No. 8 STATE OF MICHIGAN

Journal of the Senate

96th Legislature REGULAR SESSION OF 2011

Senate Chamber, Lansing, Tuesday, February 1, 2011.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor Brian N. Calley.

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

Anderson—present
Bieda—present
Booher—present
Brandenburg—present
Casperson—present
Caswell—present
Colbeck—present
Emmons—present
Gleason—present
Green—present
Gregory—excused
Hansen—present
Hildenbrand—present

Hood—present
Hopgood—present
Hune—present
Hunter—present
Jansen—present
Johnson—excused
Jones—present
Kahn—present
Kowall—present
Marleau—present
Meekhof—present
Moolenaar—present
Nofs—present

Pappageorge—present
Pavlov—present
Proos—present
Richardville—present
Robertson—present
Rocca—present
Schuitmaker—present
Smith—present
Walker—present
Warren—present
Whitmer—present
Young—present

Reverend Jeffrey R. Noble of Praise Baptist Church of Plymouth offered the following invocation:

Heavenly Father, we praise You for the gift of this day, and we humbly bow before You and ask Your blessing on this assembly. May You lead these men and women to do Your will, understanding that they are not only passing legislation, but more importantly, they are impacting the precious lives of the men, women, and children they represent in the great state of Michigan. Therefore, we ask that You would give them wisdom, for Your word tells us "the LORD gives wisdom; from his mouth comes knowledge and understanding. He holds victory in store for the upright; he is a shield to those whose walk is blameless, for he guards the course of the just and protects the way of his faithful ones."

We also ask that You will help each of them to serve with integrity, for You have told us: "The integrity of the upright guides them, but the unfaithful are destroyed by their duplicity." May You give them the courage to stand for what is right and true and not be tempted by selfish ambition or agendas that may blemish their character. You have taught us: "Nobody should seek his own good, but only the good of others."

May You give them the strength to stay at the task of serving and aid in restoring the state of Michigan. You have told us that You are "our refuge and our strength, an ever-present help in trouble."

And, Lord, in light of the recent events in Arizona, please protect these men and women that they may rest assured that by faith in You, You will "never leave them, nor forsake them." May everything that is said and done in this great hall be pleasing in Your sight and for Your glory.

We thank You for hearing our prayer, and we ask this by faith in You, our Lord and our God. Amen.

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

Motions and Communications

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

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

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

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

Senator Hunter moved that Senators Gregory and Johnson be excused from today's session. The motion prevailed.

Recess

Senator Meekhof moved that the Senate recess subject to the call of the Chair. The motion prevailed, the time being 10:08 a.m.

10:19 a.m.

The Senate was called to order by the President, Lieutenant Governor Calley.

During the recess, Senator Hildenbrand introduced the Grand Rapids West Catholic High School Football Team, Division 5 State Champions; and the Grand Rapids Catholic Central High School Football Team, Division 4 State Champions; and presented them with Special Tributes.

The following communication was received and read: Office of the Senate Majority Leader

January 27, 2011

Pursuant to MCL 399.1, I am making the following appointment to the Michigan Historical Commission:

Mr. Thomas Truscott of 3333 Moores River Drive, Lansing, Michigan 48911, county of Ingham, for a term commencing January 27, 2011 and expiring December 31, 2012.

If you have any questions, please call Michael Parr in my office at 373-5264.

Respectfully, Randy Richardville Senate Majority Leader

The communication was referred to the Secretary for record.

The following communication was received:

Department of Technology, Management, and Budget

January 25, 2011

Enclosed is a combined report on state contracting with businesses owned by persons with disabilities, submitted pursuant to the reporting requirements in 1988 PA 112 as amended in 2005, and with businesses owned by qualified disabled veterans, pursuant to 1984 PA 431 as amended in 2005 and 2008. The report was prepared based on contract data for fiscal year 2010 as recorded in the Michigan Administrative Information Network (MAIN).

If you have questions regarding the information in the report, please contact Genevieve Hayes, Manager, Business Development Unit, at (517) 335-4730.

Sincerely, John Nixon Director

The communication was referred to the Secretary for record.

Senator Meekhof moved that when the Senate adjourns today, it stand adjourned until Tuesday, February 8, at 10:00 a.m. The motion prevailed.

The Secretary announced that the following official bills and joint resolutions were printed on Thursday, January 27, and are available at the legislative website:

Senate Bill Nos.	67	68	69	70	71	72	73	74	75	76				
Senate Joint Reso	lution	D												
House Bill Nos.	4138	4139	4140	4141	4142	4143	4144	4145	4146	4147	4148	4149	4150	4151
	4152	4153	4154	4155	4156	4157								
House Joint Resol	utions	G	H	I										

The Secretary announced that the following official bills were printed on Friday, January 28, and are available at the legislative website:

Senate Bill Nos. 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 House Bill Nos. 4158 4159 4160

Messages from the Governor

The following message from the Governor was received and read:

January 25, 2011

I respectfully submit to the Senate the following appointment:

Michigan Gaming Control Board

Mr. Robert L. Anthony, IV, of 49909 Jonathan Court, Northville, Michigan 48167, county of Wayne, succeeding Kenneth N. Sanborn, as a member of the Board, for a term expiring December 31, 2014.

Sincerely, Rick Snyder Governor

The appointment was referred to the Committee on Government Operations.

The following message from the Governor was received and read:

January 26, 2011

Due to errors on the letter dated January 19, 2011 filed with your office, please be advised of the following corrections appearing in **bold** print:

Western Michigan University Board of Control

Mr. Kenneth V. Miller of 6835 S. 6th Street, Kalamazoo, Michigan 49009, county of Kalamazoo, **is reappointed** for a term expiring on December 31, 2018.

Ms. Dana Debel of 5721 Le Blanc Ann Arbor, Michigan 48103, county of Washtenaw, succeeding William J. Martin, for a term expiring December 31, 2018.

Sincerely, Rick Snyder Governor

The message was referred to the Committee on Government Operations.

Third Reading of Bills

The following bill was read a third time:

Senate Bill No. 23, entitled

A bill to amend 2008 PA 148, entitled "Personal property trust perpetuities act," by amending section 4 (MCL 554.94). 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. 9 Yeas—3	0
------------------------	---

Anderson	Green	Kahn	Richardville
Bieda	Hansen	Kowall	Robertson
Booher	Hildenbrand	Marleau	Rocca
Brandenburg	Hood	Meekhof	Schuitmaker
Casperson	Hopgood	Moolenaar	Smith
Caswell	Hune	Nofs	Walker
Colbeck	Hunter	Pappageorge	Warren
Emmons	Jansen	Pavlov	Whitmer
Gleason	Jones	Proos	Young

Nays—0

Excused—2

Gregory Johnson

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

General Orders

Senator Meekhof 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 Calley, designated Senator Booher as Chairperson.

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

Senate Bill No. 53, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9947) by adding section 2155.

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

Resolutions

Senators Hansen, Walker, Casperson, Caswell, Colbeck, Jones, Booher, Proos, Kowall, Emmons, Nofs, Meekhof, Schuitmaker, Hune, Hildenbrand, Pavlov and Richardville offered the following resolution:

Senate Resolution No. 6.

A resolution to express opposition to the imposition of a ban of firearm hunting and snowmobiling in certain areas of the Huron-Manistee National Forest.

Whereas, In compliance with a U.S. Sixth Circuit Court of Appeals decision, the U.S. Forest Service is revisiting its 2006 Land and Resource Management Plan for the Huron-Manistee National Forest. Currently, the Forest Service allows firearm hunting and snowmobiling in all of the forest. However, a Michigan attorney has sued the Forest Service in an effort to stop firearm hunting and snowmobiling in all primitive areas and semi-primitive nonmotorized management areas; and

Whereas, The 2006 Land and Resource Management Plan was available for and received extensive public comment before being implemented. Yet the public's access to 70,000 acres of public land is being threatened by one individual's preference: and

Whereas, The desire to pursue quiet recreational activities in the primitive and semi-primitive areas of the forest does not preclude hunting. Many hunters enjoy the quiet and solitude of the forest when hunting. Additionally, snowmobiles operating in a forest of this size rarely impose on the enjoyment of the forest by others. Given the size of the forest, a snowmobile operator can ride many miles without ever encountering another person, and it is likely that others enjoying the forest in winter would not encounter a snowmobile; and

Whereas, The Federal Land Policy and Management Act provides the Forest Service the authority to determine where hunting may or may not occur on public lands. This authority should be left to the Forest Service, rather than the political bias of individuals. Wildlife managers and experts should have the final say in how the public land is used; now, therefore, be it

Resolved by the Senate, That we oppose the imposition of a ban of firearm hunting and snowmobiling in certain areas of the Huron-Manistee National Forest; and be it further

Resolved, That copies of this resolution be transmitted to the chief of the U.S. Forest Service and the members of the Michigan congressional delegation.

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

Senator Meekhof moved that the rule be suspended.

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

The question being on the adoption of the resolution,

Senator Meekhof moved that the resolution be referred to the Committee on Outdoor Recreation and Tourism.

The motion prevailed.

Senators Green, Marleau, Moolenaar, Pappageorge and Rocca were named co-sponsors of the resolution.

Senators Walker, Hildenbrand, Bieda, Casperson, Rocca, Marleau, Moolenaar, Brandenburg, Kahn, Hansen, Proos, Booher, Schuitmaker, Meekhof, Hune, Kowall, Gleason, Anderson, Young, Pavlov, Emmons and Green offered the following resolution:

Senate Resolution No. 7.

A resolution to express support for the Attorney General's efforts to accelerate federal government efforts to devise a plan to prevent Asian carp from invading the Great Lakes and to call on the Snyder Administration and the Obama Administration to take all necessary actions to prevent the invasion.

Whereas, The Great Lakes region continues to confront the imminent threat of an Asian carp invasion with potentially dire consequences. A successful invasion of the Great Lakes could have a devastating effect on the multibillion-dollar Great Lakes fishing and boating industry and way of life on the Lakes; and

Whereas, The only long-term answer to preventing Asian carp and future invaders from entering the Great Lakes is preventing them from ever reaching the Lakes. The electrical barrier separating the Great Lakes Basin from the Mississippi River Basin has proven itself unreliable, protecting neither system from the exchange of aquatic invaders. The only reliable solution is the permanent separation of the basins by ending the man-made connection between them; and

Whereas, Michigan's new Attorney General has recently committed to continue to lead the Great Lakes region's fight against Asian carp. Michigan, with the backing of four other Great Lakes states, has fought in federal court for the permanent separation of the Great Lakes Basin from the Mississippi River Basin and called for the federal government to expedite its study of the problem; and

Whereas, Every moment lost in addressing the Asian carp threat is more time for them to gain a foothold in the Great Lakes. Four years is too long to wait for the federal government to study the problem and take decisive action. Once established, the Great Lakes states and the federal government face the prospect of decade upon decade of expensive government programs to control and manage carp; now, therefore, be it

Resolved by the Senate, That we express support for the Michigan Attorney General's efforts to accelerate federal government efforts to devise a plan to prevent Asian carp from invading the Great Lakes, and we call on the Snyder Administration and the Obama Administration to take all necessary actions to prevent the invasion; and be it further

Resolved, That copies of this resolution be transmitted to the Governor, the Michigan Attorney General, the President of the United States, and the members of the Michigan congressional delegation.

Pending the order that, under rule 3.204, the resolution be referred to the Committee on Government Operations, Senator Meekhof moved that the rule be suspended.

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

The question being on the adoption of the resolution,

Senator Meekhof moved that the resolution be referred to the Committee on Natural Resources, Environment and Great Lakes.

The motion prevailed.

Senators Caswell, Jones and Pappageorge were named co-sponsors of the resolution.

Senate Concurrent Resolution No. 5.

A concurrent resolution for the adoption of the Joint Rules of the Senate and House of Representatives.

(For text of resolution, see Senate Journal No. 6, p. 78.)

The House of Representatives has adopted the concurrent resolution.

The concurrent resolution was referred to the Secretary for record.

By unanimous consent the Senate proceeded to the order of

Statements

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

The motion prevailed.

Senator Hansen's statement is as follows:

I rise this morning to ask for my colleagues' support of Senate Resolution No. 6. I offer this resolution in opposition to the ban being placed on firearm hunting and snowmobiling in areas of the Huron-Manistee National Forest. This resolution is being transmitted to the chief of the U.S. Forest Service and the members of the Michigan congressional delegation.

With 70,000 acres of our public land now at risk of being governed by one individual's interests, it would be a travesty to sit idly by and say nothing. The authority placed with the U.S. Forest Service by the Federal Land Policy and Management Act should continue to be the only entity that can determine when and where hunting can occur on public lands. There are several public meetings that are being held—last night, tonight, and tomorrow night—around the state of Michigan.

I would suggest that each of the Senators find out where they are. I have a list that I can give to anyone who would like one. Make sure that we have people going to those meetings to show that we want to make sure that our land in the state of Michigan is open to hunting and snowmobiling.

Senator Gleason's statement is as follows:

It is not unusual in our business that there is a great deal of verbiage and, in many cases, some hot air regarding particular issues. I rise today to maybe settle a misunderstanding. For 38 years, I have been a proud member of the United Brother-hood of Carpenters and Joiners. Many of you are familiar with that prestigious organization. It has spoken on behalf of working men and women for over 100 years, offering a sense of fairness and asking for responsibility in the workforce. They are highly-skilled and more highly thought of. But in recent days, I have read and heard about the earned income tax credit.

Unfortunately, many brothers and sisters in my organization and others have had to utilize the earned income tax credit. Everything they could do as highly-trained, highly-skilled, and responsible citizens of this state they have done. They have taken every training class that has been offered, and now I hear the verbiage that some consider this a form of welfare, not wholly understanding nor respecting or even offering a sense of compassion that this is an earned income tax credit. Many of my brothers and sisters were allowed to keep the heat on for themselves and their children. Many used earned income tax credits so the public water system that was providing water to their homes could remain on. Many use the earned income tax credit so that they can take their children, their sick children, to offer a co-pay for the services that was required at that particular time for their sick infants and children.

I think that we have a greater responsibility. You know, my grandfather told us that nothing beats a failure more than a try. In the last decade, I think many, many who had been given the true credit have tried. They have tried to work. They have tried to provide for their families. They have done the best they could, but to claim publicly and irresponsibly and uncompassionately that the earned income tax credit is an extension of welfare is wrong. All of us throughout this state, the unemployment and the poverty that accompanies that have not been limited to one particular district. The state of Michigan as a whole has had to face this issue. Let's all be true in our remarks, and let's offer our voices in a responsible sense. These people have earned that tax credit.

Many in this room considered Ronald Reagan an icon and an epic voice. He, many decades ago, echoed the responsibility of the earned income tax credit and how it kept working men and women out of poverty; one of the greatest tools that could be utilized.

So I rise today to ask this chamber to respect the voices and the votes that were given to them by the citizens of this state; what they earned and your public comments. The state of Michigan deserves better than that. I know and so do you if you look at this in the closest form. You know as well as I do that the earned income tax credit is not utilized as an

investment tool. It is used to pay, more than likely, a bill at a local business. So let's be fair to these workers. Let's be fair. We all talk about jobs, and we ask people to be better trained. We want more graduates from college. We want people to attend vocational schools. So let's put the "earned" back in the earned income tax credit. It is only fair, and more important than that, it is honest.

Senator Kahn's statement is as follows:

Recently, Senators Stabenow and Levin have made headlines with their very public claims that the problem of Toronto sending us their waste has been ended due to their actions in negotiating an agreement with Toronto officials. From what I know and have heard, for example, the rumbling trucks still crossing our border from Toronto, this certainly does not appear to be the case. I did a little fact checking.

Here are the facts. Our DEQ waste office indicates that Toronto waste will still be trucked into Michigan to the tune of about 6.4 million cubic yards over the course of the current fiscal year. This amounts to about 250 good-size trash trucks coming across our border on a daily basis. If that is Senator Stabenow's idea of ending a lingering problem, I'd hate to think what she has in store for us on health care reform.

Two, any decrease in the waste flow is due to Toronto's voluntary move to implement an aggressive recycling plan, not some deft deal or public pressure or private pressure that was made by Senator Stabenow.

Three, Michigan is powerless to simply say no to Toronto waste because Senator Stabenow and her colleagues in Congress have not acted to provide the states with the requisite authority to say no. The NAFTA and the Constitution's Commerce Clause would need to be expressly amended because as of today, they prohibit the just-say-no approach. So we need her and Congress to act first.

Four, Senator Stabenow's solution is the same old, tired Granholm response to issues—impose higher fees and higher taxes. She wants to dramatically increase tipping fees. What that really means is added costs to Michigan citizens, schools, businesses, and local units of government. Cities will pay more, universities will pay more, and businesses will pay more, all based upon the volume of waste being generated. Guess who is stuck with the bill? American consumers. By the way, while researching, data seems to suggest that Canadian municipalities and firms have long-term contracts, so they wouldn't have to pay a dime more. It would all be diverted to citizens of the state of Michigan.

I'm proud of the effort that Senate Republicans have made in taking a more deliberative approach to curtailing out-of-state waste by cleaning up our waste through the wise use of landfill bans, all without imposing new costs to the consumer. Personally, I feel that calling for more aggressive inspections at the border and other locations throughout the state are worth close review.

So, Ms. Stabenow, let's end this charade, and tell the good people of Michigan the truth that Toronto waste and other sources of out-of-state waste is still an issue. The burden remains on her shoulders and Congress' shoulders to devise a real workable plan that will help, not hurt, the Michigan consumer.

By unanimous consent the Senate returned to the order of

Introduction and Referral of Bills

Senators Rocca, Jones, Anderson, Bieda, Nofs, Brandenburg and Kahn introduced

Senate Bill No. 94, entitled

A bill to amend 1969 PA 317, entitled "Worker's disability compensation act of 1969," by amending section 405 (MCL 418.405), as amended by 1980 PA 457.

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

Senators Meekhof, Brandenburg, Hildenbrand, Colbeck, Jansen, Marleau, Walker, Robertson, Schuitmaker and Pavlov introduced

Senate Bill No. 95, entitled

A bill to repeal 1965 PA 166, entitled "An act to require prevailing wages and fringe benefits on state projects; to establish the requirements and responsibilities of contracting agents and bidders; and to prescribe penalties," (MCL 408.551 to 408.558).

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

Senators Meekhof, Brandenburg, Hildenbrand, Colbeck, Jansen, Marleau, Walker, Robertson, Schuitmaker, Pavlov and Jones introduced

Senate Bill No. 96, entitled

A bill to amend 1974 PA 338, entitled "Economic development corporations act," by amending section 8 (MCL 125.1608), as amended by 2002 PA 357.

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

Senators Meekhof, Brandenburg, Hildenbrand, Colbeck, Jansen, Marleau, Walker, Robertson, Schuitmaker and Pavlov introduced

Senate Bill No. 97, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 503, 523, 553, and 1311e (MCL 380.503, 380.523, 380.553, and 380.1311e), sections 503, 523, and 1311e as amended and section 553 as added by 2009 PA 205.

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

Senators Hildenbrand and Richardville introduced

Senate Bill No. 98, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding section 2882a. The bill was read a first and second time by title and referred to the Committee on Families, Seniors and Human Services.

Senator Jones introduced

Senate Bill No. 99, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 7403 (MCL 333.7403), as amended by 2010 PA 352.

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

Senator Jones introduced

Senate Bill No. 100, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 1111, 1113, and 1114 (MCL 436.2111, 436.2113, and 436.2114), as amended by 2010 PA 213.

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

Committee Reports

COMMITTEE ATTENDANCE REPORT

The Committee on Regulatory Reform submitted the following:

Meeting held on Thursday, January 27, 2011, at 12:30 p.m., Room 110, Farnum Building

Present: Senators Rocca (C), Jones, Hune, Meekhof, Pavlov, Johnson and Warren

COMMITTEE ATTENDANCE REPORT

The Subcommittee on State Police and Military Affairs submitted the following: Meeting held on Thursday, January 27, 2011, at 1:00 p.m., Rooms 402 and 403, Capitol Building Present: Senators Colbeck (C), Pappageorge and Gregory

Scheduled Meetings

Appropriations -

Subcommittees -

Community Colleges and House Community Colleges Appropriations Subcommittee - Friday, February 18, 1:00 p.m., Jackson Community College, Board Room #214, Potter Center, 2111 Emmons Road, Jackson (373-2768)

Corrections Department and House Corrections Appropriations Subcommittee - Thursday, February 10, 8:30 a.m., Senate Hearing Room, Ground Floor, Boji Tower (373-2768)

K-12, School Aid, Education - Wednesday, February 9, 9:00 a.m., Room 405, Capitol Building (373-2768)

State Police and Military Affairs - Thursdays, February 3 (CANCELED), February 10, February 24, March 3, March 10 and March 17, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-2768)

Banking and Financial Institutions - Thursday, February 3, 1:30 p.m., Room 100, Farnum Building (373-5314) (CANCELED)

Economic Development - Wednesday, February 2, 1:30 p.m., Room 110, Farnum Building (373-5312) (CANCELED)

Education and House Education - Wednesday, February 2, 8:30 a.m., Senate Hearing Room, Ground Floor, Boji Tower (373-5324) (CANCELED)

Finance - Wednesday, February 2, 12:30 p.m., Room 210, Farnum Building (373-5307) (CANCELED)

Local Government and Elections - Wednesdays, February 2 (CANCELED), and February 9, 3:00 p.m., Room 100, Farnum Building (373-5323)

Outdoor Recreation and Tourism - Thursday, February 3, 12:30 p.m., Room 210, Farnum Building (373-5323) (CANCELED)

Senator Meekhof moved that the Senate adjourn. The motion prevailed, the time being 10:45 a.m.

In pursuance of the order previously made, the President, Lieutenant Governor Calley, declared the Senate adjourned until Tuesday, February 8, 2011, at 10:00 a.m.

CAROL MOREY VIVENTI Secretary of the Senate