

**No. 13**  
**STATE OF MICHIGAN**  
**Journal of the Senate**  
**96th Legislature**  
**REGULAR SESSION OF 2011**

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Senate Chamber, Lansing, Wednesday, February 16, 2011.

10:00 a.m.

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

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

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

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

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

Pastor Tim Knaus of First Baptist Church of St. Johns offered the following invocation:

Heavenly Father, You have said through the prophet Isaiah, "This is the one I esteem, he who is humble and contrite in spirit and trembles at my word." Father, I pray today for this body of men and women. I pray that they would be humble. I pray that they would practice humility. I pray that they would be so humble that they would seek You and that they would seek Your wisdom and seek Your guidance.

I pray that they would be so humble that they would listen to the counsel of others and listen to the viewpoints of others. I pray that they would be so humble, Lord, that they would always want to do what is best for the people of the state of Michigan, regardless of their personal preferences or even their party preferences. I pray that they would be so humble that they would always remember that they are servants; servants of the people of this great state. We pray this in Jesus' name. Amen.

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

### Motions and Communications

Senator Marleau entered the Senate Chamber.

The Secretary announced that the following official bills were printed on Tuesday, February 15, and are available at the legislative website:

**Senate Bill Nos. 138 139 140 141 142 143 144 145 146**

By unanimous consent the Senate proceeded to the order of

#### General Orders

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

The motion prevailed, and the President, Lieutenant Governor Calley, designated Senator Jansen as Chairperson.

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

#### **Senate Bill No. 122, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 8801, 8802, 8805, 8806, and 8807 (MCL 324.8801, 324.8802, 324.8805, 324.8806, and 324.8807), as added by 1998 PA 287, and by adding section 3109d.

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. 123, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 8702, 8703, 8704, 8705, 8706, 8707, 8708, 8709, 8710, 8713, 8714, 8715, and 8716 (MCL 324.8702, 324.8703, 324.8704, 324.8705, 324.8706, 324.8707, 324.8708, 324.8709, 324.8710, 324.8713, 324.8714, 324.8715, and 324.8716), section 8703 as amended by 1995 PA 61, section 8707 as amended by 2000 PA 100, section 8715 as amended by 2008 PA 18, and section 8716 as amended by 2007 PA 174, and by adding section 8713a.

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. 110, entitled**

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," by amending section 88b (MCL 125.2088b), as amended by 2010 PA 271.

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.

By unanimous consent the Senate returned to the order of  
**Third Reading of Bills**

Senator Meekhof moved that the rules be suspended and that the following bills, now on the order of Third Reading of Bills, be placed on their immediate passage:

**Senate Bill No. 122**

**Senate Bill No. 123**

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

The following bill was read a third time:

**Senate Bill No. 100, entitled**

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

The 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. 15**

**Yeas—38**

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

**Nays—0**

**Excused—0**

**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. 122, entitled**

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 8801, 8802, 8805, 8806, and 8807 (MCL 324.8801, 324.8802, 324.8805, 324.8806, and 324.8807), as added by 1998 PA 287, and by adding section 3109d.

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. 16**

**Yeas—31**

Booher	Gregory	Kowall	Richardville
Brandenburg	Hansen	Marleau	Robertson

Casperson	Hildenbrand	Meekhof	Rocca
Caswell	Hood	Moolenaar	Schuitmaker
Colbeck	Hune	Nofs	Smith
Emmons	Jansen	Pappageorge	Walker
Gleason	Jones	Pavlov	Young
Green	Kahn	Proos	

**Nays—7**

Anderson	Hopgood	Johnson	Whitmer
Bieda	Hunter	Warren	

**Excused—0****Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

**Protest**

Senator Warren, under her constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 122 and moved that the statement she made during the discussion of the bill be printed as her reasons for voting “no.”

The motion prevailed.

Senator Warren’s statement is as follows:

I rise to register my opposition to this piece of legislation, and I say that with the understanding that a lot of hard work went into this package of bills. I do understand that there is certainly value to both our environment and our Michigan agricultural community in strengthening the MAEAP. I have serious concerns about the fact that these bills weaken our environmental and public health protections related to pollution coming from livestock facilities in this state. A number of the provisions in this bill concern me in that I think they violate the Clean Water Act and put Michigan’s delegated authority at risk. I will be opposing the legislation today.

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

The motion prevailed.

Senator Green’s statement is as follows:

I’m supporting these bills today because I’m a farmer, and I support sound environmental practices. I represent the breadbasket of Michigan, which is the Thumb and surrounding areas. It’s hard to communicate just how farmers feel about their land and water. Folks, it’s their home. It’s their livelihood. It’s their recreation if they hunt. Views of their land, sunrises, storms, crops, and sunsets—all of these fill their minds with memories and satisfaction. Farmers love their land and do what they can to protect it.

The MAEAP actually started as a team effort with the DEQ and the federal EPA. They used MAEAP certification instead of a permit from 2002 to 2007, when the NPDES permit process was started for animal operations. What these bills do is take widely agreed-upon standards and practices and put them into law. It’s a voluntary program that increases sustainable agriculture.

A farmer’s greatest love is smelling the earth after they plow it. Farmers love the smell of newly-mown hay. If you really want to upset a farmer, dump some trash on his land. Farmers love their land, and I ask my colleagues to support these bills today.

The following bill was read a third time:

**Senate Bill No. 123, entitled**

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 8702, 8703, 8704, 8705, 8706, 8707, 8708, 8709, 8710, 8713, 8714, 8715, and 8716 (MCL 324.8702, 324.8703, 324.8704, 324.8705, 324.8706, 324.8707, 324.8708, 324.8709, 324.8710, 324.8713, 324.8714, 324.8715, and 324.8716), section 8703 as amended by 1995 PA 61, section 8707 as amended by 2000 PA 100, section 8715 as amended by 2008 PA 18, and section 8716 as amended by 2007 PA 174, and by adding section 8713a.

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. 17**

**Yeas—30**

Booher	Gregory	Marleau	Richardville
Brandenburg	Hansen	Meekhof	Robertson
Casperson	Hildenbrand	Moolenaar	Rocca
Caswell	Hune	Nofs	Schuitmaker
Colbeck	Jansen	Pappageorge	Smith
Emmons	Jones	Pavlov	Walker
Gleason	Kahn	Proos	Young
Green	Kowall		

**Nays—8**

Anderson	Hood	Hunter	Warren
Bieda	Hopgood	Johnson	Whitmer

**Excused—0**

**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

By unanimous consent the Senate proceeded to the order of

**Introduction and Referral of Bills**

Senators Whitmer, Hunter, Gleason, Anderson, Hopgood and Warren introduced

**Senate Bill No. 147, entitled**

A bill to amend 1976 PA 451, entitled “The revised school code,” (MCL 380.1 to 380.1852) by adding section 1310b. The bill was read a first and second time by title and referred to the Committee on Education.

Senators Whitmer, Hunter, Gleason, Anderson, Hopgood and Warren introduced

**Senate Bill No. 148, entitled**

A bill to provide for the reporting of cyberbullying incidents; and to provide for certain powers and duties of law enforcement officers and school officials regarding those incidents.

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

Senator Kahn introduced

**Senate Bill No. 149, entitled**

A bill to amend 1972 PA 106, entitled "Highway advertising act of 1972," by amending sections 7a and 17 (MCL 252.307a and 252.317), section 7a as amended by 2010 PA 350 and section 17 as amended by 2009 PA 86.

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

Senator Meekhof introduced

**Senate Bill No. 150, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 17015 (MCL 333.17015), as amended by 2006 PA 77.

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

Senator Hansen introduced

**Senate Bill No. 151, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 81133 (MCL 324.81133), as amended by 2008 PA 365.

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

Senator Schuitmaker introduced

**Senate Bill No. 152, entitled**

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," (MCL 760.1 to 777.69) by adding sections 7, 8, 9, 10, and 11 to chapter III.

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

Senators Pavlov, Brandenburg, Marleau and Proos introduced

**Senate Bill No. 153, entitled**

A bill to safeguard the continued financial viability of units of local government, including school districts; to preserve the capacity of units of local government to provide necessary services essential to the public health, safety, and welfare; to provide for review, management, planning, and control of the financial operation of units of local government, including school districts; to provide criteria to be used in determining the financial condition of units of local government, including school districts; to permit a declaration of the existence of a local government financial emergency and to prescribe the powers and duties of the governor, other state departments, boards, agencies, officials, and employees, and officials and employees of units of local government, including school districts; to provide for placing units of local government, including school districts, into state receivership; to provide for a review and appeal process; to provide for the appointment and to prescribe the powers and duties of an emergency manager; to require the development of financial plans to regulate expenditures and investments by units of local government, including school districts, in a state of financial stress or financial emergency; to provide for the modification or termination of contracts under certain circumstances; to set forth the conditions for termination of a local government financial emergency; and to repeal acts and parts of acts.

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

Senators Pavlov, Brandenburg, Marleau and Proos introduced

**Senate Bill No. 154, entitled**

A bill to amend 1909 PA 279, entitled "The home rule city act," by amending section 36a (MCL 117.36a), as added by 2003 PA 210.

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

Senators Pavlov, Brandenburg, Marleau and Proos introduced

**Senate Bill No. 155, entitled**

A bill to amend 2001 PA 34, entitled "Revised municipal finance act," by amending section 303 (MCL 141.2303), as amended by 2002 PA 541.

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

Senators Pavlov, Brandenburg, Marleau and Proos introduced

**Senate Bill No. 156, entitled**

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 971 (MCL 168.971), as amended by 2003 PA 302.

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

Senators Pavlov, Brandenburg, Marleau and Proos introduced

**Senate Bill No. 157, entitled**

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1280c (MCL 380.1280c), as added by 2009 PA 204.

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

Senators Pavlov, Brandenburg, Marleau and Proos introduced

**Senate Bill No. 158, entitled**

A bill to amend 1947 PA 336, entitled "An act to prohibit strikes by certain public employees; to provide review from disciplinary action with respect thereto; to provide for the mediation of grievances and the holding of elections; to declare and protect the rights and privileges of public employees; and to prescribe means of enforcement and penalties for the violation of the provisions of this act," by amending the title and section 15 (MCL 423.215), section 15 as amended by 2009 PA 201.

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

Senator Jones introduced

**Senate Bill No. 159, entitled**

A bill to amend 1965 PA 213, entitled "An act to provide for setting aside the conviction in certain criminal cases; to provide for the effect of such action; to provide for the retention of certain nonpublic records and their use; to prescribe the powers and duties of certain public agencies and officers; and to prescribe penalties," by amending section 1 (MCL 780.621), as amended by 2002 PA 472.

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

**House Bill No. 4135, entitled**

A bill to amend 1947 PA 336, entitled "An act to prohibit strikes by certain public employees; to provide review from disciplinary action with respect thereto; to provide for the mediation of grievances and the holding of elections; to declare and protect the rights and privileges of public employees; and to prescribe means of enforcement and penalties for the violation of the provisions of this act," by amending section 15 (MCL 423.215), as amended by 2009 PA 201.

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 Appropriations.

### Committee Reports

The Committee on Judiciary reported

**Senate Bill No. 25, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 2803, 2804, and 2834 (MCL 333.2803, 333.2804, and 333.2834), sections 2803 and 2834 as amended by 2002 PA 562 and section 2804 as amended by 1990 PA 149.

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

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

Rick Jones  
Chairperson

To Report Out:

Yeas: Senators Jones, Schuitmaker, Rocca and Bieda

Nays: None

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

The Committee on Judiciary reported

**Senate Bill No. 54, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 2848 and 13807 (MCL 333.2848 and 333.13807), section 2848 as amended by 2002 PA 562 and section 13807 as added by 1990 PA 21, and by adding sections 2836 and 2854.

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

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

Rick Jones  
Chairperson

To Report Out:

Yeas: Senators Jones, Schuitmaker and Rocca

Nays: None

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

The Committee on Judiciary reported

**Senate Bill No. 55, entitled**

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 13k of chapter XVII (MCL 777.13k), as added by 2002 PA 30.

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

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

Rick Jones  
Chairperson

To Report Out:

Yeas: Senators Jones, Schuitmaker, Rocca and Bieda

Nays: None

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

#### COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submitted the following:

Meeting held on Tuesday, February 15, 2011, at 2:30 p.m., Room 110, Farnum Building

Present: Senators Jones (C), Schuitmaker, Rocca and Bieda

The Committee on Energy and Technology reported

**Senate Concurrent Resolution No. 7.**

A concurrent resolution to urge the United States Department of Energy and the Nuclear Regulatory Commission to fulfill their obligation to establish a permanent repository for high-level nuclear waste.

(For text of resolution, see Senate Journal No. 10, p. 129.)

With the recommendation that the following substitute (S-1) be adopted and that the concurrent resolution then be adopted:

A concurrent resolution to urge the United States Department of Energy and the Nuclear Regulatory Commission to fulfill their obligation to establish a permanent repository for high-level nuclear waste.

Whereas, Over the past four decades, nuclear power has been a significant source for the nation's production of electricity. According to the U.S. Nuclear Energy Institute, nuclear power provided 20.2 percent of the electricity produced in the United States and 21.5 percent of the electricity generated in Michigan in 2009; and

Whereas, Since the earliest days of nuclear power, the great dilemma associated with this technology is how to deal with used nuclear fuel. This high-level radioactive waste demands exceptional care in all facets of its storage and disposal, including its transportation; and

Whereas, In 1982, Congress passed the Nuclear Waste Policy Act of 1982. This legislation requires the federal government, through the Department of Energy, to build a repository for the permanent storage of high-level radioactive waste from nuclear power plants. This act, which was amended in 1987, includes a specific timetable to identify a suitable location and to establish the waste repository. The costs for this undertaking are paid from a fee that is assessed on all nuclear energy produced; and

Whereas, In accordance with the federal act, customers of Michigan electric utilities have paid \$763 million through September 30, 2010, into the federal Nuclear Waste Fund for construction of the federal nuclear waste repository; and



Whereas, The Nuclear Waste Policy Act of 1982 provided that the DOE was to begin accepting and storing the nation's nuclear waste by January 31, 1998. In the more than ten years that have passed since that date, the nation remains without the facility it has been planning to have. Overall, the nation's electric ratepayers have paid billions into the nuclear waste fund, which the DOE is supposed to use to open the repository; and

Whereas, There are serious concerns that the federal government is not complying with the timetables set forth in federal law. The Department of Energy, along with the Nuclear Regulatory Commission, must work diligently to meet its obligation as provided by law. There is too much at stake; and

Whereas, The unresolved issue of spent nuclear fuel is severely impeding efforts to construct the new nuclear power plants that are needed to provide clean and reliable baseload power. It is incumbent upon the Nuclear Regulatory Commission to work diligently to move the Yucca Mountain approval process along. The DOE must begin constructing and operating Yucca Mountain and begin accepting nuclear waste without further delay; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we urge the United States Department of Energy and the Nuclear Regulatory Commission to fulfill their obligation to establish a permanent repository for high-level nuclear waste; and be it further

Resolved, That copies of this resolution be transmitted to the United States Department of Energy, the Nuclear Regulatory Commission, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

Mike Nofs  
Chairperson

To Report Out:

Yeas: Senators Nofs, Proos, Jones, Marleau, Schuitmaker, Walker, Hopgood and Bieda

Nays: None

The concurrent resolution and the substitute recommended by the committee were placed on the order of Resolutions.

#### COMMITTEE ATTENDANCE REPORT

The Committee on Energy and Technology submitted the following:

Meeting held on Tuesday, February 15, 2011, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower

Present: Senators Nofs (C), Proos, Jones, Marleau, Schuitmaker, Walker, Hopgood, Bieda and Young

#### COMMITTEE ATTENDANCE REPORT

The Committee on Transportation submitted the following:

Meeting held on Tuesday, February 15, 2011, at 12:30 p.m., Room 100, Farnum Building

Present: Senators Casperson (C), Kowall, Brandenburg, Pavlov, Gleason and Hood

#### COMMITTEE ATTENDANCE REPORT

The Committee on Veterans, Military Affairs and Homeland Security submitted the following:

Meeting held on Tuesday, February 15, 2011, at 12:30 p.m., Room 210, Farnum Building

Present: Senators Moolenaar (C), Pappageorge, Emmons, Gregory and Smith

#### COMMITTEE ATTENDANCE REPORT

The Subcommittee on Department of Corrections submitted the following:

Joint meeting held on Tuesday, February 15, 2011, at 3:00 p.m., House Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Proos (C), Walker and Anderson

#### Scheduled Meetings

**Appropriations, Finance, House Appropriations and House Tax Policy** - Thursday, February 17, 11:00 a.m., Senate Hearing Room, Ground Floor, Boji Tower (373-1106)

**Subcommittees -**

**Agriculture and Rural Development and House Agriculture and Rural Development Appropriations Subcommittee** - Wednesday, February 23, 3:00 p.m., Rooms 402 and 403, Capitol Building (373-2768)

**Community Colleges and House Community Colleges Appropriations Subcommittee** - Friday, February 18, 1:00 p.m., Jackson Community College, Board Room #214, Potter Center, 2111 Emmons Road, Jackson; and Friday, February 25, 1:00 p.m., Room K-301, John Lewis Center, 14500 East 12 Mile Road, Warren (373-2768)

**Environmental Quality and House Environmental Quality Appropriations Subcommittee** - Wednesday, February 23, 4:00 p.m., Room 352, Capitol Building (373-2768)

**Human Services Department** - Wednesday, February 23, 8:30 a.m., Senate Hearing Room, Ground Floor, Boji Tower (373-2768)

**Natural Resources Department and House Natural Resources Appropriations Subcommittee** - Thursday, February 24, 3:00 p.m., Rooms 402 and 403, Capitol Building (373-2768)

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

**Finance, Appropriations, House Appropriations and House Tax Policy** - Thursday, February 17, 11:00 a.m., Senate Hearing Room, Ground Floor, Boji Tower (373-5307)

**Legislative Council** - Thursday, February 24, 9:45 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-0212)

**Natural Resources, Environment and Great Lakes** - Thursday, February 17, 8:00 a.m., Room 210, Farnum Building (373-5323)

Senator Meekhof moved that the Senate adjourn.  
The motion prevailed, the time being 10:38 a.m.

The President, Lieutenant Governor Calley, declared the Senate adjourned until Thursday, February 17, 2011, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate