

**No. 11**  
**STATE OF MICHIGAN**  
**Journal of the Senate**  
**94th Legislature**  
**REGULAR SESSION OF 2007**

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Senate Chamber, Lansing, Wednesday, February 14, 2007.

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—excused  
Cropsey—present

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

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

Reverend Gerald D. Cardwell of St. John African Methodist Episcopal Church of River Rouge offered the following invocation:

To the God of our weary years; to the God of our silent tears; to the God who has brought us thus far on our way: We thank You, O God, for Your unwavering and unrelenting presence in our lives. We thank You, God, for looking down on Your creation to care for us, to have mercy on us, when we come to realize we cannot care for ourselves.

We thank You, God, for comforting us when we cannot find comfort. We thank You, God, for being patient with us when we lose patience with each other. We thank You, God, for those who believe, for those who want to believe, and even those who care not to believe on Your holy name.

You said in Your word that “if my people who are called by my name would humble themselves and pray” and seek Your face, we would hear from You, and You would heal the land. Well, Lord, through our trials, we’ve been humbled by You, and we need Your help to get past the circumstances we find ourselves in; to get past the crises we now face.

Lord God, we invite and invoke Your presence here in this great place, for we may have lost our way to be unified in ultimately advancing Your kingdom. We invite and invoke Your presence, for we may have lost our sense of helping people before helping programs. We now look to You, Lord, for we know from which truly comes our help in times of storms.

Hear our prayer, O Lord. Incline Your ear to our plea, grant us wisdom, and grant us courage for the facing of this hour. Help us to work together with all hands on deck. Direct our paths and set a new course; one in which You would have us to go as we navigate and legislate our way out of our storms. Help us to know that Your permissive will has been made perfect in our trials and has intensified our faith we find in You.

So, therefore, teach us, O God, to look past our personal interests as we look to love You, our neighbor, and ourselves. Teach us, God, to put aside the political division and indecision that stifles us and permit us to press toward a new day with a new zeal for the building of a new state that can proclaim Your glory, provide for Your promise, and promote Your agenda.

Prick the minds of these men and women, God, whom You’ve given the gifts and talents, responsibility and purpose, to fashion leadership and laws that promote health and wellness for the citizens of this great state. Renew our commitment, heal our woundedness, strengthen our hearts, and transform our souls. Let us feel Your presence and empower us to do a new thing in You.

And, God, if You see anything not pleasing in Your sight, any unnecessary partisan barriers or political hindrances that stand in the way of You having Your way, remove them and suppress them, so that Your hand will be in the land and the great state of Michigan may be healed and become healthy and prosperous in Your sight.

May all that we say and do from this day forward be to Your honor and to Your glory. Amen.

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

### Motions and Communications

Senators Kahn and Kuipers entered the Senate Chamber.

Senator Thomas moved that Senators Olshove and Clarke be excused from today’s session.  
The motion prevailed.

The Secretary announced that the following official bills were printed on Tuesday, February 13, and are available at the legislative website:

**Senate Bill Nos.    192    193    194    195**

### Messages from the Governor

The following message from the Governor was received and read:

February 13, 2007

I respectfully submit to the Senate, pursuant to Section 6, Article 5 of the Michigan Constitution of 1963, the following appointment and reappointments to state office under Section 4 of the Child Abuse and Neglect Prevention Act, 1982 PA 250, MCL 722.604:

#### **State Child Abuse and Neglect Prevention Board**

Mr. Douglas M. Paterson of 2701 Heather Drive, East Lansing, Michigan 48823, county of Ingham, succeeding Robert R. Tisch, whose term has expired, representing the general public, for a term commencing February 13, 2007 and expiring December 19, 2008.

Ms. Rebecca Bahar of 525 Westmoreland, Lansing, Michigan 48915, county of Ingham, reappointed to represent the general public, for a term expiring December 19, 2009.

Ms. Anita G. Fox of 1800 Yosemite, Okemos, Michigan 48864, county of Ingham, reappointed to represent legal services, for a term commencing February 13, 2007 and expiring December 19, 2009.

Ms. Nancy J. Moody of 1078 Applegate Lane, East Lansing, Michigan 48823, county of Ingham, reappointed to represent the private sector, for a term expiring December 19, 2009.

Sincerely,  
Jennifer M. Granholm  
Governor

The appointments were referred to the Committee on Government Operations and Reform.

**Third Reading of Bills**

The following bill was read a third time:

**Senate Bill No. 166, entitled**

A bill to make, supplement, and adjust appropriations for various state departments and agencies and capital outlay for the fiscal year ending September 30, 2006; to provide for the expenditure of the appropriations; and to repeal acts and parts of acts.

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. 7**

**Yeas—36**

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

**Nays—0**

**Excused—2**

Clarke	Olshove
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**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. 184, entitled**

A bill to amend 1984 PA 431, entitled "The management and budget act," by amending sections 371 and 395 (MCL 18.1371 and 18.1395), section 371 as amended by 1999 PA 8 and section 395 as amended by 1988 PA 504.

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. 8****Yeas—34**

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

**Nays—2**

Cherry	Schauer
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**Excused—2**

Clarke	Olshove
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**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

**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 Barcia as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Cherry, having resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

**Senate Bill No. 176, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 20161 (MCL 333.20161), as amended by 2005 PA 187.

Substitute (S-1).

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

**Introduction and Referral of Bills**

Senator Stamas introduced

**Senate Bill No. 196, entitled**

A bill to authorize the department of natural resources to convey certain state owned property in Oscoda county; to prescribe conditions for the conveyance; and to provide for disposition of the revenue from the conveyance.

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

Senators Olshove, Jacobs, Scott, Schauer, Hunter, Cherry, Jansen and Birkholz introduced

**Senate Bill No. 197, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding section 17213. The bill was read a first and second time by title and referred to the Committee on Health Policy.

Senators Basham, Gleason and Brater introduced

**Senate Bill No. 198, entitled**

A bill to amend 1964 PA 154, entitled "Minimum wage law of 1964," by amending section 4a (MCL 408.384a), as amended by 1997 PA 2.

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

Senators Brater, Whitmer, Jacobs, Thomas, Scott, Anderson, Schauer, Clarke, Gleason, Basham, Hunter, Olshove, Cherry and Switalski introduced

**Senate Bill No. 199, entitled**

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," (MCL 760.1 to 777.69) by adding section 85 to chapter VII.

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

Senators Brater, Whitmer, Jacobs, Thomas, Scott, Anderson, Schauer, Clarke, Gleason, Basham, Hunter, Olshove, Cherry and Switalski introduced

**Senate Bill No. 200, entitled**

A bill to amend 1974 PA 258, entitled "Mental health code," by amending section 208 (MCL 330.1208), as amended by 1995 PA 290.

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

Senators Patterson and Richardville introduced

**Senate Bill No. 201, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 20120b and 21310a (MCL 324.20120b and 324.21310a), section 20120b as added by 1995 PA 71 and section 21310a as amended by 1996 PA 116, and by adding part 207.

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

Senators Jansen, Birkholz, Schauer, Kahn and Anderson introduced

**Senate Bill No. 202, entitled**

A bill to amend 1954 PA 116, entitled "Michigan election law," (MCL 168.1 to 168.992) by adding section 759c.

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

### Statements

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

The motion prevailed.

Senator Kahn's statement is as follows:

I would like to speak with you for a moment on a series of discussions we are having here in Lansing at this time on some bills that are coming up and being, in fact, discussed today. Those are surrounding an issue that was important in the last election. That is, what the proper threshold is for the initiation of a lawsuit against a drug company, the issue that surrounds the FDA defense.

The discussion relates to a perception that it is too difficult to initiate such a suit and, therefore, the people are unprotected. That is one side of this. The other side concerns what we currently have here in the United States through the FDA. The FDA investigates drugs from the time of proposal through manufacturing and oversees them subsequently. And though there is a perception that, in fact, in Michigan you cannot sue a drug company, this is not accurate.

If there is misrepresentation by a drug company at the time of presentation of data to the FDA, they may be sued. If the manufacturing of the drug subsequently is not up to the standard by which it was approved by the FDA, they may be sued. And if subsequently new data arises and it is not promptly reported by the drug company, they may be sued. If they fulfill those requirements, they are not suable. Therein is the rub and the discussion about what constitutes an appropriate threshold.

I've been interested in this, of course, as a physician, but also I am interested in this because in my district we have an important asset, Dow Corning. Dow Corning was bankrupted by the cost of defense of thousands and tens of thousands of lawsuits regarding breast implants. Those implants are silicone-based. The day after Dow Corning declared bankruptcy, the lead article in one of our major medical journals stated that they could find no relationship between personal injury and those breast implants. I knew that independently because as a cardiologist I implant pacemakers in people. The pacemaker and the pacemaker wires are coated with the same silicone and I never had a problem reported to me or a suit.

Since Dow Corning was bankrupted, we lost in mid-Michigan, ten years' worth of opportunity dollars, ten years' worth of growth in jobs, and an opportunity to diversify our economy. Therefore, this issue of what the appropriate threshold is for a lawsuit has ramifications well beyond the individual relationship of the patient and the product that he consumes.

On my desk sits some Vioxx. I have bad knees. After I finish speaking, I think I will go have some. However, the issue surrounding Vioxx is probably the threshold for our rediscussing this issue, but it goes beyond that particular drug or other individual drugs. It goes to the issues raised by oncologists who feel that we cannot get an adequate number of drugs for desperate people quickly through the FDA because they are too rigid and similarly for orthopedists.

Senator Scott's statement is as follows:

To my colleagues again, I continue to get calls every day, and I guess AOL had—and I don't have the article with me today, but I hope to have it tomorrow—where the rates of insurance are going up all over the state. I know that, I've heard at least, some additional fees will be put on the insurance companies. Now, we know that so far some of the urban areas are bearing the cost of some of these additional charges. We know that as insurance goes up, it will be passed on to the consumers.

So I'm asking that we certainly take up some of these bills. You know, we take up all other bills that come up. We do them in an expedient way, but this is something that has been going on for a number of years. I continue to ask you to please take up these bills or at least to study them and study them in a meaningful way because these are the same people who can't continue to afford this. With the state in the financial crisis that it is in, a number of programs are being cut, so the burden is going to go more and more on these people who can least afford it.

So I would hope that we would take the time because I'm getting a number of these e-mails from all over the state; that we would take the time and show these people that we care by doing this task force so that we can look at what is not working for everyone in this state.

So again I ask you to please take up these bills. If not my bills, then some bills that are going to do something to give these people some relief. It's not about me, but it's about what we do for the most vulnerable people in this state.

### **Committee Reports**

#### **COMMITTEE ATTENDANCE REPORT**

The Committee on Transportation submitted the following:

Meeting held on Tuesday, February 13, 2007, at 12:30 p.m., Room 110, Farnum Building  
Present: Senators Gilbert (C), Kahn, Van Woerkom, Basham and Gleason

#### **COMMITTEE ATTENDANCE REPORT**

The Committee on Judiciary submitted the following:

Meeting held on Tuesday, February 13, 2007, at 12:34 p.m., Room 210, Farnum Building  
Present: Senators Kuipers (C), Cropsey, Sanborn, Patterson, Whitmer, Clarke and Prusi

#### **COMMITTEE ATTENDANCE REPORT**

The Committee on Commerce and Tourism submitted the following:

Meeting held on Tuesday, February 13, 2007, at 2:30 p.m., Room 100, Farnum Building  
Present: Senators Allen (C), Gilbert, Stamas, Clarke and Hunter

**Scheduled Meetings**

**Agriculture** - Thursday, February 15, 9:00 a.m., Room 110, Farnum Building (373-1635)

**Appropriations -****Subcommittees -**

**Agriculture** - Thursdays, February 15, February 22, March 1 and March 8, 2:00 p.m., Rooms 402 and 403, Capitol Building (373-2768)

**General Government** - Thursdays, February 15, February 22, March 1, March 8 and March 15, 3:00 p.m., Room 100, Farnum Building (373-2768)

**Judiciary and Corrections** - Wednesdays, February 21, February 28 and March 14, 3:00 p.m., Room 402, Capitol Building; and Thursday, March 8, 1:30 p.m., Room 100, Farnum Building (373-2768)

**Natural Resources Department** - Tuesday, February 27, 12:00 noon or later immediately following session, Senate Appropriations Room, 3rd Floor, Capitol Building (373-2768)

**State Police and Military Affairs** - Thursdays, February 15, February 22, March 1 and March 8, 1:00 p.m., Room 405, Capitol Building (373-2768)

**Education** - Thursday, February 15, 2:30 p.m., Room 210, Farnum Building (373-6920)

**Energy Policy** - Thursday, February 22, 1:00 p.m., Room 210, Farnum Building (373-7350)

**Finance** - Thursday, February 15, 11:00 a.m. or later immediately following session, Room 110, Farnum Building (373-1758)

Senator Cropsey moved that the Senate adjourn.  
The motion prevailed, the time being 10:28 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Thursday, February 15, 2007, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate

