

No. 101
STATE OF MICHIGAN
Journal of the Senate
95th Legislature
REGULAR SESSION OF 2009

Senate Chamber, Lansing, Tuesday, December 8, 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—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
Nofs—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

Pastor Gene Krachenfels of First Baptist Church of Wixom offered the following invocation:

Our Father, we thank You this morning for Your many blessings that You have poured out upon us as a people in this state. Lord, we thank You for each one of these men and women who stand here in session this morning. Father, we ask that You pour out Your richest blessings upon each of them.

Lord, we recognize a time of economic challenge, difficulties, and struggles in our nation. We call upon these men and women to make wise decisions and, Lord, that they would govern us in a manner that would be pleasing to Thee. Having asked You to be with each one personally this morning, we call upon You now and ask that You be with this body asking, Lord, that you direct them in the affairs of the day.

Lord, we ask that You would be with our Governor, Lieutenant Governor, and Representatives. We ask, God, that You would help in our nation and our state that we might be found pleasing in Thy sight. Lord, we would not be remiss in asking You to be with the sons and daughters of Michigan as they serve in duty stations around the world, asking that You would protect them and bring them home safely. Be with our law enforcement and safety officials, asking that You would pour out Your blessings upon them as well.

Father, we thank You for this day. Thank You, Lord, for the blessings of it, and we ask that You grant direction now as we enter into this session. We ask it in Jesus' name. Amen.

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

Motions and Communications

Senators George and Stamas entered the Senate Chamber.

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

The following communication was received and read:
Office of the Auditor General

December 2, 2009

Enclosed is a copy of the following audit report:

Financial audit, including the provisions of the Single Audit Act, of the Michigan Early Childhood Investment Corporation (ECIC), a discretely presented component unit of the State of Michigan, for the period October 1, 2005 through September 30, 2007.

Sincerely,
Thomas H. McTavish, C.P.A.
Auditor General

The audit report was referred to the Committee on Government Operations and Reform.

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

December 3, 2009

Pursuant to PA 120 of 2009, I am making the following appointment to fill a vacancy on the wetland advisory council: Mr. Tom Hickson, 2012 Rossiter Pl., Lansing, MI 48911, representing a statewide association of local units of government to fill a vacancy created by the resignation of Eric Davis.

If you have any questions, please contact Bill Sullivan in my office at 373-2417.

Sincerely,
Michael D. Bishop
Senate Majority Leader

The communication was referred to the Secretary for record.

The Secretary announced that the following House bills were received in the Senate and filed on Thursday, December 3:
House Bill Nos. 4172 4257 4571 4621 5210 5380 5501 5502 5504

The Secretary announced the enrollment printing and presentation to the Governor on Friday, December 4, for her approval the following bills:

Enrolled Senate Bill No. 583 at 1:56 p.m.

Enrolled Senate Bill No. 674 at 1:58 p.m.

Enrolled Senate Bill No. 675 at 2:00 p.m.
Enrolled Senate Bill No. 676 at 2:02 p.m.
Enrolled Senate Bill No. 677 at 2:04 p.m.
Enrolled Senate Bill No. 678 at 2:06 p.m.
Enrolled Senate Bill No. 679 at 2:08 p.m.
Enrolled Senate Bill No. 433 at 2:10 p.m.
Enrolled Senate Bill No. 671 at 2:12 p.m.

The Secretary announced the enrollment printing and presentation to the Governor on Monday, December 7, for her approval the following bills:

Enrolled Senate Bill No. 204 at 3:12 p.m.
Enrolled Senate Bill No. 553 at 3:14 p.m.
Enrolled Senate Bill No. 554 at 3:16 p.m.
Enrolled Senate Bill No. 557 at 3:18 p.m.

The Secretary announced that the following official bills were printed on Thursday, December 3, and are available at the legislative website:

Senate Bill Nos.	994	995	996	999	1000	1001			
House Bill Nos.	5637	5638	5639	5640	5641	5642	5643	5644	

The Secretary announced that the following official bills were printed on Friday, December 4, and are available at the legislative website:

Senate Bill Nos.	1002	1003	1004	1005	1006	1007	1008
House Bill Nos.	5645	5646	5647	5648	5649		

Messages from the Governor

Senator Cropsey moved that consideration of the following bills be postponed for today:

Senate Bill No. 254
Senate Bill No. 237
Senate Bill No. 243
Senate Bill No. 245
Senate Bill No. 248

The motion prevailed.

Recess

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

11:12 a.m.

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

During the recess, Senators Brown, Brater and Pappageorge entered the Senate Chamber.

The following messages from the Governor were received and read:

December 4, 2009

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointment to state office under Section 1 of 1939 PA 3, MCL 460.1:

Michigan Public Service Commission

Mr. Greg R. White, an Independent, of 6633 Brookhills Court, S.E., Grand Rapids, Michigan 49546, county of Kent, succeeding Steven A. Transeth, whose term has expired, is appointed for a term commencing January 4, 2010 and expiring July 2, 2015.

December 7, 2009

I respectfully submit to the Senate, pursuant to Section 6 Article 5 of the Michigan Constitution of 1963, the following appointment to state office under Section 511 of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.511:

Self-Insurers' Security Fund, Second Injury Fund, Silicosis, Dust Disease, and Logging Industry Compensation Fund Board of Trustees

Mr. Douglas A. Green of 53774 Regency Hills Court, Shelby Township, Michigan 48316, county of Macomb, succeeding Susan R. Azar, who has resigned, is appointed to represent employers authorized to act as self-insurers, for a term commencing December 7, 2009 and expiring April 30, 2012.

Sincerely,
Jennifer M. Granholm
Governor

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

Senator Thomas moved that Senator Clarke be excused from today's session.
The motion prevailed.

Messages from the House

Senate Bill No. 89, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 429 (MCL 208.1429).

The House of Representatives has passed the bill, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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 full title.

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

Senate Bill No. 91, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 503 (MCL 208.1503).

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 pursuant to Joint Rule 20, inserted the full title.

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,

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

Roll Call No. 673

Yeas—37

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

Nays—0

Excused—1

Clarke

Not Voting—0

In The Chair: President

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

By unanimous consent the Senate proceeded to the order of
Third Reading of Bills

Senator Cropsey moved that the following bills be placed at the head of the Third Reading of Bills calendar:
House Bill No. 5222
Senate Bill No. 879
Senate Bill No. 610
 The motion prevailed.

The following bill was read a third time:
House Bill No. 5222, entitled
 A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by repealing part 317.
 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. 674

Yeas—33

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

Nays—4

Brater	Kahn	McManus	Stamas
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Excused—1

Clarke

Not Voting—0

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,

The recommendation was concurred in, 2/3 of the members serving voting therefor.

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

“An act to 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.”.

The Senate agreed to the full title.

The following bill was read a third time:

Senate Bill No. 879, entitled

A bill to regulate the use of signs advertising sexually oriented businesses; to provide for the powers and duties of certain state and local governmental officers and entities; to provide remedies; and to prescribe civil sanctions.

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. 675**Yeas—37**

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

Nays—0**Excused—1**

Clarke

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. 610, entitled

A bill to create a lien against real property for unpaid commercial real estate broker's commissions and services; and to provide remedies.

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. 676

Yeas—27

Allen	Cassis	Jansen	Pappageorge
Anderson	Garcia	Jelinek	Richardville
Barcia	George	Kahn	Sanborn
Basham	Gilbert	Kuipers	Stamas
Birkholz	Gleason	McManus	Thomas
Bishop	Hardiman	Nofs	Van Woerkom
Brown	Hunter	Olshove	

Nays—10

Brater	Cropsey	Prusi	Switalski
Cherry	Jacobs	Scott	Whitmer
Clark-Coleman	Patterson		

Excused—1

Clarke

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Protests

Senators Jacobs, Patterson and Whitmer, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 610.

Senators Jacobs and Patterson moved that the statements they made during the discussion of the bill be printed as their reasons for voting "no."

The motion prevailed.

Senator Jacobs' statement is as follows:

I rise today to strongly oppose the bill before us providing for liens against commercial property for unpaid real estate brokers' commissions and services. With the economic situation that this country and its citizens are facing, I do believe that it is important to address concerns in the real estate industry. Rather than starting with this bill, perhaps we should be focusing on the needs of our constituents who are facing home foreclosure like the bill my colleague from the 1st District has introduced.

The Real Property Law section of the Michigan State Bar raised numerous valid arguments when this bill was considered in committee. Among them, this legislation interferes with basic property rights, makes brokers a special preferred class of persons; and provides an extraordinary remedy of a lien against real property. This bill could increase litigation and add substantial costs, delays, and disruptions to closing transactions.

This bill only addresses the needs of the brokers, but there are other parties that may be entitled to payment and closing, such as appraisers, title companies, and property managers, who would then be justified in coming to the Legislature asking that they be given special rights. There also could be an effort to extend these rights to residential real estate.

Proponents have noted that others do have the protections of liens, notably through the Construction Lien Act. The justification of protecting workers who create physical improvements to property does not apply to brokers. Brokers deal directly with owners, purchasers, landlords, and tenants and already have adequate legal remedies for the collection of their commission. I urge my colleagues to vote down this bill.

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

In my legal opinion, this bill creates, or at least extends, an extraordinary legal tool to a prejudgment situation. Prejudgment rights are always looked at very carefully by the courts. In this instance, this prejudgment impingement called a lien invites extended and extensive constitutional scrutiny because it imposes upon real property interests and obligation without first having a determination of whether or not it is justified.

This proposed legislation makes a broker's lien a special class of person—or makes brokers a special class of persons—extending to them this very extraordinary remedy. It provides an extraordinary remedy at a time when there are already adequate remedies in law for the collection of commissions. By providing lien rates to brokers, it will encourage other parties dealing in real estate to seek this same extraordinary leverage—appraisers, property managers, property inspectors, lawyers, title companies, escrow agents, accountants.

Once brokers' liens are granted to commercial property, there obviously will be a substantial risk that lien rights will subsequently be extended to include residential property. After all, doesn't it just make sense to incrementally advance this right? The proposed legislation is patterned after the Construction Lien Act, but the justification for protecting artisans who assert a construction lien who actually create physical improvements to property does not actually apply to brokers.

The proposed legislation seeks to force parties to a transaction to close the transaction in escrow funds sufficient to satisfy the lien, even if there is no indication that it is a justified claim. The validity has not been determined. The proposed legislation is clearly complex, and thus, it will add substantial cost expenses, create instances of litigation, delays, and disruptions to each and every real estate transaction involving commercial property. Perhaps, as an attorney, I should withdraw my "no" vote because it is going to enhance lawyer's practices. Perhaps I should reconsider my position.

The proposed legislation will result in the filing of more documents affecting real property, problems with timely discovery of such documents, and will, therefore, create an additional underwriting risk for title insurance companies. Those are some of my "no" vote justifications.

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

The motion prevailed.

Senator Switalski's statement is as follows:

I rise to introduce one of my interns who is serving in her last week as we come to the end of the semester here. This is Hillary Kipp standing next to me. She goes to Western Michigan University, and she is majoring in political science and criminal justice. She has done a great job for me.

She has been in the company of—like the previous speaker—some fast lawyers in my office or soon-to-be lawyers. She is the one undergraduate, and she has kept right up with all of them. She has pulled her weight totally and done a fabulous job. She did some work on cell phone ban while driving legislation. She did a lot of work on requests from my constituents about putting caps on interest rates. She worked on an innovate revenue idea that one of my constituents proposed that the county seat have a casino—every county seat, 83 county seats in the state. Unfortunately, Hillary did a little work, and it would not face constitutional muster.

She is going off to work for Representative Gonzales and then maybe for the Realtors, but she has not lobbied me on the bill in front of us today. I wish the chamber would thank her for her service and wish her good luck.

By unanimous consent the Senate proceeded to the order of

General Orders

Senator Cropsey moved that the Senate resolve itself into the Committee of the Whole for consideration of the General Orders calendar.

The motion prevailed, and the President, Lieutenant Governor Cherry, designated Senator Allen 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 without amendment, the following bills:

Senate Bill No. 891, entitled

A bill to amend 1935 PA 220, entitled "An act to provide family home care for children committed to the care of the state, to create the Michigan children's institute under the control of the Michigan social welfare commission, to prescribe the powers and duties thereof, and to provide penalties for violations of certain provisions of this act," by amending section 9 (MCL 400.209), as amended by 2004 PA 470.

Senate Bill No. 892, entitled

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 43 of chapter X (MCL 710.43), as amended by 1996 PA 409.

Senate Bill No. 893, entitled

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 19c (MCL 712A.19c), as amended by 2008 PA 203.

The bills were placed on the order of Third Reading of Bills.

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senator Kuipers introduced

Senate Bill No. 1009, entitled

A bill to amend 1990 PA 187, entitled "The pupil transportation act," by amending sections 7, 39, 41, 43, and 70 (MCL 257.1807, 257.1839, 257.1841, 257.1843, and 257.1870), sections 7 and 39 as amended by 2006 PA 107 and sections 41, 43, and 70 as amended by 2006 PA 108.

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

Senators George, Prusi and Birkholz introduced

Senate Bill No. 1010, entitled

A bill to amend an act of the Territorial Laws, p. 1131, vol. III, approved April 22, 1833, entitled "An act to establish Kalamazoo college and to prescribe its powers and duties," by amending section 3 (MCL 390.753), as amended by 1985 PA 203.

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

Senator George introduced

Senate Bill No. 1011, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11507a, 11526a, 11549, and 11550 (MCL 324.11507a, 324.11526a, 324.11549, and 324.11550), section 11507a as amended by 2004 PA 39, section 11526a as added by 2004 PA 40, section 11549 as amended by 2006 PA 58, and section 11550 as amended by 2003 PA 153.

The bill was read a first and second time by title and referred to the Committee on Natural Resources and Environmental Affairs.

House Bill No. 4172, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding section 21530; and to repeal acts and parts of acts.

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

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

House Bill No. 4257, entitled

A bill to amend 1991 PA 179, entitled "Michigan telecommunications act," by amending section 310 (MCL 484.2310), as amended by 2005 PA 235.

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

The bill was read a first and second time by title and referred to the Committee on Energy Policy and Public Utilities.

House Bill No. 4571, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 2169, 2912b, 2912d, 2912e, and 5856 (MCL 600.2169, 600.2912b, 600.2912d, 600.2912e, and 600.5856), sections 2169, 2912d, and 2912e as amended and section 2912b as added by 1993 PA 78 and section 5856 as amended by 2004 PA 87.

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

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

House Bill No. 4621, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2163a (MCL 600.2163a), as amended by 2002 PA 604.

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

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

House Bill No. 5210, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending section 11b (MCL 400.11b), as amended by 2000 PA 61.

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

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

House Bill No. 5501, entitled

A bill to amend 1970 PA 91, entitled "Child custody act of 1970," by amending section 7b (MCL 722.27b), as amended by 2006 PA 353.

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

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

House Bill No. 5502, entitled

A bill to amend 1971 PA 174, entitled "Office of child support act," by amending sections 3 and 3a (MCL 400.233 and 400.233a), section 3 as amended by 2002 PA 564 and section 3a as amended by 1998 PA 112; and to repeal acts and parts of acts.

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

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

House Bill No. 5504, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 2137, 2529, and 2538 (MCL 600.2137, 600.2529, and 600.2538), section 2137 as amended by 2001 PA 76, section 2529 as amended by 2004 PA 205, and section 2538 as amended by 2003 PA 178.

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

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

Statements

Senators Brown, George, Switalski and Hunter asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Brown's statement is as follows:

As we think of and refer to great American patriots, of which the gentleman who was just discussed is certainly a great veteran and one whom we honor, our thoughts yesterday reflect upon that milestone commemoration of December 7, 1941. I just simply cannot sit in my seat and let this time period go by without joining with so many across the country this week acknowledging the incredible sacrifice of those brave seamen at Pearl Harbor.

That tragic event affected my father who joined the United States Navy and became a naval officer during World War II. It impacted his life and the generation of which he was raised. It had far-reaching consequences all the way down the corridor of time to this present moment. It certainly influenced my desire for public service. I just want to be grateful as an American for those brave servicemen and women who gave their lives in that incredible, tragic attack upon our country at Pearl Harbor, and may they rest in peace.

Senator George's statement is as follows:

I, too, wanted to give a reminiscence related to Pearl Harbor Day yesterday. The events of that day touch us all, even if we were not ourselves alive then. I wish to relate the account of my mother-in-law's family, the Reynolds family of Bay City. My mother-in-law, Katie Reynolds, was the youngest of seven children. Two of her older brothers, Charles and Jess, were in the Navy. They had enlisted and they were both at Pearl Harbor when it was attacked. They both survived.

They were known to my wife as Uncle Red and Uncle Whitey because of the color of their hair. Uncle Red would serve in the Navy for the duration of the war.

Uncle Whitey was a seaman on the *USS San Francisco* and played on the ship's baseball team. He was preparing for a game when the air raid sirens sounded. He returned to his ship, the *San Francisco* was not hit in the attack, and it was subsequently put to sea. It would play a major role in many subsequent naval battles. One of the most noted is the November 12 and 13 nighttime battles of Guadalcanal. This was a naval battle where the American Navy and Japanese Navy ships were in close range and they basically took turns sinking each other. The *San Francisco* was hit 45 times but did not sink. Uncle Whitey was injured, and he almost lost his leg. The *San Francisco* sailed to New Zealand after the battle, but for Uncle Whitey, the war was over. He spent 36 months in a naval hospital.

I had a chance to meet Uncle Whitey in 1989 when my wife and I visited him on the West Coast. After hearing his story, and unbeknownst to him, we signed him up as a member of the Guadalcanal Survivors Association. Its headquarters, by the way, happens to be in Kalamazoo at the Kalamazoo Air Zoo of all places. So we signed him up and got him a membership, and he became interested then in participating in veterans' events.

On December 7, 2001, the 60th anniversary of the Pearl Harbor attack, he returned to Hawaii. While checking into the hotel, he suffered a heart attack and died in the hotel lobby. Per his request, Uncle Whitey was buried at sea, joining his shipmates who had passed before him.

Like the Reynolds family of Bay City, many Michigan families have connections to the events of December 7, 1941. Let us be grateful on Pearl Harbor Day and every day for ordinary Michigan citizens who have served to preserve our freedoms.

Senator Switalski's statement is as follows:

I wanted to talk about a couple of bills—one bill that we have sent over to the House and one that has come over from the House. It involves delaying the filling of judicial vacancies and saving the counties a substantial amount of money. There is a bill that we sent to the House that would deal with Oakland County and one that has come over from the House to us that deals with both Oakland and Macomb.

These bills are important because they would save the counties a significant amount of money. Macomb County has a \$15 million deficit and the finance director, Mr. Diegel, has determined that these bills will save Macomb County over \$2 million over a two-year period. Macomb is planning on these savings and desperately needs this legislation, as does Oakland, and it would allow them to do what we have asked government to do everywhere in this state and that is to shrink government. They will temporarily shrink government by not filling these vacancies.

There has been some question raised about whether Macomb will really save this amount of money, and I do have the official estimate from the Finance Department in Macomb County, which I will make available to members. The finance director, Mr. Diegel, says: "We were very conservative in projecting operating expense savings of only \$79,000 per judge per year. That is in addition to the \$500,000 in personnel cost savings. It is likely that operating costs will drop even more than that, but we arrived at the \$79,000 figure based on the assumption that remaining judges would experience an increase in caseload with fewer judges on the bench."

He goes through and talks about the reductions, and he gives the salary and fringe benefit costs of the five support people who support each judge. You have a court reporter, a judicial secretary, a prosecuting attorney, a court clerk, and a deputy court officer or bailiff. All these reductions come up to \$572,000 per judge per year, which is about \$1 million a year or \$2 million over the two-year period. The operating expenses that he has been very conservative on involve things like office supplies, books, postage, robe allowance, bar dues, cell phones, insurance, telephones for the office, and MIS data service.

I will distribute this, and I think it will show members that, in fact, it does save the money. This is the guy whose job it is to make an estimate of what it will save. He has been on the job for 35 years. The Oakland County finance director came up with a similar amount for Oakland County. So you would think that the bill would save what they say. Usually a budget director will kind of underestimate what things will save because he wants to make sure that he comes in with a balanced budget.

If people out there think that they have information that shows that it will not save this much money, please, we would appreciate you pointing out exactly what we missed. Just tell us, if it is wrong, just how much it actually will save. It would be hard to believe that you could lose six employees and it would actually cost you more money.

There has also been the suggestion that perhaps if you have a union that people would bump out and take other positions, but as you know, even in a union environment when people bump, they bump out, and the person with low seniority goes out the door. There are other ways that you accomplish through attrition personnel reductions. You can have people retire or be laid off. At the end of the day, when you are eliminating jobs, you eliminate staff, and people do go out the door. They may go to other departments. The departments may try to absorb them, but if they are not getting their interdepartmental transfer or their budget is cut because their job is gone, people will go out the door, and you will get the savings.

I hope this puts to rest the debate that this does not save money. It certainly does save money. The person whose job it is to say whether it does says it saves money.

Senator Scott stated that had she been present on December 1 when the vote was taken on the motion to postpone until December 31 the motion to discharge the Committee on Government Operations and Reform from further consideration the following bills, she would have voted "nay":

House Bill No. 4316

House Bill No. 4317

House Bill No. 4318

Senator Scott stated that had she been present on December 1 when the vote was taken on concurring in the House substitute to the following bill, she would have voted "yea":

Senate Bill No. 358

Senator Scott stated that had she been present on December 1 when the votes were taken on the passage of the following bills, she would have voted "yea":

Senate Bill No. 882

Senate Bill No. 934

House Bill No. 4507

Senator Scott stated that had she been present on December 2 when the vote was taken on concurring in the House amendment to the following bill, she would have voted "yea":

Senate Bill No. 671

Senator Scott stated that had she been present on December 2 when the votes were taken on the passage of the following bills, she would have voted "nay":

Senate Bill No. 808

Senate Bill No. 809

Senate Bill No. 810

Senate Bill No. 811

Senate Bill No. 812

Senate Bill No. 813

Senate Bill No. 814

Senate Bill No. 815

Senate Bill No. 816

Senate Bill No. 817

Senate Bill No. 818

Senate Bill No. 819

Senate Bill No. 820

Senate Bill No. 821

Senate Bill No. 822

Senate Bill No. 823

Senate Bill No. 824

Senate Bill No. 908

Senate Bill No. 909

Senate Bill No. 910

Senate Bill No. 911

Senate Bill No. 912

Senate Bill No. 913

Senate Bill No. 914

Senate Bill No. 915

Senate Bill No. 916

Senate Bill No. 917

Senate Bill No. 918

Senate Bill No. 919

Senate Bill No. 924

Senate Bill No. 638

Senate Bill No. 925

Senate Bill No. 926

Senate Bill No. 982

Senator Scott stated that had she been present on December 2 when the votes were taken on the adoption of the amendments to the following bills, she would have voted “yea”:

Senate Bill No. 925
Senate Bill No. 981

Senator Scott stated that had she been present on December 2 when the vote was taken on the passage of the following bills, she would have voted “yea”:

Senate Bill No. 965
Senate Bill No. 981
House Bill No. 4234
House Bill No. 5052
Senate Bill No. 901

Senator Scott stated that had she been present on December 2 when the vote was taken on the passage of the following bill, she would have voted “nay”:

House Bill No. 4182

Senator Scott stated that had she been present on December 3 when the votes were taken on the passage of the following bills, she would have voted “yea”:

Senate Bill No. 857
Senate Bill No. 968
Senate Bill No. 969
Senate Bill No. 970
Senate Bill No. 971
Senate Bill No. 935
Senate Bill No. 944

Senator Scott stated that had she been present on December 3 when the vote was taken on the motion to reconsider the vote by which the following bill was passed, she would have voted “yea”:

Senate Bill No. 971

Senator Scott stated that had she been present on December 3 when the votes were taken on concurring in the House amendments to the following bills, she would have voted “yea”:

Senate Bill No. 204
Senate Bill No. 554

Senator Scott stated that had she been present on December 3 when the vote was taken on the passage of the following bill, she would have voted “nay”:

Senate Bill No. 638

Senator Scott stated that had she been present on December 3 when the vote was taken on the motion to reconsider the vote by which the following bill was passed, she would have voted “nay”:

Senate Bill No. 638

Senator Hunter’s statement is as follows:

There has been a lot of talk in recent days concerning the pending action of the Senate in connection with the proposed smoking ban in Michigan. Today I rise in order to state my position as clearly as I can for the record. Obviously, this clearly is a public health issue that deserves a strong and swift solution. And let me say—before Majority Floor Leader Cropsey reminds me later—I know that the Senate has already passed a full smoking ban. However, everyone in this chamber knows that this process to date has failed to produce the result that so many citizens across this state fully expect of us—passing a full smoking ban.

So, ladies and gentlemen, our work is far from over. While the Senate passed a measure that I voted in favor of, so far, it is the House's measure that has fallen short. Including special carve-outs for the casinos is nothing more than a knee-jerk response that buys into lobbyists' scare tactics about the loss of jobs when their claims have already been proven false in other states.

Further, the insensitivity that the casino operators have shown on this issue is nothing short of amazing. They expect us to prioritize their profit from the vice of gaming, albeit legal, over the health of the very citizens we are elected to serve. The casino operators love to tout how much they pay in state and local taxes, as if that's supposed to somehow compensate for the proven health risks that secondhand smoke poses to so many.

I am sick and tired of the cold, heartless, and greedy position espoused by the casinos and other business interests, in which they just don't seem to value the health of our citizens in the least, including their own workers. I find it ironic that the smoke-free state of Ohio has just approved four new casinos, including one in close-by Toledo. Why in the world can't we have smoke-free casinos in Michigan?

As for the Legislature, the political volleying back and forth has to end. We need to exhibit the political courage and resolve to do what millions of our citizens are hoping and praying that we will do—pass a full smoking ban. People are dying, and our health care costs are skyrocketing, but some in this Capitol choose to be beholden to the casinos and other business interests while people's health goes up in smoke. However, I believe that we have opportunity, the duty, and the responsibility to take the lead on this very important issue once and for all—for the very lives of Michigan citizens hang in the balance.

Mr. President and colleagues, let us carefully consider the facts. Secondhand smoke kills an estimated 46 million Americans every year from heart disease alone. Heart attack rates fall immediately after smoking bans are put into place, dropping by 17 percent in the first year and by as much as 36 percent after three years. At least 200,000 workers die every year due to exposure to secondhand smoke. This goes on and on.

But I want to conclude with the fact that in 2006, the Surgeon General concluded that there is no risk-free level of exposure to secondhand smoke and that eliminating smoking from all indoor areas is the only way to fully protect people from secondhand smoke exposure.

All told, I wholeheartedly believe that we can no longer run and hide from this vitally-important public health issue. How many family members, friends, and colleagues do we have to bury before we get the point?

In closing, it is my hope that we find it in our hearts and souls to pass the full smoking ban before we leave for our Christmas recess. Let the Legislature gift wrap it, have the Governor tie an elegant bow, and together let us present the people of this great state with a long-awaited and well-deserved Christmas present—a smoke-free Michigan.

Committee Reports

The Committee on Natural Resources and Environmental Affairs reported

Senate Bill No. 904, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 2511 (MCL 324.2511), as added by 2006 PA 146.

With the recommendation that the bill pass.

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

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Van Woerkom and Gleason

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Natural Resources and Environmental Affairs reported

Senate Bill No. 939, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by repealing part 433 (MCL 324.43301 to 324.43303).

With the recommendation that the bill pass.

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

Patricia L. Birkholz
Chairperson

To Report Out:

Yeas: Senators Birkholz, Van Woerkom, Basham and Gleason

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Natural Resources and Environmental Affairs submitted the following:
 Meeting held on Wednesday, December 2, 2009, at 3:00 p.m., Room 110, Farnum Building
 Present: Senators Birkholz (C), Van Woerkom, Basham and Gleason
 Excused: Senator Patterson

The Committee on Agriculture and Bioeconomy reported
Senate Bill No. 997, entitled

A bill to amend 1921 PA 13, entitled "An act to promote the agricultural interests of the state of Michigan; to create a state department of agriculture; to define the powers and duties thereof; to provide for the transfer to and vesting in said department of powers and duties now vested by law in certain other state boards, commissions and officers, and to abolish certain boards, commissions and officers the powers and duties of which are hereby transferred," by amending section 1 (MCL 285.1).

With the recommendation that the bill pass.

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

Gerald Van Woerkom
 Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Gilbert, Birkholz and Gleason

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Agriculture and Bioeconomy reported

Senate Bill No. 998, entitled

A bill to amend 1965 PA 380, entitled "Executive organization act of 1965," by amending section 180 (MCL 16.280).

With the recommendation that the bill pass.

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

Gerald Van Woerkom
 Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Gilbert, Birkholz and Gleason

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Agriculture and Bioeconomy submitted the following:
 Meeting held on Thursday, December 3, 2009, at 9:15 a.m., Room 110, Farnum Building
 Present: Senators Van Woerkom (C), Gilbert, Birkholz and Gleason
 Excused: Senator Whitmer

Scheduled Meetings

Appropriations - Wednesday, December 9, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)
 (CANCELED)

Subcommittee -

State Police and Military Affairs - Wednesday, December 9, 8:30 a.m., Rooms 402 and 403, Capitol Building
 (373-2768)

Banking and Financial Institutions - Wednesday, December 9, 8:30 a.m., Room 210, Farnum Building (373-3543)

Campaign and Election Oversight - Wednesday, December 9, 12:00 noon, Room 405, Capitol Building (373-1725)

Commerce and Tourism - Wednesday, December 9, 8:30 a.m., Room 100, Farnum Building (373-2413)

Education - Wednesday, December 9, 1:00 p.m., Room 100, Farnum Building (373-6920)

Families and Human Services - Thursday, December 10, 9:00 a.m., Room 210, Farnum Building (373-0797)

Finance - Wednesday, December 9, 12:30 p.m., Room 210, Farnum Building (373-1758)

Health Policy - Wednesday, December 9, 3:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-0793)

Legislative Commission on Statutory Mandates - Thursday, December 10, 9:00 a.m., Bloomfield Conference Room, 5th Floor, Oakland County Executive Office Building, 2100 Pontiac Lake Road, Waterford (373-0212)

Natural Resources and Environmental Affairs - Wednesday, December 9, 1:00 p.m., Room 110, Farnum Building (373-3447)

Senator Cropsey moved that the Senate adjourn.
The motion prevailed, the time being 12:13 p.m.

The President pro tempore, Senator Richardville, declared the Senate adjourned until Wednesday, December 9, 2009, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate