

No. 91
STATE OF MICHIGAN
Journal of the Senate
95th Legislature
REGULAR SESSION OF 2009

Senate Chamber, Lansing, Wednesday, October 28, 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—present
Hardiman—present
Hunter—present
Jacobs—present
Jansen—present
Jelinek—present
Kahn—present
Kuipers—present
McManus—present

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

Senator Tony Stamas of the 36th District offered the following invocation:

Lord, we just thank You as we travel around this great state. Every day we just see Your work, Your majesty, and the beauty that You have given us in this great state. We give You the thanks, Lord, and the praise.

We ask in these difficult times in our state that You would guide us. Lord, we just pray for this Senate and its members and the entire staff and team who work together. We pray for our Governor, our Lieutenant Governor, and the State House of Representatives that You would give wisdom, Lord, to make the right decisions not just in the short term, but in the long term for our state; that You would give us a humble servant's heart; that we might do what we can to help our families and those who love and live in this great state. Give us the courage to make difficult decisions.

Be with us each step of the way that we help the state to grow and prosper and just be the wonderful state that You have given us.

We pray this in Your holy name. Amen.

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

Motions and Communications

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

Senator Cropsey moved that the Committee on Judiciary be discharged from further consideration of the following bills:

Senate Bill No. 850, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 550 (MCL 600.550), as amended by 1990 PA 54.

Senate Bill No. 851, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 507 (MCL 600.507), as amended by 2006 PA 607.

The motion prevailed, a majority of the members serving voting therefor, and the bills were placed on the order of General Orders.

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

Senators Hunter, Barcia, Jansen, Kahn, Gleason, McManus, Whitmer and Clarke entered the Senate Chamber.

The Secretary announced that the following House bill was received in the Senate and filed on Tuesday, October 27:
House Bill No. 4801

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.

Senators Cassis and Bishop offered the following resolution:

Senate Resolution No. 92.

A resolution to recognize October 2009 as Window Covering Safety Month.

Whereas, The month of October is recognized as National Window Covering Safety Month according to the United States Consumer Product Safety Commission (CPSC). This designation is established to raise awareness of the strangulation hazards that window cords can pose for young children; and

Whereas, We join the parents of Isabela Grace Nagara of Commerce Township in remembering their beautiful two-year-old daughter who died tragically from window blind cord strangulation on June 26, 2009; and

Whereas, According to information provided by the CPSC, since 1990, more than 200 infants and young children have died from accidental strangling in window cords in the United States. According to a 2004 article in the *Journal of the American Medical Association*, the actual number of deaths could be double the reported numbers because 50 percent of the cases go unreported; and

Whereas, The CPSC and Parents for Window Blind Safety estimate that strangulation by corded window treatments kills one child every two weeks; and

Whereas, The third-leading cause of death in children's day-care settings results from corded window treatments. Corded window treatments include window blinds, mini blinds, Venetian blinds, Roman shades, cellular shades, corded roll-up shades, and vertical blinds; and

Whereas, The hidden dangers of window blind cords often go overlooked by parents and caretakers. The CPSC ranks window blind cord strangulation on its list of the five most-hidden home hazards; and

Whereas, Deaths and injuries caused by window blind cords can be minimized by the use of cordless blinds in children's bedrooms and play areas and through replacing window coverings made before 2001; and

Whereas, Although more cordless window treatments have been developed as a result of public awareness of this issue, the threat of strangulation remains. This past August, millions of window blinds manufactured by several different manufacturers and sold at major national retailers such as IKEA, Target, and Pottery Barn, as well as smaller specialty stores, were recalled because they posed a strangulation danger to children; and

Whereas, Window Covering Safety Month will raise awareness of the threat that window blind cords pose to the safety of infants and children in homes and day-care centers; and

Whereas, The Michigan Senate recognizes the importance of educating parents and childcare workers on the hazards of window blind cords and options for minimizing these risks; now, therefore, be it

Resolved by the Senate, That we hereby recognize October 2009 as Window Covering Safety Month; and be it further

Resolved, That a copy of this resolution be transmitted to the United States Consumer Product Safety Commission, the Michigan Department of Human Services Child Care Licensing Division, and Wes and Beth Nagara.

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

Senator Cropsy moved that the rule be suspended.

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

The resolution was adopted.

Senators Allen, Anderson, Barcia, Birkholz, Brater, Brown, Cherry, Clarke, Cropsy, George, Gilbert, Gleason, Hardiman, Jacobs, Jansen, Jelinek, Kahn, Kuipers, McManus, Olshove, Pappageorge, Patterson, Prusi, Richardville, Sanborn, Scott, Stamas, Switalski and Van Woerkom were named co-sponsors of the resolution.

Senator Cassis asked and was granted unanimous consent to make a statement and moved that the statement be printed in the Journal.

The motion prevailed.

Senator Cassis' statement is as follows:

I stand before you today, along with the Majority Leader Senator Bishop, in sponsoring Senate Resolution No. 92, which recognizes October 2009 as Window Covering Safety Month. In the east Gallery, we are pleased to welcome Wes and Beth Nagara who are parents of Isabela Grace Nagara and Isabela's uncle Ron Nagara. Thank you for being with us.

This resolution is in memory of Isabela Grace Nagara, who died on June 26, 2009, when she was, unfortunately, and so sadly strangled by a window blind cord while she was taking a nap. She had just turned 2 years old. Truly, and with great sympathy, on behalf of my fellow Senators, we share your grief and tragedy.

We are recognizing Window Covering Safety Month in order to create awareness of the hidden dangers of window blind cords to ensure that Michigan children—all children—are protected from this often overlooked source of harm. I am pleased to announce that just yesterday, October 27, the U.S. Consumer Product Safety Commission issued three recalls for Roman shades and blinds sold at major department stores, such as Bed Bath & Beyond, IKEA, and Hanover Direct.

The resolution we are offering today is intended to bring attention to the hidden danger of these window blind cords. The resolution will be sent to the Consumer Product Safety Commission in order to show support here in Michigan for continued work to eliminate the hazards posed by window blinds. Furthermore, the resolution will be sent to the Michigan Department of Human Services Child Care Licensing Division in order to promote a heightened awareness of the safety risks that window blinds cause in day-care settings.

I appreciate your support of this very timely resolution.

Senate Concurrent Resolution No. 27.

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

(For text of resolution, see Senate Journal No. 89, p. 2061.)

The House of Representatives has adopted the concurrent resolution and named the Speaker and the entire membership of the House as co-sponsors.

The concurrent resolution was referred to the Secretary for record.

Recess

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

The motion prevailed, the time being 10:13 a.m.

11:47 a.m.

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

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator Cropsey moved that the Committee on Health Policy be discharged from further consideration of the following bill:

House Bill No. 5386, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by amending the title and by adding section 16302.

The motion prevailed, a majority of the members serving voting therefor, and the bill was placed on the order of General Orders.

Senator Cropsey moved that the rules be suspended and that the following bill, now on the order of General Orders, be placed on the order of Third Reading of Bills for consideration today:

House Bill No. 5386

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

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:

House Bill No. 5386**House Bill No. 4906****Senate Bill No. 719****Senate Bill No. 720**

The motion prevailed.

The President, Lieutenant Governor Cherry, resumed the Chair.

The following bill was read a third time:

House Bill No. 5386, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by amending the title and by adding section 16302.

The question being on the passage of the bill,

Senator Cropsey moved that the previous question be ordered.

The motion prevailed.

The question being on the passage of the bill,

The bill was defeated, a majority of the members serving not voting therefor, as follows:

Roll Call No. 556**Yeas—4**

Cherry	Prusi	Switalski	Thomas
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Nays—32

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

Excused—1

Garcia

Not Voting—0

In The Chair: President

Senator Cropsey moved to reconsider the vote by which the bill was defeated.

On which motion Senator Cropsey requested the yeas and nays.

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

The motion did not prevail, a majority of the members not voting therefor, as follows:

Roll Call No. 557**Yeas—5**

Basham	Prusi	Switalski	Thomas
Cherry			

Nays—31

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

Excused—1

Garcia

Not Voting—0

In The Chair: President

Protest

Senator Cherry, under her constitutional right of protest (Art. 4, Sec. 18), protested against the motion to order the previous question for House Bill No. 5386.

Senator Cherry's statement is as follows:

I voted "no" on the previous question vote because this is another political game, and I am so sick of political games. This bill was not a good bill; yet I did vote for it because we need to do something. We sat in a committee meeting for four hours last week and came up with some suggestions, some things that we needed to work through. My colleague from the 10th District very diplomatically talked about what those changes were, and yet we refuse to even deal with any of it.

I am so tired of this body playing political games and not solving the budget problem, so I voted "no."

Senator Switalski asked and was granted unanimous consent to make a statement and moved that the statement be printed in the Journal.

The motion prevailed.

Senator Switalski's statement is as follows:

This is, of course, the famous QAAP bill that would be a physician tax on physicians in our state. We just had about a four-hour hearing on this last week, and we had standing room only. There is significant opposition to the bill, but the problems that have been brought forward with the bill, I believe, can be fixed. I believe we owe it to the Medicaid recipients in this state and the doctors who service them to try to improve the system.

The path we are going down right now is to cut Medicaid 8 percent and with continuing budget problems, I think we have a significant deficit projected in the General Fund for next year. We would have to continue down that path of continued cuts. The QAAP provides an alternative, and certainly, it is an alternative replete with problems that it would have to undergo significant changes. But as part of that process, last week in the hearing that we had, we asked the doctors and the physician groups and interested parties, "Would you be willing to sit down and work on this bill and make improvements and fix the problems with it?" With probably one exception, everyone said, "Yes, we are willing to sit down and make improvements and changes to this bill, but in its current form, we don't support it."

Well, what we have in front of us now is the bill in its current form as it came over from the House. Certainly, it needs significant changes, but with the thing discharged to the floor without warning, it is not possible to make those significant changes. We discussed those at length during that four-hour hearing, and I think what the doctors were looking for were things like a provision that said any money that we raised through this QAAP would stay in the DCH budget and be used for health purposes; that we would guarantee the higher Medicare rate rather than the low and continually dropping Medicaid rate that is causing us to lose access for patients and convince doctors not to participate.

So if we could do something like that, it would improve the bill. If we could have a one-year sunset on the bill, they could see whether it worked or not, and if it wasn't working, we could get rid of it. If we had language in there to address timely payments and provisions that if the federal reimbursement changed, the tax would go away. All these things would make this bill a lot better, but we really don't have a chance to have those conversations and make those changes if we bring it up for a vote right now.

There were other problems. There were physicians who have a large amount of overhead who maybe are giving out expensive cancer treatments, cancer drugs, or inoculations that they just pass on the costs to their customers. They really don't make money on it, but under the definition of "gross receipts" in this bill, they would be paying a tax on that. We talked about redefining the definition of "gross receipts" so that we could exclude some of those. We talked about the size of the state's gain share and adjustments we could make for that. We talked about the tendency of the Legislature to raise money and devote resources to something and then take money—General Fund support—away with the other hand. We talked about maybe there is a maintenance of effort section we could put in to make that impossible for the Legislature to do that. We talked about promise with the Federal Qualified Health Centers that currently get a higher rate than Medicare, and they would be losers in this if they had to just pay in and are not able to get a higher reimbursement.

So we talked about all these problems, and we expressed a willingness to sit down at the table and figure out if it is possible to change the bill and address those. You know, it was certainly a major undertaking, but I think anybody who sees the path that we are going down and sees the continued rise in Medicaid patients and the decline in physicians willing to take them because of the poor reimbursement rates, we have to find a way to change that trend. So it was worth

talking about, and I still think it is worth talking about. If you are going to put this up and make me vote on a bill that I think is flawed but can be fixed, I have no choice. I have to vote for it and hope that we could make changes in it, but you are not making it easy on me. You are not allowing the discussion to take place. You are not allowing the changes in the bill to be offered to try to fix its problems.

So I think this is not a very good evaluation of the QAAP’s merit because you are putting up something that I, myself, am an advocate of it and admit is fundamentally flawed. But I think it can be fixed, and you are not giving us a chance to try to fix it. I am disappointed you have discharged this to the floor, not giving the Legislature a chance to make improvements to it. But I am going to vote for it because I want to say that I don’t want to continue going down the path we are going down. I think there is a better way too. We ought to make one little change in it. We should throw a comma in there, I think, so that we have a difference between this and the House bill, and we could then go to a conference and spend some time. It might take a lot of time. It might take a lot of thought. It might take bringing in a lot of other issues like medical malpractice, like reimbursement to other entities, and it might take a lot of uncomfortable votes and uncomfortable negotiations, but it is something we should try and see if we can make the thing better.

So thank you for the opportunity to speak, Mr. President, and I hope members will keep the process alive to keep something that is flawed but can be fixed from dying a premature death.

The following bill was read a third time:

House Bill No. 4906, entitled

A bill to amend 2004 PA 174, entitled “Streamlined sales and use tax administration act,” by amending section 25 (MCL 205.825), as amended by 2008 PA 437.

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. 558

Yeas—36

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

Nays—0

Excused—1

Garcia

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.

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

“An act to provide for a streamlined system of sales and use tax collection; to prescribe the requirements necessary for this state to adopt a multistate agreement; to provide for a board with certain powers and duties; to provide for the

registration of sellers who select a model of collection and remittance; to forgive liability of collection of sales and use taxes on past transactions for certain sellers; to assure privacy of buyers; and to prescribe certain powers and duties of state officials and state departments;”.

The Senate agreed to the full title.

The following bill was read a third time:

Senate Bill No. 719, entitled

A bill to amend 1895 PA 198, entitled “An act to establish a law uniform with the laws of other states relating to the sealing of deeds and other written instruments,” by amending section 2 (MCL 565.232).

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. 559

Yeas—36

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

Nays—0

Excused—1

Garcia

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 720, entitled

A bill to amend 1846 RS 1, entitled “Of the statutes,” by amending section 3n (MCL 8.3n).

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. 560

Yeas—36

Allen	Cherry	Jacobs	Prusi
Anderson	Clark-Coleman	Jansen	Richardville
Barcia	Clarke	Jelinek	Sanborn

Basham
Birkholz
Bishop
Brater
Brown
Cassis

Cropsey
George
Gilbert
Gleason
Hardiman
Hunter

Kahn
Kuipers
McManus
Olshove
Pappageorge
Patterson

Scott
Stamas
Switalski
Thomas
Van Woerkom
Whitmer

Nays—0

Excused—1

Garcia

Not Voting—0

In The Chair: President

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, Lieutenant Governor Cherry, designated Senator Brater 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 bills:

House Bill No. 4793, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 2004 and 2005 (MCL 339.2004 and 339.2005), section 2004 as amended by 1988 PA 463 and section 2005 as amended by 1998 PA 90.

House Bill No. 4995, entitled

A bill to require all official depictions of the state of Michigan to include both peninsulas of the state.

House Bill No. 4264, 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.

House Bill No. 4709, entitled

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

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 314a. Substitute (S-1).

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

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senator Whitmer introduced

Senate Joint Resolution N, entitled

A joint resolution proposing an amendment to the state constitution of 1963, by adding section 55 to article IV, to reduce compensation for state legislators who have unexcused absences from legislative session.

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

Senator Whitmer introduced

Senate Bill No. 946, entitled

A bill to amend 1968 PA 357, entitled "An act to prescribe the powers, duties and functions of the state officers' compensation commission; and to prescribe the powers and duties of the legislature in relation to the commission," (MCL 15.211 to 15.218) by adding section 7a.

The bill was read a first and second time by title and referred to the Committee on Local, Urban and State Affairs.

Senator Cropsey introduced

Senate Bill No. 947, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 301, 302, 411, 504, 517, 526, 542, 547, 803, 807, 808, 809, 810, 8117, 8123, 8144, 8146, 8150, 8153, 8160, 8162, 8163, and 8176 (MCL 600.301, 600.302, 600.411, 600.504, 600.517, 600.526, 600.542, 600.547, 600.803, 600.807, 600.808, 600.809, 600.810, 600.8117, 600.8123, 600.8144, 600.8146, 600.8150, 600.8153, 600.8160, 600.8162, 600.8163, and 600.8176), section 301 as amended by 1993 PA 190, section 302 as amended by 2001 PA 117, section 411 as added and section 810 as amended by 2005 PA 326, sections 504 and 803 as amended by 2002 PA 715, section 517 as amended by 2006 PA 101, sections 542 and 547 as amended by 1984 PA 95, sections 807 and 808 as amended by 2004 PA 492, section 8117 as amended by 2005 PA 237, section 8123 as amended by 2000 PA 448, and sections 8144, 8146, and 8176 as amended by 2002 PA 92, and by adding sections 303e and 810b.

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

Senator Brown introduced

Senate Bill No. 948, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 759a (MCL 168.759a), as amended by 2006 PA 605.

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

Senators Richardville, Hardiman, Allen, Patterson, Kahn, Anderson, Kuipers, Birkholz, Jacobs and Pappageorge introduced

Senate Bill No. 949, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 387 (MCL 750.387), as amended by 1998 PA 311.

The bill was read a first and second time by title and referred to the Committee on Senior Citizens and Veterans Affairs.

Senators Richardville, Hardiman, Allen, Patterson, Kahn, Anderson, Kuipers, Birkholz and Pappageorge introduced

Senate Bill No. 950, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 286.

The bill was read a first and second time by title and referred to the Committee on Senior Citizens and Veterans Affairs.

Senators McManus, Brown and Jansen introduced

Senate Bill No. 951, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," (MCL 168.1 to 168.992) by adding section 483a.

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

Senators Brown, McManus and Jansen introduced

Senate Bill No. 952, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 482 (MCL 168.482), as amended by 1998 PA 142.

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

Senators Jansen, McManus and Brown introduced

Senate Bill No. 953, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," (MCL 168.1 to 168.992) by adding section 483b.

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

Senators McManus, Jansen and Brown introduced

Senate Bill No. 954, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 488 (MCL 168.488), as added by 1998 PA 142.

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

Senator Brown introduced

Senate Bill No. 955, entitled

A bill to amend 1995 PA 279, entitled "Horse racing law of 1995," by amending the title and sections 2, 3, 4, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 19a, 20, 21, 22, 23, 25, 30, 31, 33, and 34 (MCL 431.302, 431.303, 431.304, 431.306, 431.307, 431.308, 431.309, 431.310, 431.312, 431.313, 431.314, 431.315, 431.316, 431.317, 431.318, 431.319, 431.319a, 431.320, 431.321, 431.322, 431.323, 431.325, 431.330, 431.331, 431.333, and 431.334), sections 2 and 4 as amended by 2006 PA 445, sections 7, 9, 10, and 12 as amended by 2000 PA 164, sections 14, 17, and 18 as amended and section 19a as added by 1998 PA 408, section 16 as amended by 2005 PA 7, and section 20 as amended by 2006 PA 185; 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 Agriculture and Bioeconomy.

Senator Van Woerkom introduced

Senate Bill No. 956, entitled

A bill to amend 1951 PA 90, entitled "An act to regulate the conducting of racing meets in the state of Michigan; to provide for the possession, control and disposition of funds held by licensees for the payment of outstanding winning tickets not claimed or demanded by the lawful owners of such funds; and to prescribe penalties for violations of the provisions of this act," by amending sections 2, 3, and 4 (MCL 431.252, 431.253, and 431.254), as amended by 1998 PA 505.

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

Senator Olshove introduced

Senate Bill No. 957, entitled

A bill to amend 1997 PA 70, entitled "Compulsive gaming prevention act," by amending sections 4 and 5 (MCL 432.254 and 432.255).

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

Senator Barcia introduced

Senate Bill No. 958, entitled

A bill to amend 1978 PA 472, entitled "An act to regulate political activity; to regulate lobbyists, lobbyist agents, and lobbying activities; to require registration of lobbyists and lobbyist agents; to require the filing of reports; to prescribe the powers and duties of the department of state; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 5 (MCL 4.415), as amended by 1986 PA 83.

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

Senators George, Birkholz, Basham, Kahn, Pappageorge and Hardiman introduced

Senate Bill No. 959, entitled

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending sections 5404, 5405, 5406, 5407, and 5427 (MCL 700.5404, 700.5405, 700.5406, 700.5407, and 700.5427), section 5406 as amended by 2000 PA 464 and section 5407 as amended by 2009 PA 46.

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

Senators George, Birkholz, Basham, Kahn, Pappageorge and Hardiman introduced

Senate Bill No. 960, entitled

A bill to amend 2003 PA 238, entitled "Michigan notary public act," by amending section 25 (MCL 55.285), as amended by 2006 PA 426.

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

Senators George, Birkholz, Kahn, Pappageorge and Hardiman introduced

Senate Bill No. 961, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2157 (MCL 600.2157), as amended by 1995 PA 205.

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

Senator George introduced

Senate Bill No. 962, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 111 (MCL 208.1111), as amended by 2008 PA 433.

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

House Bill No. 4801, entitled

A bill to amend 1987 PA 96, entitled "The mobile home commission act," by amending section 7 (MCL 125.2307).

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 Local, Urban and State Affairs.

Statements

Senator Scott stated that had she been present on October 22 when the vote was taken on concurring in the House amendments to the Senate substitute to the following bill, she would have voted "yea":

House Bill No. 4922

Senator Scott stated that had she been present on October 22 when the vote was taken on the passage of the following bill, she would have voted "yea":

House Bill No. 5055

Senators Scott, Prusi, Sanborn, Switalski and Pappageorge 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 have one more thing to share with you from the October 14 *Grand Rapids Press* editorial. On the unfair use of credit scores to determine auto insurance rates: "Using credit scores is unfair because credit reports contain errors. In addition, OFIR argues that the premium discounts offered by insurance companies to people with good credit scores aren't just discounts; they're increases for the remainder of insurance payers. That, too, violates the code.

Additionally, a study conducted five years ago by the Missouri Department of Insurance showed that credit scores are linked to race and ethnicity. Blacks and other minorities pay more when credit is a factor."

The editorial goes on to say: "The insurance code allows a list of reasonable risk measures for the purpose of setting premiums, including age, miles driven per week, and the type of vehicle driven. Credit scores are nowhere on the list, appropriately so. Like most every other state, Michigan requires drivers to have auto insurance. That requirement makes sense only if those who have to comply are treated equitably. Relying on credit scores violates that standard. The practice should end, either by court decree or legislative action."

It is time that we act on all of the issues that make auto insurance unfair for so many of our constituents. And we must be ready to act if the Michigan Supreme Court fails to ban the use of credit scores when determining rates. Please work with me to move my bills and make auto insurance fair and equitable for all the citizens of Michigan.

Senator Prusi's statement is as follows:

You know, I go back to the U.P. virtually every weekend and I talk to my constituents. I talk to my friends and family, and invariably they ask me, "Mike, when is something positive going to happen in Lansing? When are you guys going to start working on the problems that afflict our K-12 system; that are hitting our colleges and universities; that are hitting our communities with police and fire protection; and health care for the poor and the elderly in the state of Michigan?" I invariably respond to them that, you know, at some point, we are going to come to the middle; at some point, we are going to come to a compromise; at some point, reasonable people will get in a room and we will work on these issues and find a solution. We will find the revenue to at least help some of these problems go away.

Well, I guess those hopes that I have expressed to my constituents were gashed and thrown in my face today. We have a significant and serious problem facing the state of Michigan. We have remedies. We have solutions.

What do we do today? We spring a bill, discharge it from committee, allow no debate, allow no discussion, allow no amendments, and allow no serious discussion whatsoever on these issues. What do we do? We play a political game. We play gamesmanship. We throw debate and discussion to the wind. This is supposed to be a deliberative body. If you can call what we did today deliberation, I am sorry, but I don't find it in my dictionary. I am disgusted, I am dismayed, and I am disappointed in how we are dealing with the problems that face the state of Michigan. You sit over there and you chuckle up your sleeve and say, "We ran another one by them, folks. We just gave it to them again."

Well, I am tired of having it given to me. The people of the state of Michigan deserve some serious discussion. They deserve an honest debate. They deserve a resolution to these problems besides the one-way or the highway tactics that are going on here. I am sorry to get this emotional about it, but there are people's lives at stake here. Our communities, our schools, and our students are depending on us. What do we do? We play another game.

Senator Sanborn's statement is as follows:

You know, every day without fail I have heard my colleague from the 2nd District rise and call for answers to the high costs of auto insurance in certain parts of the state. I am pleased to announce that in the coming days, I will be able to share some real ideas for reform with the minority vice chair of the committee on economic development, my good friend, Senator Buzz Thomas, the Senator from the 2nd District, and anyone else who is interested. My good friend, Senator Bill Hardiman, has asked that he be made part of this reform plan, and I am happy to have him on board. Now there are solutions in addressing this issue of high auto insurance rates, and I would encourage all of you to work with me on achieving them.

That being said, I also believe it is time we give to Senator Scott the opportunity to have a vote on her auto insurance bill, Senate Bill No. 166. Today, I call on the Senate to discharge Senate Bill No. 166 from the Economic Development and Regulatory Reform Committee, and give to the Senator from the 2nd District a vote on the bill that she has been asking for. I say we give her the opportunity to move her bill.

Senator Switalski's statement is as follows:

I would just like to thank all of the people who wrote, called, and e-mailed me pointing out all of the flaws with the QAAP bill. I appreciate the discussion that we had regarding whether it was impossible to fix it and what kind of changes we should make. That is the way it should be. That is the way you take legislation that has flaws. You fix it and improve it. You can make good legislation that way. So I want to thank all of the people who engaged in that discussion.

I want to say to the critics of the QAAP bill that by killing the QAAPs, the critics didn't really win. You only win if you fix the problem. The problem is still there, and if you end discussion on fixing a problem, the problem only grows and festers. I will go from here and go to the doctors and interested parties and tell them we still have the problem and ask what their ideas are to fix it because we can't just walk away from it. We have to find ways to improve the Medicaid system that is fundamentally broken in this state.

Senator Pappageorge's statement is as follows:

I also want to address the issue of the doctors QAAP. I want to correct something. What the doctors have been saying is that they will certainly be willing to talk about Medicaid reform. What they are saying, however, is that the bill before us is so flawed that it is not fixable or broad enough to address the issue. So the notion that there is some kind of finality to what happened is simply not true. The problem is still with us. Reform still has to be No. 1 on our agenda not only in this area, but everywhere.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator Cropsey moved that the Committee on Economic Development and Regulatory Reform be discharged from further consideration of the following bill:

Senate Bill No. 166, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 2111 (MCL 500.2111), as amended by 2002 PA 492.

The motion prevailed, a majority of the members serving voting therefor, and the bill was placed on the order of General Orders.

Senator Cropsey moved that the rules be suspended and that the following bill, now on the order of General Orders, be placed on the order of Third Reading of Bills for consideration today:

Senate Bill No. 166

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

By unanimous consent the Senate returned to the order of

Third Reading of Bills

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

Senate Bill No. 166

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 166, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 2111 (MCL 500.2111), as amended by 2002 PA 492.

The question being on the passage of the bill,

Senator Thomas offered the following amendment:

1. Amend page 6, line 15, by striking out all of enacting section 1 and inserting:

"Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 532 of the 95th Legislature is enacted into law."

The amendment was not adopted, a majority of the members serving not voting therefor.

Senator Thomas requested the yeas and nays.

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

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

Roll Call No. 561

Yeas—18

Anderson	Clarke	Olshove	Scott
Basham	Gleason	Pappageorge	Switalski
Brater	Hunter	Prusi	Thomas
Cherry	Jacobs	Richardville	Whitmer
Clark-Coleman	Kahn		

Nays—17

Allen	Cropsey	Jansen	Patterson
Birkholz	George	Jelinek	Sanborn
Bishop	Gilbert	Kuipers	Stamas
Brown	Hardiman	McManus	Van Woerkom
Cassis			

Excused—1

Garcia

Not Voting—1

Barcia

In The Chair: Richardville

The question being on the passage of the bill,
The bill was defeated, a majority of the members serving not voting therefor, as follows:

Roll Call No. 562**Yeas—14**

Basham	Clarke	Olshove	Switalski
Brater	Gleason	Prusi	Thomas
Cherry	Hunter	Scott	Whitmer
Clark-Coleman	Jacobs		

Nays—21

Allen	Cropsey	Jelinek	Patterson
Anderson	George	Kahn	Richardville
Birkholz	Gilbert	Kuipers	Sanborn
Bishop	Hardiman	McManus	Stamas
Brown	Jansen	Pappageorge	Van Woerkom
Cassis			

Excused—1

Garcia

Not Voting—1

Barcia

In The Chair: Richardville

Senator Cropsey moved to reconsider the vote by which the bill was defeated.
On which motion Senator Cropsey requested the yeas and nays.
The yeas and nays were ordered, 1/5 of the members present voting therefor.
The motion did not prevail, a majority of the members not voting therefor, as follows:

Roll Call No. 563**Yeas—14**

Basham	Clarke	Olshove	Switalski
Brater	Gleason	Prusi	Thomas
Cherry	Hunter	Scott	Whitmer
Clark-Coleman	Jacobs		

Nays—21

Allen	Cropsey	Jelinek	Patterson
Anderson	George	Kahn	Richardville

Birkholz
Bishop
Brown
Cassis

Gilbert
Hardiman
Jansen

Kuipers
McManus
Pappageorge

Sanborn
Stamas
Van Woerkom

Excused—1

Garcia

Not Voting—1

Barcia

In The Chair: Richardville

Protests

Senators Cropsey, Birkholz, Jelinek, Sanborn, Richardville and Hardiman, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 166.

Senator Cropsey's statement, in which Senators Birkholz and Jelinek concurred, is as follows

I voted "no" on Senate Bill No. 166 and the Thomas amendment for these reasons. First of all, I would like to thank the Senator from the 2nd District, the city of Detroit, for getting up almost seven years virtually every day sensitizing this body to the issue of the plight of the people in Detroit, especially when it comes to auto insurance. I think when you take a look at the people of the city of Detroit, you have to wonder why insurance rates are so high there.

I think if you look, you will find that the crime rate in Detroit is exceptionally high, and because of that, the auto theft, I think, from the numbers I have seen, is over five times higher in the city of Detroit than the statewide average for Michigan. That is certainly a huge issue that will affect auto insurance rates in Detroit.

Another issue that was brought up, and I also want to thank the Senator from the 11th District, the chair of the committee from which this was discharged, for his willingness to take a look at insurance rates here in the state of Michigan that he acknowledges are extremely high and something needs to be done about it.

What was debated here today, for instance, was a mandate that we must have auto insurance to drive a car here in the state. I think we do need to take a look at that. It is my understanding that the committee chair is willing to take a good look at that. I think it is especially important in light of the national debate going on regarding health care reform on the national level. Just for being alive, the President of the United States is evidently saying that people must have health care insurance and is going to force people to buy health care insurance.

It's something that goes against my grain when, in the land of the free and home of the brave, are we really free when government is mandating us to purchase health insurance from private companies? I think the same argument can be made, are we really free when we are mandated to purchase automobile insurance?

Another key thing that I think this body needs to understand is that no insurance rate goes into effect unless the commissioner of OFIR gives his or her approval. Now the commissioner of OFIR is appointed by this Governor and is done with the advice and consent of this Senate. So when people talk about wanting the Attorney General to do this or that, or if they were elected Attorney General, they would do such and so, it is the commissioner of OFIR who should be taking a look at this because the commissioner is supposed to look to see if the rates are actuarially sound.

Now if you start to mandate legislatively a 20 percent discount, as one amendment would mandate from what I understand, then the question becomes, is that actuarially sound? If it isn't, we are going to be looking at bankruptcy of insurance companies or insurance companies just leaving the state and nobody will be able to get insurance because it is just gone. I don't think, as populous as it looked, that I could support that amendment.

Another thing brought around here today is talk about fairness and equity. Our Constitution demands equity when a person is in front of the law. So when anyone goes to court, they need an unbiased judge and jury looking at and weighing all the evidence given in a case, whether civil or criminal; all of the evidence that is pertinent. That is what we talk about when we talk about equity. Let's face it. When it comes to other areas of life, is there ever really fairness or equity? For example, I live in a rural area. Believe it or not, I think my homeowners insurance rates tend to be higher than those who

live a few miles away inside a city which has a fire station that is three blocks away instead of five or six miles. Does that affect my insurance rates? Yes, I believe it does. Is that violating a territorial rating or anything else? I just know that because I live in the country that I will pay for certain things that people inside the city don't have to pay for. Conversely, they may pay in their taxes perhaps things that I won't have to pay in the country. Is that fair? Is that equitable? Well, you know, I could make an argument that, no, it isn't fair or equitable, but that is the way it is. If we come up with a solution, we don't want the solution to put people in a worse situation than they are currently in.

If you take a look at, for example, education, the Detroit school system—is it fair and equitable that we are spending a lot more on a per-pupil basis for children there than in any of the four counties I represent? Is that fair? I don't think so. My school superintendents tell me all time, but yet that is the way it is.

I am very pleased that the chair of the committee is willing to take a look at this whole area of insurance and see what we can do to make it better for the citizens of Detroit and this state. But that doesn't mean that we will have it fair or equitable in the eyes of everyone because it won't be. It depends on whose eyes you are looking through.

For those reasons, I voted against Senate Bill No. 166 and the amendment to it.

Senator Sanborn moved that the statement he made during the discussion of the bill be printed as his reasons for voting “no.”

The motion prevailed.

Senator Sanborn's statement, in which Senator Richardville concurred, is as follows:

You know, Michigan law is currently designed to allow for territorial grouping of risk so that factors related to geography, including traffic density, claiming behavior, auto theft rates, and the percentage of uninsured motorists, are used to set accurate insurance premiums for all drivers based on their likely risk. Senate Bill No. 166 would prohibit insurance companies from considering that risk when establishing premiums for auto insurance so that every Michigan driver would pay to subsidize the risk of drivers in high-risk areas; the result of which would mean higher insurance rates for 3 out of 4 Michigan drivers. I will make those statistics available to you because I have a chart. Those supporting this legislation want to force drivers in low-risk areas to pay more so that drivers in high-risk areas, who are more likely to file claims, can pay less.

Now if you believe the residents of Monroe should pay 11 percent more for auto insurance, then you should vote “yes” for this bill. If you believe the residents of Saginaw should pay 24 percent more, then you should vote “yes.” If you believe the residents of Jackson, Michigan, should pay 40 percent more, then you should vote “yes.” If you believe the residents of Lansing should pay 50 percent more, then you should vote for this bill. If you believe the people in Grand Rapids should pay 30 percent more, then you should vote for this bill. If you believe the residents of Escanaba should pay 19 percent more, then you should vote for this bill.

I agree with the Senator from the 2nd District that we have insurance issues to address, but Senate Bill No. 166 is not the answer. Furthermore, I reiterate my call to work with any member of this chamber on real insurance reform.

Senator Hardiman's statement is as follows:

Senate Bill No. 166 has been debated very thoroughly here this afternoon. I voted “no” on this bill for a couple of reasons. One, it would not make auto insurance more affordable for all residents. It would increase auto premiums for 3 out of 4 Michigan drivers. I don't think that is the right direction to go.

Certainly, in the Grand Rapids area, it would increase premiums by about 30 percent in the information that I have. That is not necessarily the main issue. The Senator from the 2nd District has persistently brought to this body's attention the high cost of auto insurance in Detroit. In doing so, at times she has mentioned other areas as well. But I think the comments have been focused on Detroit. There has been discussion about equity and fairness and those are very important discussions to have; discussions that should one area in Michigan pay higher insurance rates than others. If that is a sound premise—I am not saying it isn't—could we not expand that out?

Insurance rates are lower in other states—Ohio. Shouldn't they do the right thing and make all insurance rates lower for us. I think what we need to do—and I appreciate the Senator bringing this to our attention—I do think we need to work on this. I have spoken with the chair of Economic Development and Regularly Reform. I have spoken with advocates from the Detroit area, residents from the Detroit area, who are concerned about this. This is not an area of my particular expertise, but I do believe that we need to take a good hard look at it. We do need to make some changes, and I am committed to doing it.

So while I appreciate the good Senator for bringing this to our attention, I do not believe that Senate Bill No. 166 is the right answer, therefore, I voted against it. I am committed to working to help to improve the insurance rates for all of Michigan's residents.

Senators Scott, Clarke, Sanborn, Jacobs and Whitmer 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 first statement is as follows:

You know, as long as I have been trying to get this bill, I thought at least the chair of the committee would have allowed me the courtesy of having my bill taken up in committee so that we could debate this bill, but I guess I struck a nerve. For the last three days, I have been talking about a newspaper article from Grand Rapids in the editorial section, and it is truly unfair what we are doing to the citizens of the state of Michigan.

In the state of Michigan, we pay the 12th-highest rates in the country. In the urban areas of the metropolitan area, we pay the highest in the country. So I think it is time for us to stop playing these kinds of games that we are playing with our constituents who pay taxes for us to be here on this floor to represent them. We need to represent all citizens the same.

My bill is very simple. It says you should be charged for the kind of car, your driving record, and the distance that you drive. That should apply to everyone in this state. If you have a bad driving record, then you should pay more. There was a statement that I read the other day from the Supreme Court that some oral arguments were there. There was person who had a bad driving record who was paying less than a person who had a good driving record, and that is so unfair.

So we need to truly debate this bill where we can invite constituents to come and have testimony. I am surprised at the chair that he would not allow this to happen. I think my colleagues need to demand that we treat our constituents better than this.

Senator Clarke's first statement is as follows:

I support this amendment which, combined, would roll back insurance rates by 20 percent, and the bill itself would eliminate territorial rating from personal auto and residential insurance. My concern overall is that property casualty rates—that is personal home, personal auto, even commercial insurance for general liability and property—is not affordable because it is not rated fairly. So while the use of territorial rating many times could be used to charge a person who poses a lower risk of loss a higher rate than someone who is riskier, we need to go even further.

Currently, insurance companies can share information about future claims. If another industry did it, it would be a violation of the antitrust laws. But this Legislature exempted the business of insurance from antitrust laws expressly. That should be repealed. We need to prevent insurance companies from colluding with each other. Our current law says that if there is a reasonable amount of competition among insurance companies, then the rates are not excessive. Well, that is ridiculous. We have a lot of auto and home insurers, but they charge high rates for people in certain areas. It is not competitive. We need to apply the state antitrust reform act to the business of insurance; to the property casualty insurance industry, in particular. We also need to apply the consumer protection act to the business of insurance. The Michigan Supreme Court erroneously exempted the insurance industry from the consumer protection act. We need to cover it.

We need to expressly apply the state civil rights act to the business of insurance because when you charge someone a higher rate due to their occupation, education, credit history, the fact that they were pulled over by the police and they had no proof of their insurance, the number of people in a family, and the amount of claims in the past—none of that is fair. We need to make these rates fair.

So, while I think it is helpful to eliminate territorial rating; while I think it would make insurance affordable to have a 20 percent rate rollback, we need to reform how we regulate property casualty insurance rates across the board. You see, it is not just Detroiters, urban drivers, or urban homeowners being charged unfair rates. All of us, whether businesses or personal consumers, we are all being charged rates that are far too high under current property casualty rate regulations. That needs to be reformed.

We should institute prior approval by the insurance commissioner of all property casualty rates, in addition to having this rate rollback. If we don't, the insurance companies may be able to increase rates on an unfair rating factor later on. So we need comprehensive reform.

The main tax burden on Michigan residents right now is being imposed by a private company—the insurance industry.

Senator Sanborn's statement is as follow:

I am very confused right now, as I am sure some of you are. For six years and ten months, I have heard the Senator from the 2nd District get up and say, "Move my bill, Senate Bill No. 166"—a stand-alone bill. She never once in that time got up and said, "Debate my bill." She didn't get up one time and say, "Complicate my bill by tie-barring it to another bill." She said, "I want you to move my bill." So I am very puzzled right now.

I am all about auto insurance reform. I pledge to this chamber that we will be having hearings to move a package of bills—hopefully, a bipartisan package of bills—that will address the issue of auto insurance reform, and hopefully, provide lower insurance rates for the entire state of Michigan. So again I remind you, Senator from the 2nd District, it was never a question of, "Debate my bill; complicate my bill." You asked me to move your bill. Now you are moving the mark.

Another Senator got up earlier today and said, "I am tired of the gamesmanship." I agree. What we have here is you are moving the mark; we have political gamesmanship. You wanted a bill; you wanted me to move your bill, Senate Bill

No. 166. I am with you. Let's give her a vote. Let's not complicate it or debate it. Let's take a vote and decide whether or not we should move the Senator's bill.

Senator Scott's second statement is as follows:

If you think that everyone should be charged according to the kind of car they drive, their driving record, and the distance that they drive—on the individual, not where they live—you should vote for this bill. Your rates are not going to go any higher just because that is where you live. This just removes the territorial, and it is unfair just because you live in an urban area. What does that say?

In the statement that I read to you earlier, the *Grand Rapids Press* said that those who live in the black areas pay more. Well, you are no different. We are all God's children, and we all ought to be treated alike. It is so unfortunate that we have not had the opportunity over these six years or more to debate this bill. There have been a number of newspaper articles recently that indicate that this bill should pass. I know the insurance companies tell you that your rates are going to go up. That is because they can continue dividing and conquering.

Well, let me tell you that if this bill is not passed today, it will not stop me. I will continue to stand here every day and talk to you about the unfairness. I have a task-force bill that says we can all come together and deal with the insurance problem. As it is, little by little, we have put bills in to divide people because of their education, because of where they live, and because of their credit scores. This is wrong. We should not be doing this in 2009. Come on, we represent all the people of this state. Let's treat them all fairly and equally.

I drive home every evening and especially in the winter I see pile-ups. If Detroit and urban areas are so hazardous, then you should have to pay hazardous pay on your insurance to come through those cities, and you do that.

You know, when I first put this bill in, I put in an amendment to a bill and I said it was the worse day that I had spent in the Legislature. Well, now I have been here some 14 years and this is the second-worse day that I have spent in the Legislature—when you try to divide and conquer without giving people a proper hearing in committee.

So I say to my colleagues, it is a simple saying, me today and you tomorrow. Well, that tomorrow has come. People all over this state are losing their jobs and that. So why should people in the inner cities pay more for their insurance rates if they have a good driving record, if they have good credit scores and all of that. But, no, you choose to listen to the insurance companies. Well, I am sure they padded your campaigns well. I hope you will be able to sleep tonight if you vote against this bill because it is wrong.

So I ask you why, without any debate or anything from the people of this state and for some unexpected reason, you would take up this vote today? I think he was tired of me talking about what Grand Rapids had put in their editorial section, which was right. So I ask you all to vote for this bill, and give the people of this state their rights.

Senator Jacobs' statement is as follows:

I do scratch my head trying to figure out why the dear chair of the committee has waited for six years and ten months to do this today.

That being said, I rise in support of Senator Scott's bill because of my Aunt Ruthie. I am going to tell you a story about her. My Aunt Ruthie is 86 years old—my dad's only surviving sibling. For decades, she lived in Southfield but recently moved to Farmington Hills. One of the major reasons she moved was that just crossing that border, my aunt, who was on a fixed income and who was really happy living in Southfield with her friends and support system, moved because her break on insurance went down a couple hundred dollars. She needed that extra money to survive.

The way that our system is set up, there is a perverse incentive to destabilize communities for those people who have the means to pick up and move to other communities. Is that something that we want to continue?

So I am proud to be able to stand up today and vote for not only this amendment, but for this bill. I do wish that we could have had more of a debate in committee because I would have brought my Aunt Ruthie up here to talk to you folks. So I am standing here in support of this bill. Like I said, I am kind of scratching my head that we are having the opportunity to do this today, but I will proudly vote in favor of this bill.

Senator Clarke's second statement, in which Senator Whitmer concurred, is as follows:

I want to again commend the Senator from Highland Park for making a valiant effort to make insurance rate regulation fairer in this state. I ask you to support this bill that would remove the rating of home and auto insurance by territory.

I want to deal with specifics right now with the insurance code. Insurance is allowed to be grouped by territories, specifically under MCL 500.2111. It is a good framework for spelling out the types of rating factors insurance companies can use in rating home and automobile insurance. The rating by territory, however, has much less significance now than it did in the past, and here is why. Because we don't have jobs anymore or they are not concentrated in central cities, people who live in those cities have to drive all around the region across the state to actually work for a living. As a matter of fact, if you and I who drive in southeastern Michigan identify where the big traffic jams are, they're not in Detroit anymore. They're out in Novi—I-696. They're jammed bumper to bumper out there. Actually, if you rated by traffic density, those areas should have the highest rates now, not the city of Detroit; not urban areas.

But, you see, that's not the case. The reason why I support removing territorial rating is that it's one step in making insurance rate regulation fairer. But the reason why insurance rates aren't fair is not just because people are rated based on where they park their car at night. It's because of that farmer who couldn't afford to go to college because he had to drop out of school to raise his family and works hard every day. That farmer, who lives in a rural area, who doesn't have a college degree, who doesn't have a white-collar professional job, is charged a higher rate than a Ph.D., white-collar CEO. For a person in a suburban area who has fallen behind on their utility payments, that gets reported on their credit history. They can get charged a higher rate on their auto insurance even though they have zero points. For someone who's lost their full-time job and is receiving unemployment compensation and is struggling to pay their bills, under our current system, an insurance company can charge them more money because they're making less money. How ridiculous is that?

So, you see, what makes insurance regulation so unfair is that insurance companies are able to charge people based on where they live, on their job, on their education, on their credit history, and on the size of the family which they have consisting of driving age family members; or the fact that they may have been pulled over by the cops, had all of the insurance paid up, but may not have had the proof of insurance to give the police officer at that time. That person could get charged a higher rate. Do you think that's fair? That's not fair at all.

If a consumer tries to go to the insurance commissioner and say, "Please, you know, I should get a refund because I'm a good driver. I have zero points. Don't penalize me because I'm in foreclosure. I can barely make it as it is." Well, unfortunately, under our current rate regulation, all an insurer has to prove is that there's a bunch of other insurance companies riding high on unfair insurance. So that rate is not excessive. How ridiculous is that, especially since we've exempted the insurance companies from the state antitrust laws? That means that they can collude and share information on how they price insurance so that they can all legally be high. That's what the Senator from Highland Park is trying to get at. This is a first step in that—the first step.

You know, members of this caucus talk about high taxes and people in Michigan can't afford high taxes. You know what's the most unfair tax? It's the one we impose on everybody by law. We require everyone to have auto insurance, and if you don't, you can go to jail for up to one year. We compel people to buy insurance, but then we don't protect them from unfair insurance practices. That's what she's trying to do right now. This is a first step.

That's what Senator Thomas' amendment was about, rolling back everyone's rates, but we've got to do that in the context of having a fairer rate system. We need to give the commissioner the power to approve all of these rates. We have to allow the commissioner to be able to refund these higher unfair rates even though there may be a whole bunch of other insurance companies charging people a lot of money. That should make it fairer because other insurers are doing that.

People in the state of Michigan—drivers, homeowners, business people, and doctors who pay high medical malpractice insurance premiums—can no longer afford to pay this. Let's roll back all property and casualty insurance rates. Let's re-regulate the property and casualty insurance industry so that it is fair. This is about reducing taxes, but it's a tax that we pay to a private company.

One last point I want to make about the rate rollback. Here's why that is fair. If you compare insurance companies to utilities, utilities have their rates regulated. But, you know, when a utility company spends money on a plant, on a base load power plant, the value of that asset depreciates over time. They lose money. But you know what insurance companies invest their money in? They invest it in long-term bonds and investments. By their very nature, they appreciate. They can afford a 20 percent rate rollback and make a lot of money.

One other final point I want to say is insurance companies will say, "Well, you know, we only provide discounts to people if they have a Ph.D. or if they have a good credit score or if they have this certain job. We don't penalize people. We only discount people." Well, this is how a good law was screwed up by MCL 500.2110a. That allows discounts, but it actually allows surcharges because here is this on the record. For every discounted insurance a company provides, there is a corresponding surcharge for someone else. You see, there's no free lunch. These discounts under that section don't lower the overall cost of insurance. They just shift it to the people who can't afford it.

The bottom line is this: We have an insurance rate regulation system which allows insurance companies to charge people in the state with the highest unemployment rate which has been hurt more by globalization, it allows insurance companies to charge higher rates to people because they earn less money. That's not right. Let's vote for this bill. This is the first step in the right direction.

Mr. President, I would like my remarks printed in the journal. I am so proud today. I didn't expect to ever have the opportunity to talk about how we can reduce the most unfair tax of all—property and casualty insurance rates. Thank you, though, for giving us this opportunity to talk about this important issue.

I just want the public to know if they really want more disposable income in their pockets right now, it's not the government we need to go after; go after the insurance companies because you know what? You are paying too much money, and you are a good driver. You are paying too much money, and you maintain your home. You're paying too much money, and you're struggling to stay in business. You deserve lower rates. Let's lower them. This is the first step in that direction.

Senator Whitmer's statement is as follows:

I rise to add my comments to my colleagues who spoke before me. I think that they did a great job laying out some of the intricacies of this piece of legislation and the law that I think can be very complicated.

You know, there was a man by the name of Jay Angoff who came to testify not too long ago, who was talking a little bit about the *Kreiner* decision and how it's impacting rates for the people of the state of Michigan. I think it's important to know that insurance companies have had record profits. And the reason that they've had record profits is, well, some of them have practiced very unsavory processes where they deny, delay, confuse, and refuse valid claims; taken advantage of consumers of the state of Michigan. Not everyone is a bad actor, I know, but there are many instances where valid claims and valid consumers have been taken advantage of in the state of Michigan, and no one is protecting them.

We have a system where everyone in our state is required to have auto insurance. It's compulsory. And if you don't buy insurance from a for-profit insurance company, you can go to jail for up to a year. We will throw you in jail for up to a year if you don't buy a product from a for-profit company. There's only one place in the whole law that that applies and that's in auto insurance.

Now I heard my colleague talk about Lansing rates and Escanaba rates and Grand Rapids rates. I appreciate your pointing out what may happen to constituents in the 48823 ZIP code. But if you changed two of those numbers and you're in the 48223 ZIP code of Detroit, that could happen to any one of us. I would submit that if it happens to any one of us, it can change on a dime. So we are all at risk, and we should all be concerned at the unfairness of the policy.

These big insurance companies are picking on the little guy, and no one is standing up for them. And my colleague has been asking for a hearing—a hearing.

There's a fair and reasonable constitutional standard that's never been enforced. It's a constitutional standard that the Supreme Court said in the *Shavers* decision. For 30 years, we've had tools that the Attorney General's office, especially in the last eight years, has not challenged or enforced on behalf of our people. And here we make a mockery of this; right here today. This gamesmanship has got to stop.

We wonder why the people are so worried and upset and scared in the state of Michigan, and they are angry with Lansing. Look in the mirror. Two out of the last three years, we haven't delivered a budget on time. You keep asking everyone else to make a sacrifice, and you haven't made one yet. This has got to stop, and we've got to lead by example.

I'm going to support this bill. It's time for someone to start doing the right thing in this town and sticking up for the little guy.

Senator Scott's third statement is as follows:

Once again, I have something to say—since the people cannot come and speak for themselves. I've had a website for a number of years, www.insurancedlinging.com, and I want to read to you a few, just a few, of the e-mails that I've received since they can't be here for themselves:

"I have a 1998 Dodge Neon and I no longer carry full coverage insurance. At the time I purchased my vehicle in 1998, I was 28 years of age. In 2003, my co-worker, 26 years of age with a wife of 25 years of age, purchased full coverage auto insurance through AAA Michigan. They both live in Troy, Michigan. One vehicle was a 2000 Intrepid and the other vehicle was a 1999 Aero van. My co-worker was quoted a price of \$450 every six months. He had to make payments for four months and had two months free of payments. At that time (2003), I was 33 years of age with no moving violations in 13 years. I called the same agent about five minutes after my co-worker did and was quoted a policy that would cost me over \$3,000 every six months. No doubt this was because I live in the City of Detroit. I received similar quotes from other insurance agencies as well."

Another one: "I have lived in Detroit all my life and lived at the above address for over 13 years now. In 2004, my homeowners insurance went from \$800 and some odd dollars to almost \$2,000. Because I'm a single parent with two children and don't receive child support on a regular basis, I couldn't afford to keep an insurance policy on my home. So for a little less than a year, I wasn't covered and wouldn't you know it, I had a fire at my home in September 2005. If there is something that can be done about the rising cost of home and auto insurance, I pray that relief comes soon."

Another one: "I'm a single-income parent who has worked hard all my life and continue to do so. Recently, I decided to reward myself by refinancing my mortgage for some home repairs and a 'new' used 2002 PT Cruiser. I did all the research regarding theft, crash testing, and so forth—passed with flying colors. Now, being that I have lived in Detroit all my life, I knew the rate would increase, and it did, within my budget, so I purchased it. A week later, I was informed by my automotive insurance agent that they made a mistake—to quote them, 'Oops!'—and informed me my rate would be \$400. Of course, I thought a year, but no, it was a month. That was just outright crazy—I pay more for the insurance than I do for the car!"

Another one: "I'm paying \$1,400 a year on a 1989 Buick—no-fault only. No tickets, no claims. The car is only worth \$2,500. I am unable to put my son on the policy because insurance will go up well over \$3,700 a year!"

Another one: "I'm a former Hamtramck City Council member and left office to join the U.S. State Department. My car insurance on a \$6,000 car in Hamtramck was \$2,200 a year. This is for someone who has never received a speeding ticket in his life. When I moved to Guatemala, I was surprised to find that my insurance rate was under \$1,000 a year.

This is in a country with a high incidence of crime, car jackings, car theft and a large numbers of uninsured drivers that have no respect for any traffic laws. The question is, why is it that when I'm in Hamtramck, with no record, keeping my car in a locked garage, and my insurance rate is 2 1/2 times more than in a Third World country where crime is a major concern and drivers drive on the wrong side of the street at night with no headlights?"

Another one: "When I moved to Detroit in 1976, I had a hard time even getting insurance. When I told an agent I thought he might be redlining, he said, 'I don't care what you call it, I'm not selling you insurance.' Now, I'm a 57-year-old with a perfect driving record (so has my husband and daughter), but we are paying exorbitant rates!" This is a doctor, Dr. Marilyn Daniels of Detroit.

Another one: "My own personal experience came about from me moving back into the city some nine years ago. I moved back into the city from Livonia. The move distance was approximately 10.4 miles on either side of 6 Mile Road. After I changed my address and renewed my car insurance policy, my insurance rate increased from \$500 to \$1,000 a year. I am the same person before the move that I was after the move, a driver with no tickets, moving violations or traffic accidents. The only difference was moving from the suburbs into the city. The move tells me in and of itself that something is wrong in the way insurance rates are determined."

Another one: "I got a quote from them based on where I work (Bloomfield Hills) and where I live (Hamtramck). Not only was the quote for Hamtramck more than double that of the Bloomfield Hills quote, the yearly rate was nearly the same as the value of my car!"

Another one: "I pay in excess of \$4,000 per year to insure two cars and my home. I am not a driver with points, nor am I under 25, nor have I had any accidents within the last 10 to 15 years, nor any claims on my homeowners insurance, yet I pay through the nose for insurance. This is strictly because I live in Detroit. I know this for certain because my car insurance rates jumped when I moved from the suburbs eight years ago into the city. This is one factor in my decision to get out of the city—I can't afford these rates!"

Another one: "I am a 33-year-old college graduate. I have two bachelor's degrees and two master's degrees. I have been driving since I was 15. I have only had one accident in that period of time, which was determined that I was not at fault. I have seen my insurance rates rise an average of 29% over the last five years. I am at the age when my insurance rates should be falling, but not in Detroit—they are steadily rising. If something is not done, and I mean soon, I will be one of the ten thousands of citizens that will bid a fond farewell to Detroit and the state of Michigan."

Another one: "I can't afford full coverage auto insurance. When I went looking, I was told by one company I should use my sister's address in Sterling Heights."

Another one: "I have made no claims on my homeowners insurance since the ice storm of 1999, and yet my insurance has more than doubled. I have no tickets, points, accidents on my driving records and yet my insurance has more than doubled. I live in Detroit because I love this city. However, now that I am retired, I am finding it difficult to afford. Why can't we be charged for insurance based on our personal performance rather than on an address?"

Another one: "I am a native Detroiter. I am a 38 year old and have made a conscious decision to buy a home and live in the city of Detroit. I am often discouraged at the national studies that prove we as Detroiters pay more in car insurance, and yet have to 'show' or 'prove' these facts are true."

Another one: "I'm a single mother, it is difficult to maintain auto insurance on my vehicle at the rate of \$2,600 to \$3,100 every six months that I have been quoted in the past."

Another one: "When I moved back to Detroit from Livonia in 2000, my insurance rates on my 1991 Mercury Cougar went from maybe \$600 per year to \$1,500 per year. In Livonia, my car was parked in the open under a carport. In Detroit, it is secured in a garage and my distance of travel to work was cut in half. The increase is not justified!"

Another one: "I'm a resident of Detroit with a perfect driving record, good credit, graduate degree and no claims (all factors, I'm told, in determining rates aside from zip codes). I have been paying nearly \$300 a month for car insurance. My insurance is as much as my car payments."

Another one: "I am tired of paying high auto and homeowners insurance just because I live in Detroit, Michigan. I should not be penalized because of where I live. Judge me on the fact that I have a perfect driving record or the fact that I have zero claims on my homeowners insurance."

Another one: "My husband and I have spotless driving records, good credit, and multi-policy discounts paying \$4,500 per year for a 1998 and 2005 Ford Explorer. This is absolutely out of hand and should be considered illegal."

Another one: "If you live in Detroit, you are going to pay the highest rates for insurance. This means on your home, your car, your life and health. It's just not fair. There should be no boundaries. I have a home and three cars, and it is the law that you carry insurance. It's hard when everything is going up in price, but the wages."

Another one: "I was a resident of Warren, Michigan, for over five years. While in Warren, I enjoyed lower auto premiums. However, in August 2004, I purchased a home in Detroit. Needless to say, my days of lower auto premiums have left. My insurance nearly doubled. My homeowners insurance has increased from \$800 to \$1,000. A co-worker recently bought a home in another city that is only two blocks from me. Her homeowners insurance is a mere \$450."

Another one: "It is awful that we live in the poorest city in the nation and pay the highest price for insurance in the nation. We have three cars in our household and we pay in excess of \$3,500 every six months. This is unbelievable."

Another one: "I've had to move out of my Detroit home because insurance rates are just too high."

Another one: "Insurance rates should not be a function of your address or income bracket or race or religion or any other than one's driving record."

Well, colleagues, I have just read you a few of the many stacks that I have. Had I known this was coming up today, I would have brought all of them over so that you could see them.

Well, just recently on I-75 there was a big spillover because a car hit a big tanker. That is costing millions of dollars. It's not in the city of Detroit, is it? But we're all paying for it. As I drive home every day, there's sometimes pile-up after pile-up, and they're not in Detroit. Let's be real. Let's be real and call it what it is. It's discrimination. And you know what? I'm going to encourage people to start their own insurance companies or don't pay for them, OK. If we mandate something, we must make it affordable.

And I'm going to say it again. We must treat everyone fairly. I ask that all of you make a conscious decision so you'll be able to sleep tonight.

Committee Reports

The Committee on Judiciary reported

Senate Bill No. 713, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 16t of chapter XVII (MCL 777.16t), as amended by 2008 PA 565.

With the recommendation that the bill pass.

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

Wayne Kuipers
Chairperson

To Report Out:

Yeas: Senators Kuipers, Cropsey, Sanborn, Patterson, Stamas, Clarke and Basham

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Judiciary reported

Senate Bill No. 882, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 5839 (MCL 600.5839), as amended by 1985 PA 188.

With the recommendation that the bill pass.

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

Wayne Kuipers
Chairperson

To Report Out:

Yeas: Senators Kuipers, Cropsey, Sanborn, Stamas and Basham

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submitted the following:

Meeting held on Tuesday, October 27, 2009, at 1:00 p.m., Room 210, Farnum Building

Present: Senators Kuipers (C), Cropsey, Sanborn, Patterson, Stamas, Clarke and Basham

Excused: Senator Whitmer

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Retirement submitted the following:

Meeting held on Tuesday, October 27, 2009, at 12:00 noon, Room 405, Capitol Building

Present: Senator Jansen (C), Kahn and Cherry

COMMITTEE ATTENDANCE REPORT

The Committee on Commerce and Tourism submitted the following:

Meeting held on Tuesday, October 27, 2009, at 2:30 p.m., Room 100, Farnum Building

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

Scheduled Meetings

Agriculture and Bioeconomy - Thursday, October 29, 9:00 a.m., Room 110, Farnum Building (373-1635)

Education - Thursday, October 29, 2:30 p.m., Room 210, Farnum Building (373-6920)

Energy Policy and Public Utilities - Thursday, October 29, 1:00 p.m., Room 210, Farnum Building (373-7350)

Legislative Commission on Statutory Mandates - Monday, November 16, 9:00 a.m., Waterford Room, 1st Floor, Oakland County Executive Office Building, 2100 North Pontiac Lake Road, Waterford (373-0212)

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

Senator Cropsey moved that the Senate adjourn.

The motion prevailed, the time being 2:02 p.m.

The President pro tempore, Senator Richardville, declared the Senate adjourned until Thursday, October 29, 2009, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate