brown, Patterson, Gilbert, McManus, Kahn, Stamas, Birkholz, Van Woerkom and Garcia introduced

Senate Bill No. 829, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 2685 and 2688 (MCL 333.2685 and 333.2688).

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

Senators Prusi, Hunter, Clarke, Clark-Coleman, Anderson, Scott, Thomas, Whitmer, Jacobs, Cherry, Olshove, Barcia, Basham, Switalski and Brater introduced

Senate Bill No. 830, entitled

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending section 55 (MCL 169.255), as amended by 1995 PA 264.

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

Senator Jelinek introduced

Senate Bill No. 831, entitled

A bill to make interim general appropriations for various state departments and agencies, capital outlay, the legislative branch, the judicial branch, and certain other purposes for the period of October 1, 2009 to October 31, 2009; to provide for the expenditure of the appropriations; to provide for the disposition of fees and other income received by various state departments and agencies; to provide for the appointment of special committees; and to declare the effect of this act.

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

Senator Gilbert introduced

Senate Bill No. 832, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 201 (MCL 208.1201), as amended by 2008 PA 168.

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

Senator Cherry introduced

Senate Bill No. 833, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by amending section 3a (MCL 205.93a), as amended by 2008 PA 439.

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

Senator Prusi introduced

Senate Bill No. 834, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 4i (MCL 205.54i), as amended by 2007 PA 105.

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

Senator Prusi introduced

Senate Bill No. 835, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by amending section 9a (MCL 205.99a), as amended by 2007 PA 104.

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

Senator Prusi introduced

Senate Bill No. 836, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by amending section 4f (MCL 205.94f), as amended by 2004 PA 172.

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

Senator Switalski introduced

Senate Bill No. 837, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 4 (MCL 205.54), as amended by 2004 PA 173.

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

Senator Switalski introduced

Senate Bill No. 838, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending sections 201, 203, 235, 263, 281, 403, and 405 (MCL 208.1201, 208.1203, 208.1235, 208.1263, 208.1281, 208.1403, and 208.1405), sections 201 and 203 as amended by 2008 PA 168, section 235 as amended by 2008 PA 30, section 281 as added and section 405 as amended by 2007 PA 145, and section 403 as amended by 2008 PA 434.

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

Senator Cherry introduced

Senate Bill No. 839, entitled

A bill to levy an excise tax on the wholesale distribution of bottled water; to provide for the levy, collection, and administration of the excise tax; to provide certain reporting requirements; and to provide for the distribution of the excise tax.

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

Senator Switalski introduced

Senate Bill No. 840, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by amending sections 3a, 4, 4a, 4d, 4k, and 9a (MCL 205.93a, 205.94, 205.94a, 205.94d, 205.94k, and 205.99a), sections 3a and 4d as amended by 2008 PA 439, section 4 as amended by 2008 PA 314, section 4a as amended by 2004 PA 172, section 4k as amended by 2006 PA 18, and section 9a as amended by 2007 PA 104.

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

Senator Cherry introduced

Senate Bill No. 841, entitled

A bill to amend 1941 PA 122, entitled "An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of this state; to prescribe certain powers and duties of the state treasurer; to establish the collection duties of certain other state departments for money or accounts owed to this state; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments, and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," by amending sections 24, 30c, and 31 (MCL 205.24, 205.30c, and 205.31), section 24 as amended by 2003 PA 201, section 30c as amended by 2007 PA 194, and section 31 as amended by 2002 PA 657.

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

Senator Switalski introduced

Senate Bill No. 842, entitled

A bill to amend 1993 PA 327, entitled "Tobacco products tax act," by amending sections 2 and 7 (MCL 205.422 and 205.427), section 2 as amended by 2005 PA 238 and section 7 as amended by 2008 PA 458.

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

Senator Switalski introduced

Senate Bill No. 843, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 30 (MCL 206.30), as amended by 2007 PA 154.

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

Senator Switalski introduced

Senate Bill No. 844, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending sections 2, 4a, 4g, 4i, and 4x (MCL 205.52, 205.54a, 205.54g, 205.54i, and 205.54x), section 2 as amended by 2004 PA 173, section 4a as amended by 2008 PA 415, section 4g as amended by 2008 PA 438, section 4i as amended by 2007 PA 105, and section 4x as amended by 2006 PA 17.

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

Senator Switalski introduced

Senate Bill No. 845, entitled

A bill to amend 1941 PA 122, entitled "An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of this state; to prescribe certain powers and duties of the state treasurer; to establish the collection duties of certain other state departments for money or accounts owed to this state; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments, and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," by amending section 28 (MCL 205.28), as amended by 2003 PA 114, and by adding section 3b.

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

House Bill No. 5127, entitled

A bill to amend 1988 PA 466, entitled "Animal industry act," (MCL 287.701 to 287.745) by adding section 46.

The House of Representatives has passed the bill.

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

House Bill No. 5223, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3118 and 3120 (MCL 324.3118 and 324.3120), section 3118 as amended by 2008 PA 2 and section 3120 as added by 2004 PA 91.

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 Natural Resources and Environmental Affairs.

Statements

Senators Scott, McManus, Jacobs and Prusi 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:

The organizer A. Philip Randolph said, "Each organization is charged with the social responsibility to do that which it can, that which it is built to do." The organization that is the Michigan Senate is built to respond to the needs of Michigan citizens. But another day has passed, and we have not acted on auto insurance reform. We have failed to live up to our social responsibility to do what we can to improve the lives of the hundreds of thousands of citizens who are paying too much for their auto insurance.

We do our best to meet our responsibility on other issues that we must address. But we continue to drag our feet on this one very important issue of auto insurance reform. It is high time that we act and make auto insurance affordable for all of Michigan's citizens.

Senator McManus' statement is as follows:

I have serious concerns about what I have heard about a potential executive order combining the Departments of Agriculture, Environmental Quality, and Natural Resources into one department. Merging the Department of Environmental Quality into the Department of Natural Resources makes good sense. In fact, I have already introduced legislation to accomplish this very fact. But Agriculture is one of Michigan's top industries, and the Department of Agriculture serves a very different role from the Departments of Natural Resources and Environmental Quality. It's not just about smaller government; it's about smarter government.

Merging the Departments of Environmental Quality and Natural Resources is smart government. Adding the Department of Agriculture to the mix is shortsighted and demonstrates a failure to recognize the value of the agriculture industry and the mission of the three departments.

Senator Jacobs' statement is as follows:

Yesterday, we heard my colleague from the Lansing area speak very eloquently about children and that we have to think about children as we go through this budget process. When I got back to my office, something came across my e-mail and it was right up that line of thinking but also talking about how we invest in our state and what we want our state to look like.

So I am going to read to you what I received in this e-mail because I think it is very important as we move in the next week toward figuring out what our budget is going to look like. It starts out saying that Minnesota is strong at the core, and before I go on, I know that when we compare ourselves to other states, Minnesota often comes up because businesses may go there instead of here. "Below are excerpted some of the published comments of Arthur J. Rolnick, senior vice president and director of research at the Federal Reserve Bank of Minneapolis. In the commentary, he describes how Minnesota can maintain its place as one of the strongest state economies in the nation. Based on the importance of literacy in the lives of very young children, Dr. Rolnick has urged that the Minnesota Reading Corps continue to expand and be 'taken to scale.'

And speaking of ROI:"—return on investment—"Minnesota's economy has historically been very strong. In large part, because of the state's commitment to education. However, with growing numbers of children in poverty who are entering kindergarten without basic learning skills, the state may soon find itself with a big problem—young adults with little or no future who will only become a cost to society. This doesn't have to happen. Careful academic research demonstrates that tax dollars spent on early childhood development provide extraordinary returns. Some of these benefits are private gains for the children involved in the form of higher wages later in life. But the broader economy also benefits because the individuals who participate in high-quality early childhood development programs have greater skills than they otherwise would, and they're able to contribute productively to their local economies.

And that's how Minnesota can maintain its place as one of the strongest state economies in the nation." It goes, "Back in the late 1950s and early 1960s, when Minnesota was an economic laggard, the state made a long-term commitment to upgrade its education system. That kind of foresight helped forge a strong economy that has lasted for decades."

So I ask my colleagues, as we finish this budget, we should look to what we want this state to look like in 50 years—not just next year and not just two years—because we can certainly be penny-wise and pound-foolish and leave this state in foreclosure for your grandchildren.

Senator Prusi's statement is as follows:

It is unusual that you find me up here three times in the past week making statements. In light of the reported deal on targets, I would like to reiterate the priorities that I have discussed in my previous two statements. I will go through them in order.

Early childhood programs: Michigan's future depends on ensuring that our next generation is healthy and prepared for a good education. Don't you believe that our children and grandchildren are worth an investment that should pay huge dividends down the road, or do you want to just leave them behind?

Our Promise grants: 100,000 of Michigan's brightest young people are waiting to see if we truly mean what we say in this chamber. The knowledge that they bring to the workforce in the years ahead will really help to go a long way to rebuilding Michigan's economy. I find it unconscionable that we would break the promise to these kids who have worked so hard in school.

Local government revenue sharing: Since September 11, 2001, our local communities have laid off 1,800 police officers and over 2,400 firefighters. Who is going to be left to answer the 9-1-1 calls if we continue down the path that you want to lead us with revenue sharing cuts? Who is going to be there when we need them the most? We have already decimated our public safety apparatus in Michigan. To continue with the cuts that you have advocated would leave us in even worse shape.

Public health: How could we in good conscience decimate the programs that the least among us have come to depend on to maintain basic health care services here in Michigan? The Healthy Michigan Fund, optional services, and provider rate cuts need to be restored to acceptable levels.

We as the Senate Democratic Caucus understand that we cannot continue at the status quo with all of these programs and keep funding them across the board at levels that we have enjoyed in the past. But we believe that we can find enough revenue to allow us to go to 95 percent of the funding in these vital programs and not across state government.

On Tuesday, I was challenged to indicate how we intend to pay for these programs, these priorities that we hold so dear. I would like to remind members that during the budget process, we offered up amendments on all of these critical issues, and we offered up a way to pay for them by closing tax loopholes and reductions in targeted tax expenditures. These revenue sources should still be on the table and open for debate.

We have also recently identified a couple of other sources of revenue that do not include a general tax increase. A 2 percent quality assessment insurance program fee on physicians would bring in a 3-to-1 federal match to help mitigate the cuts to the Department of Community Health. We have estimated that $321 million would be available to mitigate these cuts, and I think that should be open to debate and not left behind as we go forward with this budget debate over the last two weeks. If we decoupled Michigan's estate tax from the federal estate tax on estates over $2 million, an estimated $130 million would be brought into state coffers to help fund scholarships, preschool programs, and a number of other things. These two sources together would bring in $450 million that do not involve a general tax increase on the constituents we represent.

I urge all members to carefully consider what an all-cuts budget means to Michigan's future. Then consider the alternative that we have offered up here today—that we have offered up in the months gone by. We can still make necessary cuts to government spending without decimating the future that all of Michigan has come to rely on. These programs and services serve Democrats, Republicans, Independents, and people who don't bother to vote one way or the other. These aren't Democratic programs; these aren't Republican programs; these are Michigan's programs.

If we continue down the road that you intend to lead us, I see a future for Michigan where I would encourage my grandchildren to leave this state because we would not have a Michigan worth living in if we go down the path that you have chosen. I would ask that members carefully consider what all-cuts means and carefully consider the revenue sources that we have offered up that would help mitigate the cuts that are included in the so-called target deal.

Committee Reports

The Committee on Natural Resources and Environmental Affairs reported

Senate Bill No. 775, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding part 67.

With the recommendation that the bill be referred to the Committee on Energy Policy and Public Utilities.

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Van Woerkom, Patterson and Basham

Nays: None

The bill was referred to the Committee on Energy Policy and Public Utilities.

The Committee on Natural Resources and Environmental Affairs reported

Senate Bill No. 785, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 5202, 8807, 30105, 30301, 30305, 30306, 30306b, 30311, 30312, 30317, 32501, 32512, 32512a, and 32513 (MCL 324.5202, 324.8807, 324.30105, 324.30301, 324.30305, 324.30306, 324.30306b, 324.30311, 324.30312, 324.30317, 324.32501, 324.32512, 324.32512a, and 324.32513), section 5202 as added by 2002 PA 397, section 8807 as added by 1998 PA 287, section 30105 as amended by 2006 PA 531, sections 30301, 30305, 30306, 30312, 32501, and 32512 as amended and section 32512a as added by 2003 PA 14, section 30306b as added by 2006 PA 435, section 30311 as added by 1995 PA 59,

section 30317 as amended by 1998 PA 228, and section 32513 as amended by 2008 PA 276, and by adding sections 30303b, 30303d, 30304b, 30305b, 30311b, 30311d, 30312b, 30312d, 30325, 30327, and 30329; and to repeal acts and parts of acts.

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

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

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Van Woerkom and Patterson

Nays: None

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

COMMITTEE ATTENDANCE REPORT

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

Meeting held on Wednesday, September 16, 2009, at 1:00 p.m., Room 110, Farnum Building

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

Excused: Senator Gleason

The Committee on Health Policy reported

Senate Bill No. 689, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 7333 (MCL 333.7333), as amended by 2006 PA 451.

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

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

Thomas M. George
Chairperson

To Report Out:

Yeas: Senators George, Sanborn, Patterson, Allen, Clarke and Jacobs

Nays: None

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

The Committee on Health Policy reported

Senate Bill No. 722, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding section 21529; and to repeal acts and parts of acts.

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.

Thomas M. George
Chairperson

To Report Out:

Yeas: Senators George, Sanborn, Patterson, Allen, Clarke and Jacobs

Nays: None

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

COMMITTEE ATTENDANCE REPORT

The Committee on Health Policy submitted the following:

Meeting held on Wednesday, September 16, 2009, at 3:05 p.m., Senate Hearing Room, Ground Floor, Boji Tower

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

Excused: Senator Gleason

Scheduled Meetings

Appropriations -

Subcommittee -

Capital Outlay - Thursday, September 24, 9:00 a.m., Senate Hearing Room, Ground Floor, Boji Tower (373-2768)

Conference Committees -

Agriculture (SB 237) - Tuesday, September 22, 3:00 p.m., Rooms 402 and 403, Capitol Building (373-2768)

Community Colleges (HB 4435) - Monday, September 21, 3:00 p.m., Room 424, Capitol Building (373-8080)

Military and Veterans Affairs (SB 250) - Tuesday, September 22, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-2768)

Legislative Commission on Government Efficiency - Thursday, September 24, 9:00 a.m., Legislative Council Conference Room, 3rd Floor, Boji Tower (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 - Monday, September 21, 1:00 p.m., Room 110, Farnum Building (373-3447)

State Drug Treatment Court Advisory Committee - Tuesday, September 29, 9:30 a.m., Legislative Council Conference Room, 3rd Floor, Boji Tower (373-0212)

Senator Cropsey moved that the Senate adjourn.
The motion prevailed, the time being 12:03 p.m.

In pursuance of the order previously made, the President, Lieutenant Governor Cherry, declared the Senate adjourned until Monday, September 21, 2009, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate