No. 55 STATE OF MICHIGAN

Journal of the Senate

94th Legislature REGULAR SESSION OF 2008

Senate Chamber, Lansing, Wednesday, June 4, 2008.

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—excused

Basham—present

Birkholz—present

Bishop—present

Brater—present

Brown—present

Cassis—present

Cherry—present

Clark-Coleman—present

Clarke—present

Cropsey—present

Consider of the present

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

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

Senator Nancy Cassis of the 15th District offered the following invocation:

In honor and respect for the mirth, spirit, poems, puns, and prayers of Ireland, we pray for blessings on all who gather today in our State Senate.

"Wishing You a rainbow
For sunlight after showers—
Miles and miles of Irish smiles,
For golden happy hours—
Shamrocks at Your doorway
For luck and laughter too,
And a host of friends that never ends
Each day Your whole life through!

May God give You...
For every storm, a rainbow,
For every tear, a smile,
For every care, a promise,
And a blessing in each trial.
For every problem life sends,
A faithful friend to share,
For every sigh, a sweet song,
And an answer to every prayer.

May Your day be touched By a bit of Irish luck, Brightened by a song in your heart, And warmed by the smiles Of the people you love."

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

Motions and Communications

Senators Bishop and Jelinek entered the Senate Chamber.

Senator Anderson moved that Senator Hunter be temporarily excused from today's session. The motion prevailed.

Senator Anderson moved that Senators Thomas, Barcia, Jacobs and Olshove be excused from today's session. The motion prevailed.

Senator Cropsey moved that rule 3.902 be suspended to allow the guests of Senator Scott admittance to the Senate floor, including the center aisle.

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

Senator Cropsey moved that rule 3.901 be suspended to allow photographs to be taken from the Senate floor, including the center aisle and Gallery.

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

Senators Hunter and Garcia entered the Senate Chamber.

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.

10:26 a.m.

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

During the recess, Senator Scott introduced June Teisan of Harper Woods Secondary School, recipient of the Michigan Teacher of the Year award and finalist for the National Teacher of the Year; Representative Edward Gaffney and Lisa Hanskneckt from the Michigan Department of Education; and presented Ms. Teisan with a Special Tribute.

Representative Gaffney and Ms. Teisan responded briefly.

During the recess, Senator Jansen entered the Senate Chamber.

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, June 3: House Bill Nos. 5726 5728 6022 6053 6094

By unanimous consent the Senate proceeded to the order of

Messages from the House

Senate Bill No. 296, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 81129 (MCL 324.81129), as amended by 2003 PA 111.

The House of Representatives has substituted (H-1) the bill.

The House of Representatives has passed the bill as substituted (H-1), ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

Pursuant to rule 3.202, the bill was laid over one day.

Senate Bill No. 1097, entitled

A bill to make appropriations for the department of environmental quality for the fiscal year ending September 30, 2009; to provide for the expenditure of those appropriations; to create certain funds and accounts; to require certain reports; to prescribe the 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 substituted (H-1) the bill.

The House of Representatives has passed the bill as substituted (H-1).

Pursuant to rule 3.202, the bill was laid over one day.

By unanimous consent the Senate proceeded to the order of

Third Reading of Bills

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

Senate Bill No. 1119 Senate Bill No. 1120 Senate Bill No. 1121 The motion prevailed.

The following bill was read a third time:

Senate Bill No. 1119, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 9 (MCL 211.9), as amended by 2006 PA 550.

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. 376 Yeas—34

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

Nays—0

Excused—4

Barcia Jacobs Olshove Thomas

Not Voting—0

In The Chair: Richardville

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 1120, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by amending section 4 (MCL 205.94), as amended by 2007 PA 103. 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. 377 Yeas—34

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

Cherry Hunter

Nays-0

Excused—4

Barcia Jacobs Olshove Thomas

Not Voting—0

In The Chair: Richardville

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 1121, entitled

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

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. 378	Yeas—34

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

Navs—0

Excused—4

Barcia Jacobs Olshove Thomas

Not Voting—0

In The Chair: Richardville

The Senate agreed to the title of the bill.

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 Sanborn 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. 519, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 224a (MCL 750.224a), as amended by 2006 PA 457.

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. 1239, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 7cc (MCL 211.7cc), as amended by 2006 PA 664.

Substitute (S-2).

The Senate agreed to the substitute recommended by the Committee of the Whole, and the bill as substituted was placed on the order of Third Reading of Bills.

Resolutions

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

Senate Concurrent Resolution No. 22

The motion prevailed.

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

Senate Resolution No. 202

The resolution consent calendar was adopted.

Senator Gleason offered the following resolution:

Senate Resolution No. 202.

A resolution recognizing John F. and Dorothy West and Lawndale Farm, 125 years owned by the West family.

Whereas, John Francis and Jane Smith West purchased a 40-acre farm on Duffield Road in Clayton Township, Genesee County on January 20, 1883, for \$900.00. Four years later, John Francis deeded a 66-foot-wide diagonal easement across the 40-acre parcel to the Saginaw and Mackinaw Railroad Company for \$125.00; and

Whereas, John Francis and Jane had one child, a son Samuel Earl West, born in the original house on this farm on November 29, 1891. He married Blanche Lawcock from Venice Township in Shiawassee County in 1917, and they had five children, Merton, Audrey, John Floyd, Marion, and Beatrice, all born in the present house on this farm which was built around 1900; and

Whereas, The farm has been known as Lawndale Farm, as listed in the Rural Directory printed in 1919, where John Francis and Jane were farmers and breeders of Durham cattle; and

Whereas, In 1930, Samuel Earl died leaving Blanche and the five children to manage Lawndale Farm. In 1934, Blanche married John Talsma and he and his three boys—Jack, Robert, and Keith Talsma—moved to the farm with the Wests; and Whereas, In 1943, John Floyd West married Dorothy Gould of Fenton, and in 1944, Blanche and John Talsma moved to Flushing. John F. and Dorothy stayed and continued to farm the original 40 acres, along with an additional 120 acres purchased; plus, over the years, several hundred additional acres rented in the area from others, in addition to a 50-head dairy herd and various other livestock including chickens and pigs; and in the mid-1980s, with their son began growing

approximately 10,000 blue spruce pine trees. They had five children, Marcia Morris, Earl West, Patricia Rutenbar, Judith West-Wing, and Jacklyn Brazo; and

Whereas, In 1983, the family was recognized for 100 years of hard, dedicated work with the induction of Lawndale Farm into the Michigan Centennial Farm Owners by the Michigan Historical Society. Lawndale Farm continues to be actively farmed today, and John and Dorothy West have tirelessly and proudly maintained the over 100-year-old farmhouse, the barn built in 1911, and the grounds; and

Whereas, 2008 marks the 125th year that Lawndale Farm has been in the West family, and the family is celebrating the historic occasion by hosting an "Old-Fashion Ice Cream Social" on Saturday, July 5, 2008, for the many farming neighbors, friends, and family; now, therefore, be it

Resolved by the Senate, That we congratulate John F. and Dorothy West, their children, and all members of the extended family in recognition of their accomplishment in maintaining the family farm honorably for 125 years; and be it further Resolved, That a copy of this resolution be transmitted with respect and appreciation to John F. and Dorothy West for their long-standing contributions to their family and community.

Senators Anderson, Brater, Cherry, Clark-Coleman, Clarke, Pappageorge and Switalski were named co-sponsors of the resolution.

Statements

Senators Cropsey, Scott, Gleason and Brater 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:

Last week on Mackinac Island, the Governor proposed to reduce state spending on the Michigan Department of Corrections. According to the *Associated Press* story, and I quote, "Granholm made no specific recommendations for sentencing reforms, but spokeswoman Liz Boyd said officials were working with the Council of State Governments on a plan that could include releasing some nonviolent inmates and stepped-up use of alternative punishments."

This is now the second time that the name and reputation of the Council of State Governments has been invoked by the administration. The first time was on boot camps, in which CSG did not recommend expanding. In fact, they advised us that boot camps were not effective. However, use of the Council of State Governments' name during that debate was inappropriate.

Now again last week up on the island, the administration invoked, again, the good name of the Council of State Governments. I want to be very clear—the Council of State Governments has made no recommendations for sentencing policy changes. They have made no recommendations for jailing fewer criminals deemed to be nonviolent. To tie the name of the Council of State Governments to the unspecified proposals of last week was, I believe, highly inappropriate.

The Council of State Governments is in the midst of an independent evaluation of our prisoner population and the Michigan Department of Corrections policies. They have not made any sentencing guidelines recommendations. They have made no recommendations on reducing the size at this point of the Michigan Department of Corrections. But I am concerned that last week's announcement should not threaten the independence of the Council of State Governments as they continue their work on our behalf.

I also want to change gears for a little bit. With budgets set to be decided in the next month, the next four weeks or so, I now call upon the Granholm administration and the Michigan Department of Corrections to provide the Legislature with the following information as soon as possible:

First of all, I want to know the details that the Governor had talked about on the island, the details for the changes and savings proposed by the Governor, including the inmates the Michigan Department of Corrections intends to release. If there are nonviolent felons in our prisons, I want to know who they are, and I call upon Governor Granholm to tell us specifically who these individual prisoners are.

Secondly, I'd like to know when the administration intends to introduce all legislation needed, so that the debate may begin in earnest. I know that they've had the bills drafted for almost a year, and I want to know what the timetable is for House introduction, for House committee action, and for House passage.

Thirdly, I want to have details on how the proposal relates to current parole practices; how it relates to the special commutation panel; how it relates to fewer parole failures; and how it relates to any other programming and practices the Michigan Department of Corrections intends to change.

And fourthly, I call upon the Governor to tell us how many facility closures and where those facility closures will happen that will be needed to reach the savings that she appears to be proposing. Words are easy, Governor, but actions are harder. Governor Granholm has it fully within her power—and her power alone—to reduce the size of the Michigan Department of Corrections by a full one-third by the end of this year by releasing prisoners past their earliest release date. Out of 50,000 prisoners, we have between 14,000 and 16,000 who are past their earliest release date. If she truly believes that these are nonviolent offenders, she should release them.

Constitutionally, the Governor also has the power to commute sentences. The administration is in total control of the size of and the spending on the Michigan Department of Corrections. If the Governor believes we spend too much on the Michigan Department of Corrections, then she ought to step up for business, step up for higher education, and step up for law enforcement by doing what only they can do—reduce the size of the Michigan Department of Corrections.

I am calling upon the Governor to answer our requests for information. I'm calling on the Governor to go ahead and have the House action done on the already-drafted legislation and the administration's actions on their words of last week.

Senator Scott's statement is as follows:

There is a Jamaican proverb that says, "Seven years is not enough to wash speckles off a guinea hen's back." It's a colorful and practical way of telling us that human nature never changes. And there are days when I look at spending thirty years trying to change insurance laws in Michigan that I can liken my efforts to trying to wash the speckles off that guinea hen's back.

But then I remind myself that injustice and bias need not be permanent conditions, and justice and equality have prevailed in the past and can indeed triumph. Human nature may never change, but human ideas and perspectives and opinions certainly can.

So I continue scrubbing away every day, sharing my views, and hoping that your speckles of resistance will one day be washed away and you will be convinced to move my bills.

Senator Gleason's statement is as follows:

I rise today before this august body asking that we give special consideration because of events that have occurred over the last few days and few months. We are trying to get our state moving forward again. I believe wholeheartedly that one way to do that is through public works projects. We have talked about the capital outlay budget, but what has come to light in recent times is that we are seeing that many of our construction industry responsibilities may not be met or taken responsibly enough.

I am speaking today on behalf of those who wear hard-hats and go to work every single day expecting the conditions that they work under to be safe. I think most of us have read or heard in recent times about another crane collapse in the

state of New York. We've seen the loss of highly-skilled workers and a community torn apart by deaths of those unexpected bystanders.

I would ask that as we elevate the discussions about putting Michigan workers to work that we really put a premium on making sure that the jobs that they undertake on behalf of our state are well-equipped and have a premium on safety. I have a nephew who belongs to the occupation of engineers, and he runs those derricks that we've seen on the news the last few days in the collapse of New York City.

So I hope those who are responsible are making sure that our workers go to work every day and come home safely undertake the responsibility of making sure when we are using these derricks which occur in our major cities. A few years ago, we saw them right out the front window here at the Capitol—derricks that rise up floor after floor of the construction sites across this state. I know all of us want to put Michigan workers back to work in high-paying and in high-skilled jobs, but let's make sure that there is a full account to make sure that every responsibility is met, so that we don't see the collapses of derricks and cranes that we've seen recently in the city and state of New York.

Mr. President, I ask that my remarks be recorded, and if there is some way that we can have a determination to make sure that what has occurred in the state of New York does not occur in Michigan, I would like that information shared with the Senators as well.

Senator Brater's statement is as follows:

I rise to thank Governor Jennifer Granholm for her courageous and forward-thinking efforts to reduce the population in the Michigan prison system. We have the highest incarceration rate of any state in the Midwest, and we do not have a commensurately lower crime rate to show for it. We spend more than \$1 out of \$5 of our General Fund on the corrections system. This used to be the same amount we spent on higher education, but in recent years, the amount we spend on corrections has outstripped our spending on higher education.

We know that preventative measures work. We know that if we spend a few thousand dollars early in life, it will prevent criminalization in later years. We have studies to prove this, such as at the Perry School in Ypsilanti. We can't afford not to look at the spending we are doing in our prison system both because of the health of the state budget and for humane purposes.

Yes, we could try to count the felons who are in our system for nonviolent crimes, but it would not necessarily give us an accurate picture of what we need to do to reduce the prison population, and take out of the prison population those whom we are mad at versus those we are afraid of. For example, Timothy Sauters, you might say he committed a violent crime. He was a person with mental illness who was not getting treatment, stole a paintball gun from Meijer, and when confronted by a security guard, he brandished a pen knife. Well, I guess, technically, that is a violent crime. If he had been on his medication and if he had been in treatment, there is good question whether he would have committed that crime to begin with and ended up in our prison system. We can't count him now because he is no longer alive; he died in Jackson Prison.

There are other populations in our prison system that deserve a close look. Among them are 300 people who were sentenced as juveniles to life without parole, many of them also people with mental illness; people who were abused or neglected as children; people who committed their crimes with a co-defendant who was the principal perpetrator who got off with a lesser sentence because he or she had a better defense or better understanding of the criminal justice system and knew to plead guilty at the time, which the youthful offender did not.

There are also a number of people in our prison system who are caught in a window with the repeal of the 650-Lifer Law who are not able to be released under that law due to the timing of their offense. We could save millions of dollars if we retroactively reduced those sentences.

So, yes, Governor Granholm, I encourage you to look at ways—progressive, humane, and safe ways—to reduce the number of people we are incarcerating in the state of Michigan. At the cost of \$30,000 or more per year, we can't afford not to look at this population. We should work cooperatively to look at the sentencing guidelines. We should do away with this partisan sniping that is going around this issue and the fear-mongering going on around this issue. We should stop that immediately because we can't afford as leaders in the state of Michigan to continue incarcerating people at the rate we are in this state. I encourage all my colleagues to work together with the Governor to accomplish the goal of reducing the rate of incarceration in the state of Michigan.

Committee Reports

The Committee on Judiciary reported

Senate Resolution No. 181.

A resolution to urge the Michigan Attorney Grievance Commission to expand its examination in its pending grievance investigation to all attorneys acting on behalf of the parties and litigants involved in the highly publicized police

whistleblower lawsuit and all other related litigation with the city of Detroit for their actions and inactions arising from these matters.

(For text of resolution, see Senate Journal No. 40, p. 803.)

With the recommendation that the resolution be adopted.

Wayne Kuipers Chairperson

To Report Out:

Yeas: Senators Kuipers, Cropsey, Whitmer and Prusi

Nays: None

The resolution was placed on the order of Resolutions.

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submitted the following:

Meeting held on Tuesday, June 3, 2008, at 1:00 p.m., Room 210, Farnum Building

Present: Senators Kuipers (C), Cropsey, Patterson, Whitmer, Clarke and Prusi

Excused: Senator Sanborn

The Committee on Commerce and Tourism reported

Senate Bill No. 974, entitled

A bill to amend 1978 PA 255, entitled "Commercial redevelopment act," by amending sections 4, 12, and 18 (MCL 207.654, 207.662, and 207.668), section 12 as amended by 1998 PA 243 and section 18 as amended by 1984 PA 342, and by adding section 12a.

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.

Jason E. Allen Chairperson

To Report Out:

Yeas: Senators Allen, Gilbert, Stamas, Clarke and Hunter

Navs: None

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

The Committee on Commerce and Tourism reported

Senate Bill No. 978, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 1907 (MCL 324.1907), as added by 1995 PA 60.

With the recommendation that the bill pass.

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

Jason E. Allen Chairperson

To Report Out:

Yeas: Senators Allen, Gilbert, Stamas, Clarke and Hunter

Navs: None

The bill was referred to the Committee of the Whole.

The Committee on Commerce and Tourism reported

Senate Bill No. 980, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 9f (MCL 211.9f), as amended by 2007 PA 116.

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.

Jason E. Allen Chairperson

To Report Out:

Yeas: Senators Allen, Gilbert, Stamas, Clarke and Hunter

Navs: None

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

The Committee on Commerce and Tourism reported

Senate Bill No. 1206, entitled

A bill to amend 1996 PA 376, entitled "Michigan renaissance zone act," by amending sections 3 and 8d (MCL 125.2683 and 125.2688d), section 3 as amended by 2006 PA 304 and section 8d as amended by 2006 PA 93.

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.

Jason E. Allen Chairperson

To Report Out:

Yeas: Senators Allen, Gilbert, Stamas, Clarke and Hunter

Navs: None

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

COMMITTEE ATTENDANCE REPORT

The Committee on Commerce and Tourism submitted the following:

Meeting held on Tuesday, June 3, 2008, at 2:30 p.m., Room 100, Farnum Building

Present: Senators Allen (C), Gilbert, Stamas, Clarke and Hunter

COMMITTEE ATTENDANCE REPORT

The Conference Committee on Special Alternative Incarceration Programs (HB 4184) submitted the following:

Meeting held on Wednesday, May 28, 2008, at 9:35 a.m., Room 428, Capitol Building

Present: Senators Cropsey and Whitmer

Excused: Senator Sanborn

COMMITTEE ATTENDANCE REPORT

The Committee on Transportation submitted the following:

Meeting held on Tuesday, June 3, 2008, at 1:05 p.m., Room 110, Farnum Building

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

Scheduled Meetings

Appropriations -

Subcommittee -

Higher Education - Wednesday, June 25, 9:00 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2768)

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

Finance - Thursday, June 5, 11:00 a.m., Room 110, Farnum Building (373-1758)

Legislative Commission on Government Efficiency - Friday, June 27, 9:00 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-0212)

Legislative Commission on Statutory Mandates - Wednesday, June 25, 2:00 p.m., Room 327, South Tower, House Office Building (373-0212)

State Drug Treatment Court Advisory Committee - Tuesday, June 10, 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 10:55 a.m.

The President pro tempore, Senator Richardville, declared the Senate adjourned until Thursday, June 5, 2008, at 10:00 a.m.

CAROL MOREY VIVENTI Secretary of the Senate