

No. 80
STATE OF MICHIGAN
Journal of the Senate
95th Legislature
REGULAR SESSION OF 2009

Senate Chamber, Lansing, Thursday, October 1, 2009.

12:15 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 not 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—present
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 Gilda Z. Jacobs of the 14th District offered the following invocation:

God of many names, lover of all people, we pray for peace and justice in our state, our nation, and in our world. We pray for all who have the awesome responsibility of power and decision making. We pray for the innocent victims of violence, war, and selfishness.

Lead us and all the people of the world from death to life; from falsehood to truth. Lead us from despair to hope; from fear to trust. Lead us from narrow perspectives to a common ground. Lead us from hate to love; from war to peace; from inequalities to justice.

Let peace with justice fill our hearts, our state, our nation, our world, and our universe. Amen.

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

Senators Hardiman, Bishop, Brown, George, Cassis, Pappageorge, Birkholz, Kahn, Allen, Jansen, Van Woerkom, Gilbert, Kuipers, McManus, Garcia, Patterson, Richardville and Jelinek entered the Senate Chamber.

A quorum of the Senate was present.

Motions and Communications

Protest

Senator Clarke, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 798.

Senator Clarke's statement is as follows:

I opposed Senate Bill No. 798 because I don't believe we need an overall income tax increase in order to raise revenue and balance the budget. I believe that this Legislature can work more effectively to balance the budget if we apply some of the principles and incentives that work in the private sector to this body.

That is why today I will formally request the chair of the State Officers Compensation Commission—that is the panel that sets legislative salaries—to meet immediately to consider reducing the salaries of the Senate Majority Leader and the Speaker of the House by the sum of at least \$3,000 per day for every day that the state does not have a balanced budget.

In this tough economy right now, people who don't work in the Legislature, they know that if they don't fulfill the central mission of their job, they are likely not to have a job; let alone earn the same amount of money that they have been getting. It is the constitutional duty of this body to pass a balanced budget. I believe that if we have to pay the price for not doing so, we will not have more days like this, like we have had in the last couple of years.

Finally, I would ask the State Officers Compensation Commission to consider linking legislative pay to personal income and the employment level in this state. So that in order for us to earn our full salary, we can only do so when people are earning more money and getting more jobs. I think that would incentivize us to actually work effectively to stimulate this economy.

So again I will ask the SOCC to look at reducing the salary of the leaders of the Legislature by the sum of at least \$3,000 per day for each day this state does not have a balanced budget, so that we can move effectively from now on.

The Secretary announced the enrollment printing and presentation to the Governor on Wednesday, September 30, for her approval the following bills:

Enrolled Senate Bill No. 494 at 8:22 p.m.

Enrolled Senate Bill No. 495 at 8:24 p.m.

Enrolled Senate Bill No. 540 at 8:26 p.m.

Enrolled Senate Bill No. 777 at 8:28 p.m.

Enrolled Senate Bill No. 250 at 11:26 p.m.

Enrolled Senate Bill No. 249 at 11:28 p.m.

Enrolled Senate Bill No. 237 at 11:30 p.m.

Enrolled Senate Bill No. 254 at 11:32 p.m.

The Secretary announced that the following official bills were printed on Wednesday, September 30, and are available at the legislative website:

Senate Bill Nos. 879 880 881 882

House Bill Nos. 5480 5481 5482 5483 5484 5485 5486 5487 5488 5489

By unanimous consent the Senate proceeded to the order of
Messages from the House

Recess

Senator Cropsey moved that the Senate recess subject to the call of the Chair.
 The motion prevailed, the time being 12:25 a.m.

12:45 a.m.

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

During the recess, Senator Stamas entered the Senate Chamber.

Senate Bill No. 831, entitled

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

The House of Representatives has passed the bill and ordered that the bill be given immediate effect.

Senator Cropsey moved that the bill be given immediate effect.

The motion prevailed, 2/3 of the members serving voting therefor.

Senator Cropsey moved to reconsider the vote by which the bill was given immediate effect.

The question being on the motion to reconsider,

Senator Cropsey moved that further consideration of the bill be postponed temporarily.

The motion prevailed.

By unanimous consent the Senate proceeded to the order of
Conference Reports

Senate Bill No. 253, entitled

An act to make appropriations for the department of state police and certain other state purposes for the fiscal year ending September 30, 2010; to provide for the expenditure of those appropriations; to provide for certain reports and the consideration of those reports; to provide for the disposition of other income received by the various state agencies; to provide for certain emergency powers; to provide for the powers and duties of certain committees, certain state agencies, and certain employees; and to provide for the acquisition and disposition of certain real and personal property.

(The conference report was not adopted on September 30, rules suspended, vote reconsidered, and consideration postponed. See Senate Journal No. 79 p. 1846.)

The question being on the adoption of the conference report,

The first conference report was adopted, a majority of the members serving voting therefor, as follows:

Roll Call No. 504

Yeas—27

Allen	Cherry	Hardiman	Prusi
Anderson	Clark-Coleman	Jacobs	Scott
Barcia	Clarke	Jansen	Stamas
Basham	Cropsey	Jelinek	Switalski
Birkholz	Garcia	Kuipers	Van Woerkom
Bishop	Gilbert	McManus	Whitmer
Brater	Gleason	Olshove	

Nays—10

Brown	Hunter	Patterson	Sanborn
Cassis	Kahn	Richardville	Thomas
George	Pappageorge		

Excused—0**Not Voting—0**

In The Chair: President

House Bill No. 4436, entitled

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

(The conference report was adopted on September 30 and the motion for immediate effect postponed. See Senate Journal No. 79, pp. 1762, 1851.)

The question being on the motion to give the bill immediate effect,

The motion prevailed, 2/3 of the members serving voting therefor.

Senator Cropsey moved to reconsider the vote by which the bill was given immediate effect.

The question being on the motion to reconsider,

Senator Cropsey moved that further consideration of the bill be postponed temporarily.

The motion prevailed.

House Bill No. 4441, entitled

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

(The conference report was adopted on September 30 and the motion for immediate effect postponed. See Senate Journal No. 79, pp. 1803, 1850.)

The question being on the motion to give the bill immediate effect,

The motion prevailed, 2/3 of the members serving voting therefor.

Senator Cropsey moved to reconsider the vote by which the bill was given immediate effect.

The question being on the motion to reconsider,

Senator Cropsey moved that further consideration of the bill be postponed temporarily.

The motion prevailed.

By unanimous consent the Senate returned to the order of

Messages from the House**Senate Bill No. 243, entitled**

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

(This bill was returned from the House on September 30 and the motion for immediate effect postponed. See Senate Journal No. 79, p. 1848.)

The question being on the motion to give the bill immediate effect,
The motion prevailed, 2/3 of the members serving voting therefor.
Senator Cropsey moved to reconsider the vote by which the bill was given immediate effect.
The question being on the motion to reconsider,
Senator Cropsey moved that further consideration of the bill be postponed temporarily.
The motion prevailed.

Senate Bill No. 248, entitled

An act to make appropriations for the department of human services and certain state purposes related to public welfare services for the fiscal year ending September 30, 2010; to provide for the expenditure of the appropriations; to create funds; to provide for the imposition of fees; to provide for reports; to provide for the disposition of fees and other income received by the state agency; and to provide for the powers and duties of certain individuals, local governments, and state departments, agencies, and officers.

(This bill was returned from the House on September 30 and the motion for immediate effect postponed. See Senate Journal No. 79, p. 1849.)

The question being on the motion to give the bill immediate effect,
The motion prevailed, 2/3 of the members serving voting therefor.
Senator Cropsey moved to reconsider the vote by which the bill was given immediate effect.
The question being on the motion to reconsider,
Senator Cropsey moved that further consideration of the bill be postponed temporarily.
The motion prevailed.

Recess

Senator Cropsey moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 12:59 a.m.

1:30 a.m.

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

Senate Bill No. 245, entitled

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

(For Conference Report, see Senate Journal No. 78, p. 1599.)

The House of Representatives has adopted the report of the Committee of Conference.
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.
Senator Cropsey moved to reconsider the vote by which the bill was given immediate effect.
The question being on the motion to reconsider,
Senator Cropsey moved that further consideration of the bill be postponed temporarily.
The motion prevailed.

Recess

Senator Cropsey moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 1:32 a.m.

1:46 a.m.

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

By unanimous consent the Senate returned to consideration of the following bill:

Senate Bill No. 831, entitled

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

(This bill was returned from the House earlier today, given immediate effect and the motion to reconsider the vote postponed. See p. 1859.)

The question being on the motion to reconsider the vote by which the bill was given immediate effect, Senator Cropsey withdrew the motion.

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

By unanimous consent the Senate returned to the order of

Conference Reports

Senate Bill No. 253, entitled

A bill to make appropriations for the department of state police and certain other state purposes for the fiscal year ending September 30, 2010; to provide for the expenditure of those appropriations; to provide for certain reports and the consideration of those reports; to provide for the disposition of other income received by the various state agencies; to provide for certain emergency powers; and to provide for the powers and duties of certain committees, certain state agencies, and certain employees.

(For Conference Report, see Senate Journal No. 79, p. 1690.)

The House of Representatives has adopted the report of the Committee of Conference.

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.

Senator Cropsey moved to reconsider the vote by which the bill was given immediate effect.

The question being on the motion to reconsider,

Senator Cropsey moved the further consideration of the bill be postponed temporarily.

The motion prevailed.

By unanimous consent the Senate returned to the order of

Messages from the House

Senate Bill No. 252, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending sections 11, 11j, 17b, 39a, and 147 (MCL 388.1611, 388.1611j, 388.1617b, 388.1639a, and 388.1747), sections 11 and 11j as amended by 2009 PA 73, section 17b as amended by 2007 PA 137, and sections 39a and 147 as amended by 2008 PA 268; and to repeal acts and parts of acts.

The House of Representatives has substituted (H-2) the bill.

The House of Representatives has passed the bill as substituted (H-2), ordered that it be given immediate effect and amended the title to read as follows:

A bill to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 11, 11j, 17b, and 147 (MCL 388.1611, 388.1611j, 388.1617b, and 388.1747), sections 11 and 11j as amended by 2009 PA 73, section 17b as amended by 2007 PA 137, and section 147 as amended by 2008 PA 268.

Pending the order that, under rule 3.202, the bill be laid over one day,

Senator Cropsey moved that the rule be suspended.

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

The question being on concurring in the substitute made to the bill by the House,

Senator Jelinek offered the following amendments to the substitute:

1. Amend page 2, line 9, after "OF" by striking out "\$1,087,000,000.00" and inserting "\$1,052,000,000.00".

2. Amend page 2, line 15, by striking out all of subdivision (A) and inserting:

“(A) EXCEPT FOR FUNDS ALLOCATED UNDER SECTION 11J, ALL STATE FUNDS ARE ALLOCATED FOR THE SAME PURPOSES, FROM THE SAME FUNDING SOURCES, AND UNDER THE SAME CONDITIONS AS STATE FUNDS WERE ALLOCATED UNDER THIS ACT FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2009, AND ARE ALLOCATED IN AN AMOUNT EQUAL TO 9.09% OF THE AMOUNT ALLOCATED FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2009 FOR EACH OF THE PURPOSES PROVIDED UNDER EACH FUNDING SECTION OF THIS ACT. HOWEVER, THE DEPARTMENT SHALL DEDUCT THE FOLLOWING AMOUNTS FROM THE TOTAL STATE SCHOOL AID OTHERWISE ALLOCATED TO DISTRICTS AND INTERMEDIATE DISTRICTS RECEIVING FUNDING UNDER THIS SUBDIVISION:

(i) FOR DISTRICTS, THE DEPARTMENT SHALL DEDUCT FROM THE TOTAL STATE SCHOOL AID OTHERWISE ALLOCATED UNDER THIS SUBDIVISION TO EACH DISTRICT AN AMOUNT EQUAL TO \$20.00 PER MEMBERSHIP PUPIL.

(ii) FOR INTERMEDIATE DISTRICTS, THE DEPARTMENT SHALL DEDUCT FROM THE TOTAL STATE SCHOOL AID OTHERWISE ALLOCATED UNDER THIS SUBDIVISION TO EACH INTERMEDIATE DISTRICT AN AMOUNT EQUAL TO 44.36% OF THE AMOUNT OTHERWISE ALLOCATED TO THE INTERMEDIATE DISTRICT UNDER THIS SUBDIVISION.”.

3. Amend page 9, line 2, by striking out “\$1,089,900,000.00” and inserting “\$1,054,900,000.00”.

4. Amend page 9, line 4, after “at” by striking out “\$1,047,000,000.00” and inserting “\$1,012,000,000.00”.

The question being on the adoption of the amendments to the substitute,

Senator Cropsy moved that the previous question be ordered.

The motion prevailed.

The amendments to the substitute were adopted.

Senator Thomas requested the yeas and nays.

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

The amendments to the substitute were adopted, a majority of the members voting therefor, as follows:

Roll Call No. 505

Yeas—21

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

Nays—15

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

Excused—0

Not Voting—1

Hunter

In The Chair: President

Protests

Senators Whitmer and Clark-Coleman, under their constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendments offered by Senator Jelinek to the House substitute to Senate Bill No. 252 and moved that the statements they made during the discussion of the amendments be printed as their reasons for voting “no.”

The motion prevailed.

Senator Whitmer’s statement is as follows:

I rise to speak against this amendment. This amendment, what it does is take the bill that has come from the House, which is a reflection of the current year appropriations, down to the appropriations that are in the target agreements between the Majority Leader here and the Speaker of the House. That is a drastic cut from current year policy.

Now ever since the hideous cuts that were in the conference report came out, I have been agonizing about the 1.6 million children and families in the state of Michigan who are going to be hurt by the cuts that were in that bill. At 2:43 in the morning, the morning after that conference report came out, I finally turned on my light and started writing. That is how much I was upset about what has happened in that conference report. You see, I come from a family of educators, and I am a product of the public schools in East Lansing and Grand Rapids. My kids are in the East Lansing Public Schools. I believe that education is the great equalizer in our society and the opportunity for our kids to succeed.

Last Sunday, I was at my church, The Peoples Church in East Lansing, and my pastor began the service by talking about how when children are around, adults behave better. I kept the bulletin from which we jointly recited the following: “Then he put a child among them. When we use long words and confusing sentences, put a child among us. When we let the cares of the world drag us down, when the demands of life seem overwhelming, put a child among us. When we are tempted to deceive or to selfishly sway an opinion, put a child among us. When we need love, recognition, or a great big hug, put a child among us. When we need the values of church, family, or community in proportion, put a child among us.”

Now we heard today the Majority Leader of this chamber say that after the cuts go in, it will be business as usual here in the state of Michigan. Well, this is not business as usual. This has a real impact on the kids in our state. Yes, the sun will rise tomorrow morning, but it will have a dramatic impact on the kids in our state. I was raised by two public servants who taught me very important lessons, one of which was that you have to get the facts. The other is you have to tell the truth and don’t sugarcoat it. Well, here are the facts. The most critical time in a human being’s brain development is the early years. Education is the most important factor in an individual’s ability to succeed in the new economy, and businesses of tomorrow need educated workforces.

Now here is the straight talk. This represents one-twelfth of the budget agreement that you have agreed to. This budget would rip apart the very fabric of our education system; a system that I am willing to bet that every one of you made campaign promises to uphold. Two hundred school districts would be forced into deficit spending. At \$240 per pupil—when you take into account the ISD cut—the ISD funding is another \$22 per pupil.

Schools, parents, and students will have to be prepared for a 13th year because there will no longer be credit recovery. Summer school will be gone; after-school programs will be gone; early childhood education will be gone. You can tell people that they are going to have flexibility, but the reality of this is that they will be gone. These cuts mean fewer bus routes themselves, meaning that a little 5-year-old girl will have to walk farther to catch the bus, and when she gets on it, it probably won’t be inspected. It eliminates early childhood education.

Since I know I can’t seem to appeal to the right side of your brain or your hearts when I talk about kids, let’s talk about the bottom line you’re so singularly focused on—jobs. This means 12,000 to 14,000 losses, real losses that will be felt in every community across this state. If that was the private sector, you would be falling all over yourselves to introduce a bill to save those jobs. In Kent County alone, that is 500 less teachers and \$23 million in the local economy. When Grand Rapids Public Schools have rightsized and done everything right, they just don’t have \$4.2 million more.

You like to rail against the MBT, but how the heck are we going to compete with China, India, or even Indiana when we do this to our schools? I know that you don’t have to look your principal in the eye every day because some of you don’t have kids in the schools like I do, but I remind you that this is a midyear cut—a legislative proration that is on your shoulders.

Senator Clark-Coleman’s statement is as follows:

I rise to speak against this amendment to the School Aid budget. These draconian cuts to the K-12 budget will decimate education in this state. The money that is supposed to be saved by slicing away our children’s future cannot make up for the loss.

For those of you who may want to balance the state budget on the backs of our children and disguise this cowardly act as a sound fiscal exercise, consider this: The across-the-board \$218 per pupil cut will overcrowd classrooms in your districts. It will lead to job layoffs in your districts. Officials at the American Federation of Teachers project they will lose 8,000 teachers, and the Michigan Education Association estimates they will lose 6,300 teachers—all because legislators are willing to put politics above education.

School districts across this state have already set their budgets and have planned how best to use tax dollars to educate children in your districts. Now we're telling them to stop because their budgets have been gutted. The \$8.9 million cut will decimate early childhood programs. Preschool children will not receive the boost they need to begin school ready to read, write, and communicate. Just as they have a right to life, they have a right to learn.

This budget cuts \$875,000 from math/science centers that prepare students for green jobs we are trying to create. How does this move Michigan forward? The cuts are unconscionable. The harm they will do to our schools will also affect our ability to draw new businesses and new families into our communities—every community, not just urban areas. Young couples first consider the quality of school districts when looking to start a family. Our communities will not be attractive because of the harm this budget reaps on our schools.

If we approve this budget, Michigan can look forward to a less certain future. We can look forward to more economic difficulties because we will not have well-educated students ready to take the new jobs in the new economy. This budget goes against everything I know and believe about education; everything that I know about how children learn; and everything that I know about the tools teachers need to do a good job in the classroom.

I cannot support this amendment, and I encourage my colleagues and all those who truly believe that education is the key to success to vote “no” on this amendment.

The question being on concurring in the House substitute, as amended,

The substitute was concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 506

Yeas—21

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

Nays—15

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

Excused—0

Not Voting—1

Hunter

In The Chair: President

Senator Cropsey moved that the bill be given immediate effect.

The motion did not prevail, 2/3 of the members serving not voting therefor.

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, 2/3 of the members serving not voting therefor, as follows:

Roll Call No. 507**Yeas—21**

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

Nays—15

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

Excused—0**Not Voting—1**

Hunter

In The Chair: President

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

The motion prevailed.

Senator Bishop's statement is as follows:

In the waning hours of October 1, 2009, we do the best we can to look forward and balance our budgets. We have before us the K-12 budget, and I can assure you that Republicans are just as concerned about education as Democrats. Cuts are not easy for either of us, and we approached this budget very carefully to ensure that we don't make cuts where they are unnecessary and to make sure that we prioritize.

When it comes to the K-12 budget, all efforts were made to ensure that we mitigated the impact in certain areas that we have always deemed as priorities. This budget—based on the targets—is about a 2.9 percent cut to the K-12 School Aid Fund. Now that is annualized, so this is one-twelfth of that full-year budget. I don't know how we can call a 2.9 percent cut egregious, draconian, or somehow the sky will be a different color tomorrow or the sun won't rise.

If we want to talk about facts and we want to talk about truth, let me give you the hard, cold truth. We can only spend as much as we have. If we are in a situation where we have a finite number of dollars, we have to learn to spread that across our priorities in a way that is fair and reasonable. That is what we have done here. Earlier today, we gave you an option on a revenue increase, and that wasn't good either. Since we have no new revenues, and we have a finite number of dollars, so we do the best we can.

Before you today is an amendment representing exactly what we have as a good faith attempt to address our priorities. Now it is a continuation budget, so we have 30 days to come up with a new plan. You all will have a chance to discuss that and participate in that process. Right now, as we stand here, we do not have a K-12 budget because it is still in the House. This is the best we can do.

Let us work together to move the continuation budget back over to the House and keep this ball moving. Let's make sure we have money for our schools and that we don't have any interruption in this essential service.

By unanimous consent the Senate returned to the order of
Motions and Communications

Senator Cropsey moved that, pursuant to rule 1.114, upon receipt of Senate bills returned from the House of Representatives, the Secretary of the Senate be directed to proceed with the enrollment printing and presentation of the bills to the Governor.

The motion prevailed.

By unanimous consent the Senate returned to the order of
Messages from the House

House Bill No. 4447, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending sections 3, 6, 11, 11a, 11g, 11j, 11k, 11m, 15, 18, 20, 20d, 20j, 22a, 22b, 22e, 24, 24a, 24c, 26a, 26b, 31a, 31d, 31f, 32b, 39a, 51a, 51c, 51d, 53a, 54, 61a, 74, 81, 94a, 98, 99, 99i, 101, 104, 104b, 107, 147, and 164c (MCL 388.1603, 388.1606, 388.1611, 388.1611a, 388.1611g, 388.1611j, 388.1611k, 388.1611m, 388.1615, 388.1618, 388.1620, 388.1620d, 388.1620j, 388.1622a, 388.1622b, 388.1622e, 388.1624, 388.1624a, 388.1624c, 388.1626a, 388.1626b, 388.1631a, 388.1631d, 388.1631f, 388.1632b, 388.1639a, 388.1651a, 388.1651c, 388.1651d, 388.1653a, 388.1654, 388.1661a, 388.1674, 388.1681, 388.1694a, 388.1698, 388.1699, 388.1699i, 388.1701, 388.1704, 388.1704b, 388.1707, 388.1747, and 388.1764c), sections 3, 6, 11, 11a, 11g, 11j, 11k, 11m, 15, 18, 20d, 22a, 22b, 24, 24a, 24c, 26a, 26b, 31a, 31d, 31f, 39a, 51a, 51c, 51d, 53a, 54, 61a, 74, 81, 94a, 98, 99, 99i, 104, 104b, 107, 147, and 164c as amended and section 22e as added by 2008 PA 268, sections 20, 20j, and 32b as amended by 2008 PA 561, and section 101 as amended by 2006 PA 342; and to repeal acts and parts of acts.

The House of Representatives has rejected the report of the Committee of Conference and has appointed Reps. Terry Brown, Cushingberry and Moss as second conferees.

The message was referred to the Secretary for record.

By unanimous consent the Senate returned to the order of
Motions and Communications

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

October 1, 2009

Pursuant to Joint Rule 5, the House having rejected CR-1 to House Bill 4447, the Senate appoints the following members to sit on a second conference committee:

Senator Ron Jelinek
Senator Cameron Brown
Senator Michael Switalski

Thank you for your prompt consideration of this matter.

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

The communication was referred to the Secretary for record.
The bill was referred to the Conference Committee.

Recess

Senator Cropsey moved that the Senate recess until 2:00 p.m.
The motion prevailed, the time being 2:39 a.m.

The Senate reconvened at the expiration of the recess and was called to order by the President, Lieutenant Governor Cherry.

By unanimous consent the Senate returned to the order of
Messages from the House

Recess

Senator Cropsey moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 2:01 p.m.

2:42 p.m.

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

Recess

Senator Cropsey moved that the Senate recess until 3:15 p.m.
The motion prevailed, the time being 2:43 p.m.

The Senate reconvened at the expiration of the recess and was called to order by the Assistant President pro tempore, Senator Sanborn.

Recess

Senator Cropsey moved that the Senate recess until 3:45 p.m.
The motion prevailed, the time being 3:16 p.m.

The Senate reconvened at the expiration of the recess and was called to order by the President pro tempore, Senator Richardville.

Recess

Senator Cropsey moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 3:17 p.m.

3:55 p.m.

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

Recess

Senator Brown moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 3:56 p.m.

4:01 p.m.

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

Recess

Senator Cropsey moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 4:02 p.m.

4:20 p.m.

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

Senator Cropsey moved that Senator Stamas be excused from the balance of today's session.
The motion prevailed.

Senate Bill No. 785, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 1301, 8807, 30105, 30301, 30303, 30306, 30306b, 30311, 30312, 30317, 32512a, and 32513 (MCL 324.1301, 324.8807, 324.30105, 324.30301, 324.30303, 324.30306, 324.30306b, 324.30311, 324.30312, 324.30317, 324.32512a, and 324.32513), section 1301 as amended by 2008 PA 18, section 8807 as added by 1998 PA 287, section 30105 as amended by 2006 PA 531, sections 30301, 30306, and 30312 as amended and section 32512a as added by 2003 PA 14, sections 30303 and 30311 as added by 1995 PA 59, section 30306b as added by 2006 PA 435, section 30317 as amended by 1998 PA 228, and section 32513 as amended by 2008 PA 276, and by adding sections 30303b, 30303d, 30304b, 30305b, 30311b, 30311d, 30312b, 30312d, 30325, 30327, and 30329; and to repeal acts and parts of acts.

The House of Representatives has substituted (H-4) the bill.

The House of Representatives has passed the bill as substituted (H-4), ordered that it be given immediate effect and amended the title to read as follows:

A bill to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 1301, 30105, 30301, 30303, 30306, 30306b, 30311, 30312, 30317, 32512a, and 32513 (MCL 324.1301, 324.30105, 324.30301, 324.30303, 324.30306, 324.30306b, 324.30311, 324.30312, 324.30317, 324.32512a, and 324.32513), section 1301 as amended by 2008 PA 18, section 30105 as amended by 2006 PA 531, sections 30301, 30306, and 30312 as amended and section 32512a as added by 2003 PA 14, sections 30303 and 30311 as added by 1995 PA 59, section 30306b as added by 2006 PA 435, section 30317 as amended by 1998 PA 228, and section 32513 as amended by 2008 PA 276, and by adding sections 30303b, 30303d, 30304b, 30305b, 30311a, 30311b, 30311d, 30312b, 30312d, 30325, 30327, and 30329; and to repeal acts and parts of acts.

Pending the order that, under rule 3.202, the bill be laid over one day,

Senator Cropsey moved that the rule be suspended.

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

Senator Thomas moved that Senators Barcia and Clarke be excused from the balance of today's session.
The motion prevailed.

The question being on concurring in the substitute made to the bill by the House,
The substitute was concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 508

Yeas—34

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

Nays—0

Excused—3

Barcia

Clarke

Stamas

Not Voting—0

In The Chair: Richardville

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor. The Senate agreed to the title as amended. The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

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

The motion prevailed.

Senator Birkholz's statement is as follows:

Senate Bill No. 785 that is in front of us today is the product of many months of work with a lot of people and a lot of the interest groups involved. It involves new permit options for wetlands and section 10 waters, which are the Great Lakes shorelines of which we have a huge amount in this state. Those permits can now go directly to the Army Corps of Engineers if the applicant decides to do so. Also it includes the adoption of federal standards for the application of feasible and prudent alternatives, which the regulated community asked us to do. It also includes a clear preference for mitigation banking as a compensatory mitigation option, which will help stimulate development in urban areas.

It allows us in Michigan to expand cranberry farming in the state, while remaining and competing with the integrity of our wetlands. There will be no fees for cranberry pre-application meetings. It allows for a clear ban of operational memorandum by the department and says that they will not have the force and effect of law for enforcement or compliance purposes. Lastly, it has an advisory council to study, evaluate, and make recommendations to the Legislature at the end of two and a half years.

My goal in working on this legislation has always been two-pronged to achieve certainty for our economy and certainty for the protection of our natural resources in Michigan. I would like to say thank you very much to all who helped in this process.

Senator Kahn's statement is as follows:

Approximately four years ago, after a series of difficulties with DEQ, including such things as calling parking lots wetlands and repetitive redefinition of rules and issuance of operational memoranda, former State Representative John Moolenaar introduced a bill regarding wetlands. He noted that in the United States, only two states, Michigan and New Jersey, separately rule on and had wetlands regulations from the federal government. Representative Moolenaar, upon leaving the Legislature, bequeathed that bill to me and concurrently to Representative Jim Stamas who followed him in the State Legislature.

It was hope—my hope and Representative Stamas' hope—that as part of getting Michigan back on the right track and creating jobs that we would have reforms and this would be one. The goal was to limit and repeal the DEQ's authority in reverting the process to the federal government. In a democracy, compromise becomes part of what is necessary to get anything done. At the end of the day, this bill will ensure that the DEQ uses feasible and prudent alternative analysis that are consistent with federal law. It will require state and local units of government to use the federal delineation manual in identifying wetlands. It will allow the option for an individual or business to use the Army Corps of Engineers for section 10 permitting if they so wish, as compared to using the DEQ.

These are significant improvements over current practice and law. It is also true that, as the prior speaker pointed out, there will be clear prohibition of the use of operational memoranda or their like for the expansion of wetlands, wetland requirements, or mitigation requirements inappropriately. This is an improvement.

There remain weaknesses. One of my concerns is that instead of having within the bill a statement that there will be no laws more stringent than federal law, we have federal law that can be reinterpreted downstream at the state level. It is my hope that since we have a prohibition on operational memoranda, that kind of freewheeling will be limited.

Instead of saving \$2 million a year, as the original proposal by the Governor in her budget proposal earlier in the year, this bill will require expenditure of dollars for permitting purposes for internal use to maintain this process at about

\$2 million a year. So it is about a \$4 million swing. Incidentally, that sort of a swing would be almost enough to restore the adult dental services to most of the people of Michigan.

I support this bill. I am happy to see Representative Moolenaar's idea bear some fruit. I urge its adoption.

Senator Basham's statement is as follows:

I rise in support of Senate Bill No. 785. I would like to thank the good Senator from the 24th District, as well as Representative Warren and Representative Scripps, for their hard work on this issue.

As I've said before, I firmly believe that we need to continue our state oversight of our valuable wetlands. This bill produces substantial changes in the permitting process which should create further efficiencies, should clarify, and also streamlining while protecting our wetlands. Protecting our wetlands means protecting our waters. We all benefit from world-class waters.

Thank you, Mr. President, and I would urge members' support.

Scheduled Meetings

Judiciary - Tuesday, October 6, 1:00 p.m., Room 210, Farnum Building (373-6920)

Legislative Commission on Government Efficiency - Wednesday, October 14, 9:00 a.m., Room 426, Capitol Building (373-0212)

Legislative Commission on Statutory Mandates - Monday, October 26, 9:00 a.m., Waterford Room, 1st Floor, Oakland County Executive Office Building, 2100 North Pontiac Road, Waterford (373-0212)

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

Natural Resources and Environmental Affairs - Wednesday, October 7, 1:00 p.m., Room 110, Farnum Building (373-3447)

Senator Cropsey moved that the Senate adjourn.

The motion prevailed, the time being 4:32 p.m.

The President pro tempore, Senator Richardville, declared the Senate adjourned until Tuesday, October 6, 2009, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

