

No. 82
STATE OF MICHIGAN
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REGULAR SESSION OF 2009

Senate Chamber, Lansing, Wednesday, October 7, 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—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 Ron Jelinek of the 21st District offered the following invocation:

Lord, we pray that we make good decisions today for all the citizens of this great state. We pray for the ability to face hard realities and understand the realities our citizens face, and at the same time that we remain thankful—thankful for the many blessings that we all enjoy.

We all face disappointments and losses in our lives, but we also enjoy joys and accomplishments because we know that our God is there to help us through thick and thin. We know that He is there to comfort us and help us to move ahead to do His work. Thank you, Lord, for being there every day.

I pray in Jesus' name. Amen.

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

Senator Basham entered the Senate Chamber.

Messages from the Governor

The following message from the Governor was received:

Date: October 6, 2009

Time: 11:29 a.m.

To the President of the Senate:

Sir—I have this day approved and signed

Enrolled Senate Bill No. 777 (Public Act No. 110), being

An act to amend 2007 PA 36, entitled “An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations,” by amending section 434 (MCL 208.1434), as amended by 2009 PA 26.

(Filed with the Secretary of State on October 6, 2009, at 11:48 a.m.)

Respectfully,
Jennifer M. Granholm
Governor

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

By unanimous consent the Senate proceeded to the order of

General Orders

Senator Cropsy 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 Jacobs as Chairperson.

After some time spent therein, the Committee arose; and, the President pro tempore, Senator Richardville, having assumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 533, entitled

A bill to amend 1939 PA 3, entitled “An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for

appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,” (MCL 460.1 to 460.11) by adding section 9o.

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.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 554, entitled

A bill to amend 1939 PA 3, entitled “An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,” (MCL 460.1 to 460.11) by adding section 9q.

Substitute (S-2).

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 557, entitled

A bill to amend 1939 PA 3, entitled “An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,” (MCL 460.1 to 460.11) by adding section 9p.

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.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 338, entitled

A bill to amend 1939 PA 3, entitled “An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,” (MCL 460.1 to 460.11) by adding section 9h.

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.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
Senate Bill No. 535, entitled

A bill to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," (MCL 460.1 to 460.11) by adding section 9q.

Substitute (S-2).

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

During the Committee of the Whole, Senators Clarke, Kahn, Jansen, Hunter, Hardiman and Van Woerkom entered the Senate Chamber.

Recess

Senator Cropsey moved that the Senate recess subject to the call of the Chair.
 The motion prevailed, the time being 10:15 a.m.

11:25 a.m.

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

During the recess, Senators Birkholz, Scott and Barcia entered the Senate Chamber.

By unanimous consent the Senate returned to the order of

Third Reading of Bills

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

Senate Bill No. 553

Senate Bill No. 555

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 553, entitled

A bill to amend 1984 PA 34, entitled "Michigan low income heating assistance and shut-off protection act," by amending section 7 (MCL 400.1207).

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. 510

Yeas—37

Allen	Clark-Coleman	Jacobs	Prusi
Anderson	Clarke	Jansen	Richardville
Barcia	Cropsey	Jelinek	Sanborn
Basham	Garcia	Kahn	Scott

Birkholz
Bishop
Brater
Brown
Cassis
Cherry

George
Gilbert
Gleason
Hardiman
Hunter

Kuipers
McManus
Olshove
Pappageorge
Patterson

Stamas
Switalski
Thomas
Van Woerkom
Whitmer

Nays—0

Excused—0

Not Voting—0

In The Chair: Richardville

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 555, entitled

A bill to amend 1984 PA 34, entitled “Michigan low income heating assistance and shut-off protection act,” (MCL 400.1201 to 400.1217) by adding section 7a.

The question being on the passage of the bill,

Senator Thomas offered the following amendment:

1. Amend page 2, following line 2, by inserting:

“Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 402 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. 511

Yeas—13

Anderson
Basham
Brater
Cherry

Clark-Coleman
Clarke
Hunter

Jacobs
Prusi
Scott

Switalski
Thomas
Whitmer

Nays—24

Allen
Barcia
Birkholz
Bishop
Brown
Cassis

Cropsey
Garcia
George
Gilbert
Gleason
Hardiman

Jansen
Jelinek
Kahn
Kuipers
McManus
Olshove

Pappageorge
Patterson
Richardville
Sanborn
Stamas
Van Woerkom

Excused—0

Not Voting—0

In The Chair: Richardville

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. 512**Yeas—37**

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

Nays—0**Excused—0****Not Voting—0**

In The Chair: Richardville

The Senate agreed to the title of the bill.

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

The motion prevailed.

Senator Barcia's statement is as follows:

I would like to speak in reference to several of the same points that the predecessors have spoken of and have made regarding tie-barring the ban on text messaging to a very important package of legislation which was crafted—and I will say astutely very much so—by Chairman Bruce Patterson and his counterpart in the House, Representative Jeff Mayes, to deal with the problem that has more and more of our aging population suffering memory loss and some even dementia, as in the case of Mr. Schur. He had ample money to pay his bill. He donated \$600,000 in his will to the Detroit Regional Medical Center. He had a large pile of cash that was clipped to his most recent utility bills—two of them, I believe, in the amount of about \$1,000 and ample cash clipped to them to pay those bills.

Unfortunately, he had a mental lapse and thought back to the days when most any bank would accept a payment for a utility bill and then remit that to the appropriate utility. Over the years, fewer and fewer banks have been willing to engage in that practice. So he had, in fact, attempted to pay his utility bills at two different banks on two different occasions. He had a broken furnace and his phone had been turned off for nonpayment of his utility fees on his phone. Unfortunately, there was not enough family to look after him.

So it was truly a tragedy. It could have happened in any one of our districts. But I can say that these well-crafted, very-deeply-thought-through proposals that have been made here in the State Senate and some additional bills in the House would address this problem once and for all. We could probably never ever guarantee that a situation like this would never

happen again in the state of Michigan, but with these additional protections, our most vulnerable citizens will be in a much, much securer place.

I can tell you that any approach embodied in this package of legislation would have precluded the untimely and very tragic death of Mr. Marvin Schur of Bay City.

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senator Switalski introduced

Senate Bill No. 886, entitled

A bill to provide for compulsory arbitration of labor disputes between county corrections officers and their employers; to provide for the selection of members of arbitration panels; to prescribe the procedures and authority of arbitration panels; to provide for the enforcement and review of awards of those panels; and to prescribe certain powers and duties of certain state and local officials.

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

Senator Jansen introduced

Senate Bill No. 887, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 7d (MCL 211.7d), as amended by 2008 PA 585.

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

Senator Thomas moved that the Senate return to the order of Conference Reports.

The motion did not prevail.

Senator Thomas 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. 513

Yeas—16

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

Nays—21

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

Excused—0

Not Voting—0

Recess

Senator Cropsey moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 11:49 a.m.

12:48 p.m.

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

Committee Reports

The Committee on Transportation reported

Senate Bill No. 276, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 709 (MCL 257.709), as amended by 2000 PA 127.

With the recommendation that the substitute (S-1) be adopted and that the bill pass.

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

Judson S. Gilbert II
Chairperson

To Report Out:

Yeas: Senators Gilbert, Kahn, Van Woerkom, Basham and Gleason

Nays: None

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

The Committee on Transportation reported

Senate Bill No. 448, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 722 (MCL 257.722), as amended by 2008 PA 579.

With the recommendation that the bill pass.

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

Judson S. Gilbert II
Chairperson

To Report Out:

Yeas: Senators Gilbert, Kahn, Van Woerkom and Gleason

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Transportation reported

House Bill No. 4999, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 722 (MCL 257.722), as amended by 2008 PA 579.

With the recommendation that the bill pass.

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

Judson S. Gilbert II
Chairperson

To Report Out:

Yeas: Senators Gilbert, Kahn, Van Woerkom and Gleason

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Transportation submitted the following:

Meeting held on Tuesday, October 6, 2009, at 1:02 p.m., Room 110, Farnum Building

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

The Committee on Commerce and Tourism reported

House Bill No. 4995, entitled

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

With the recommendation that the bill pass.

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

Jason E. Allen
Chairperson

To Report Out:

Yeas: Senators Allen, Gilbert, Stamas and Clarke

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Commerce and Tourism submitted the following:

Meeting held on Tuesday, October 6, 2009, at 2:30 p.m., Room 100, Farnum Building

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

Excused: Senator Hunter

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submitted the following:

Meeting held on Tuesday, October 6, 2009, at 1:00 p.m., Room 210, Farnum Building

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

Excused: Senators Patterson and Basham

Scheduled Meetings

Appropriations -

Subcommittees -

Community Health Department - Tuesday, October 20, 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-2768)

Higher Education - Wednesday, October 21, 9:15 a.m., Rooms 402 and 403, Capitol Building (373-2768)

Education - Thursday, October 8, 2:30 p.m., Room 210, Farnum Building (373-6920)

Finance - Thursday, October 8, 11:00 a.m., Room 110, Farnum Building (373-1758)

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 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 12:49 p.m.

The President pro tempore, Senator Richardville, declared the Senate adjourned until Thursday, October 8, 2009, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

