

No. 47  
STATE OF MICHIGAN  
**Journal of the Senate**  
95th Legislature  
REGULAR SESSION OF 2009

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Senate Chamber, Lansing, Wednesday, June 3, 2009.

10:00 a.m.

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

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—excused  
Van Woerkom—present  
Whitmer—present

Father Rolando Silva of St. Stephen's Catholic Church of Lake City and St. Theresa's Parish of Manton offered the following invocation:

Dear sisters and brothers, as we prepare to invoke the name of God on our own behalf by praying the words He gives us in the 34th Psalm:

"I will bless the LORD at all times; his praise shall be ever in my mouth. Let my soul glory in the LORD; the lowly will hear me and be glad. Glorify the LORD with me, and let us together extol his name. I sought the LORD and he answered me, and delivered me from all my fears. Look to him that you may be radiant with joy, and your faces may not blush with shame."

Blessed are You, Lord, God of all creation, who by Your goodness will that people have a share in Your providential command over all things on earth. We pray for those with authority in the civil order over Your people: Barack Obama, the President of the United States of America; Jennifer Granholm, the Governor of Michigan; and John Cherry, the President of this body. May they be enabled by Your gracious strength to discharge their duties with honesty, true justice, and excellent skill for the good of all people wherever and in whatsoever condition they may be in.

We pray for the members and staff at work in this senatorial chamber of the State Legislature. Grant, we beseech You, that what they do this day begin with Your inspiration, continue with Your grace, and reach perfection under Your guidance. May their proceedings this day not cause their faces to blush with shame, but rather, to radiate with a share of Your joy that is worthy of the share in Your authority with which You entrusted them through the voice of Your people in this state.

Through Christ Your Son, we extol Your name and give glory to You, who is Lord forever and ever. Amen.

The President pro tempore, Senator Richardville, led the members of the Senate in recital of the *Pledge of Allegiance*.

The Assistant President pro tempore, Senator Sanborn, assumed the Chair.

### **Motions and Communications**

Senators Van Woerkom, Kahn and Brown entered the Senate Chamber.

Senator Anderson moved that Senators Gleason and Clarke be temporarily excused from today's session. The motion prevailed.

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

The following communication was received:  
Department of Community Health

May 20, 2009

In accordance with MCL 333.7524a, I am pleased to present to the Michigan Legislature the 17th comprehensive report on asset forfeiture. Michigan's asset forfeiture program saves taxpayer money and deprives drug criminals of cash and property obtained through illegal activity. Michigan's law enforcement community has done an outstanding job of stripping drug dealers of illicit gain and utilizing these proceeds to expand and enhance drug enforcement efforts to protect our citizens.

During 2008, over \$25.3 million in cash and assets amassed by drug traffickers was forfeited and placed into the fight against drugs through the use of state and federal forfeiture laws. Extensive multi-agency teamwork is evident in this report. Considerable assets were obtained as the result of joint enforcement involving several agencies at the federal, state and local levels.

Forfeiture funds were used to further enforce drug laws by providing resources for drug enforcement personnel, needed equipment, undercover informant and investigative costs, and matching funds to obtain federal grants. Some of the forfeited assets were also used for drug and gang prevention education programs.

I commend our law enforcement community for the tremendous job they have done and submit this report for your information and review.

Sincerely,  
Deborah J. Hollis, Acting Director  
Office of Drug Control Policy

The communication was referred to the Secretary for record.

The following communication was received:  
Public Service Commission

June 2, 2009

The enclosed annual report, *Status of Telecommunication Competition in Michigan*, is submitted on behalf of the Michigan Public Service Commission (Commission) in accordance with Section 103 of the Michigan Telecommunications Act (MTA). This report, as well as reports from previous years, is available on the Commission Web site at [www.michigan.gov/mpsc](http://www.michigan.gov/mpsc). The purpose of this report is to describe the status of competition in telecommunications services in Michigan, including, but not limited to, the toll and local exchange markets in the state. The report includes information on the traditional wireline industry as well as services provided via diverse telecommunications technologies, such as wireless and Voice over Internet Protocol (VoIP). The report also contains information regarding high speed Internet lines in Michigan.

In a trend that began in 2002, the total number of wirelines in Michigan has again decreased. For 2008, the total number of wirelines in Michigan decreased by over 600,000 lines from the previous year. In 2005 and 2006, as noted in earlier reports, there was a decrease in the percentage of lines served by competitive providers, however in 2007 the competitive providers' market share increased. For 2008, the competitive providers' share remained stable at 20 percent.

While competitive providers can offer service to customers through a variety of methods that use the incumbent providers' networks, in 2008 we again saw a large increase, from 25.1 percent to 32.5 percent, in the percentage of competitive lines served via the competitive providers' own facilities. This growth suggests that the competitive network infrastructure is, in fact, continuing to shift toward facilities-based competition versus competition reliant solely on the incumbents' networks. As in 2007, this trend is more evident in residential lines, as almost three fourths of the lines provided via CLEC facilities are residential customers. The percentages of residential versus business lines provided by CLECs via the incumbents' network are more balanced. Though the competitive market share is still below the 2004 high of 27.5 percent, the continued network investment by competitive providers, along with the stable market share for CLECs over the past two years, is a very positive trend.

While the Commission does not have jurisdiction over most types of advanced and non-wireline telecommunications, additional data available to the Commission allows for the monitoring of developments in these markets. The number of wireless subscriptions in Michigan continues to increase; the FCC reports that there are over 7.6 million wireless subscriptions in Michigan as of December 31, 2007. High speed Internet connections have also increased substantially; over one million additional lines were reported to the FCC for the 12 month period between December 31, 2006 and December 31, 2007. This increase brings Michigan's total high speed lines to just over 3.5 million as of December 31, 2007. Along with monitoring FCC data regarding high speed lines in Michigan, the Commission has taken an active role in the proceedings surrounding the broadband provisions of the American Recovery and Reinvestment Act of 2009 (ARRA), in the first half of this year. The Commission expects to be able to comment more comprehensively on the broadband provision of the ARRA and any resulting effects on Michigan's telecommunications market in next year's report.

The *Status of Telecommunications Competition in Michigan* report for 2008 shows that, while the total number of wirelines continue to decrease, competitive providers are maintaining a 20 percent market share. Additionally, competitive providers are serving more lines via their own facilities. This represents continued investment in Michigan's competitive telecommunication infrastructure despite the weakened economy and serves as an indication that the provider has the intent of remaining in the marketplace in the long term. The Commission will continue to strive to meet its obligations under the MTA to ensure a just and reasonable primary basic local exchange service rate; enforce basic consumer protections, including prohibitions against slamming and cramming; and resolve disputes that arise under the MTA. At the same time, the Commission is committed to monitoring developments in the wireless and broadband realms and any resulting impacts on the competitive landscape in Michigan. The Commission will also apprise the Governor and the Legislature of any future developments that may warrant action.

Very truly yours,  
Orjiakor N. Isougu, Chairman  
Monica Martinez, Commissioner  
Steven A. Transeth, Commissioner

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 Tuesday, June 2:  
**House Bill Nos. 4906 4932 4977**

#### Messages from the House

Senator Gleason entered the Senate Chamber.

**Senate Bill No. 432, entitled**

A bill to amend 1998 PA 58, entitled “Michigan liquor control code of 1998,” by amending section 513 (MCL 436.1513), as amended by 2007 PA 11.

The House of Representatives has amended the bill as follows:

1. Amend page 2, line 19, after “**THE**” by inserting “**LICENSED PREMISES FOR THE OPERATION OF A**”.

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

Pursuant to rule 3.202, the bill was laid over one day.

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 Assistant President pro tempore, Senator Sanborn, designated Senator Basham as Chairperson.

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

**House Bill No. 4479, entitled**

A bill to amend 1893 PA 206, entitled “The general property tax act,” by amending section 37 (MCL 211.37), as amended by 1994 PA 415.

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.

During the Committee of the Whole, Senator Clarke 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:

**House Bill No. 4286**

**Senate Bill No. 426**

**Senate Bill No. 142**

The motion prevailed.

The following bill was read a third time:

**House Bill No. 4286, entitled**

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending section 504 (MCL 324.504), as amended by 2004 PA 130.

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. 212****Yeas—36**

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

**Nays—0**

**Excused—1**

Thomas

**Not Voting—0**

In The Chair: Sanborn

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. 426, entitled**

A bill to amend 1974 PA 198, entitled “An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to impose and provide for the disposition of an administrative fee; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties,” by amending sections 2 and 14 (MCL 207.552 and 207.564), section 2 as amended by 2008 PA 581 and section 14 as amended by 2008 PA 457.

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. 213**

**Yeas—26**

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

**Nays—10**

Anderson	Clark-Coleman	Prusi	Switalski
Brater	Hunter	Scott	Whitmer
Cherry	Jacobs		

**Excused—1**

Thomas

**Not Voting—0**

In The Chair: Sanborn

The Senate agreed to the title of the bill.

**Protest**

Senator Jacobs, under her constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 426.

Senator Jacobs' statement is as follows:

I can appreciate what the bill's sponsor is attempting to do with this legislation. I am truly not unsympathetic to the problems that Ritz-Craft is facing or the solution that bill is seeking to provide, but I am concerned about the potential consequences of this bill.

During committee consideration, we heard that the company is having a difficult time right now with the poor housing market, and they would like to expand on land that they currently own. PA 198 tax abatements are designed to help businesses rehabilitate obsolete facilities or to attract new facilities to the state.

Typically, PA 198 reduces local property taxes by about 50 percent on new facilities, but this bill reduces them on a single facility by an additional 80 percent. In the meantime, there is no record to suggest that the company will do anything in response to this extraordinary measure. There is no commitment to develop a new facility or even retain current jobs.

I would not doubt that there is at least one company with a PA 198 in each of our districts that is struggling right now and very much deserving of help. This bill could put us on a very slippery slope if each business sought its own legislation in this manner. I think we need to look at the larger impact of this bill and perhaps take a more holistic approach in addressing this issue.

I believe that there are other options to consider, and therefore, I could not support this bill.

By unanimous consent the Senate proceeded to the order of

**Resolutions**

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

**Senate Resolution No. 41**

The motion prevailed.

**Senate Resolution No. 39.**

A resolution honoring the MGM Grand Detroit.

The question being on the adoption of the resolution,

Senator Allen offered the following substitute:

A resolution honoring the MGM Grand Detroit Hotel.

Whereas, MGM Grand Detroit is the first-ever Las Vegas-style hotel to open in a major metropolitan area; and

Whereas, MGM Grand Detroit has consistently led the way due to its commitment to excellence, customer service, and to the people of Michigan; and

Whereas, Each year, MGM Grand Detroit contributes more than \$18 million in property taxes to the city of Detroit and millions more in revenue to the state; and

Whereas, The MGM Grand Detroit Community Voice Council has raised more than \$1 million through payroll deductions, golf outings, and candy and flower sales to support more than 400 community and civic organizations throughout the Detroit area; and

Whereas, As Southeast Michigan's largest employer, MGM Grand Detroit employs more than 3,000 people, which more than 50 percent of those employees are Detroit residents and more than 60 percent are minorities; and

Whereas, As the recipient of both the 2009 Mobil Four-Star Award by Mobil Travel Guide and the 2009 AAA Four-Diamond Award by the AAA TourBook for its hotel and IMMERSE Spa, the MGM Grand Detroit has become a point of interest for all of those who come to Detroit; now, therefore, be it

Resolved by the Senate, That we hereby honor the MGM Grand Detroit Hotel; and be it further

Resolved, That a copy of this resolution be transmitted to MGM Grand Detroit as evidence of our esteem.

The substituted was adopted.

The resolution, as substituted, was adopted.

### Introduction and Referral of Bills

Senators Van Woerkom, Garcia, Jelinek, Cropsey, Kuipers and Jansen introduced

**Senate Bill No. 616, entitled**

A bill to amend 2008 IL 1, entitled "Michigan medical marijuana act," by amending section 4 (MCL 333.26424).

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

Senators Kahn, Van Woerkom, Cropsey, Garcia, Jelinek, Kuipers and Jansen introduced

**Senate Bill No. 617, entitled**

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 13n of chapter XVII (MCL 777.13n), as amended by 2008 PA 37.

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

Senators Kuipers, Van Woerkom, Garcia, Jelinek, Cropsey and Jansen introduced

**Senate Bill No. 618, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7212 and 7214 (MCL 333.7212 and 333.7214), section 7212 as amended by 2002 PA 710 and section 7214 as amended by 1982 PA 352, and by adding section 17790; 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 Judiciary.

Senator Allen introduced

**Senate Bill No. 619, entitled**

A bill to amend 1937 PA 94, entitled "Use tax act," by amending section 21 (MCL 205.111), as amended by 1994 PA 34.

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

Senator Allen introduced

**Senate Bill No. 620, entitled**

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 25 (MCL 205.75), as amended by 2008 PA 361.

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

Senator Sanborn introduced

**Senate Bill No. 621, 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 10ee.

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

Senators Van Woerkom, Jelinek, Brown, Kahn, Richardville, Kuipers and Birkholz introduced

**Senate Bill No. 622, entitled**

A bill to amend 2007 PA 36, entitled "Michigan business tax act," (MCL 208.1101 to 208.1601) by adding section 460a.

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

Senators Brown, Jelinek, Van Woerkom, Kahn, Richardville, Kuipers and Birkholz introduced

**Senate Bill No. 623, entitled**

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 278.

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

**House Bill No. 4906, entitled**

A bill to amend 2004 PA 174, entitled "Streamlined sales and use tax administration act," by amending section 25 (MCL 205.825), as amended by 2008 PA 437.

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 Finance.

**House Bill No. 4932, entitled**

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 310b (MCL 750.310b), as added by 1996 PA 539.

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 Economic Development and Regulatory Reform.

**House Bill No. 4977, entitled**

A bill to amend 1988 PA 511, entitled "Community corrections act," by amending section 8 (MCL 791.408).

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.

### Statements

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

The motion prevailed.

Senator Scott's statement is as follows:

There is a Navajo saying that tells us to treat all people as though they were related to us. Now I know for a fact that no one in this chamber would want their parents or children or siblings or even their best friends to pay the auto insurance rates that some of our constituents pay. And I seriously doubt that any of our relatives would accept the explanation that it is okay if they pay high auto insurance rates even if they have perfectly good driving records.

We go to bat for our families and our friends. We do all we can to help them out. As legislators, we need to treat all the people of Michigan like family. We need to work hard for our constituents and also for the people who live outside of our districts. We serve all the people. We cannot and should not sit by and let some carry an unfair, heavier burden than others.

Now, more than ever, with people experiencing layoffs, job loss, and pay cuts, we need to reform auto insurance rates. We require our citizens to buy this insurance, and we need to do everything in our power to make it more affordable.

Please work with me on this issue, and give our citizens insurance rates that are reasonable and affordable.



Senator Brown's statement is as follows:

One of the headlines in the *Detroit News* online edition yesterday, next to articles about GM's bankruptcy, layoffs, unemployment, and lost pensions, read: "MDOT: Drivers can afford gas tax, vehicle fees." The MDOT director was quoted as saying: "A gas tax increase would equate to the price of a stick of gum per week for Michigan's motorists." Apparently, the director was not factoring in the cost of nearly doubling vehicle registration fees which is another key part of the proposal being pushed by the department and others.

Mr. President, following the chewing gum analogy, doubling our displeasure does not double our fun. The average Michigan driver already pay \$101.00 annually in vehicle registration fees. Our fees are the sixth-highest in the nation. If approved, this proposal would send us right to the top of the list. Don't we already lead the nation in enough unfortunate categories?

I don't need to tell anyone in this chamber about how difficult things are in Michigan for residents right now. To presume that the people of Michigan can afford any increase in taxes or fees, especially a doubling of registration fees that are already well above the national average, shows a fundamental disconnect with the reality of the economic situation in this state.

We need a plan to address Michigan's struggling economy that does not impose greater burdens on Michigan taxpayers. We need a plan to designate Michigan as a renaissance state. We need a plan that embraces the Gateway Area redevelopment plan recently introduced by a number of legislators in this body. We need to have a Michigan emergency recovery plan. We need to give the citizens of Michigan the sense that we are leaders leading this state.

Mr. President, I invite the administration to work with the Legislature to create an emergency recovery plan to give hope and assurance in these troubled times.

## Committee Reports

### COMMITTEE ATTENDANCE REPORT

The Subcommittee on Retirement submitted the following:

Meeting held on Tuesday, June 2, 2009, at 12:00 noon, Rooms 402 and 403, Capitol Building

Present: Senators Jansen (C), Kahn and Cherry

## Scheduled Meetings

### Appropriations -

#### Subcommittees -

**Capital Outlay** - Thursday, June 4, 9:00 a.m., Senate Hearing Room, Ground Floor, Boji Tower (373-2768)

**Judiciary and Corrections** - Tuesday, June 9, 3:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-2768)

**Finance** - Thursday, June 4, 11:00 a.m., Room 110, Farnum Building (373-1758)

**Legislative Commission on Statutory Mandates** - Thursday, June 25, 9:00 a.m., Oakland County Executive Office Building, Waterford Room, 1st Floor, Building 41-West, 2100 Pontiac Lake Road, Waterford (373-0212)

**Legislative Retirement Board of Trustees** - Thursdays, June 4, September 10 and December 3, 2:00 p.m., Room H-252, Capitol Building (373-0575)

**Michigan Law Revision Commission** - Wednesday, June 24, 11:30 a.m., Legislative Council Conference Room, 3rd Floor, Boji Tower (373-0212)

**Natural Resources and Environmental Affairs** - Wednesday, June 10, 1:00 p.m., Room 110, Farnum Building (373-3447)

Senator Cropsey moved that the Senate adjourn.

The motion prevailed, the time being 10:29 a.m.

The Assistant President pro tempore, Senator Sanborn, declared the Senate adjourned until Thursday, June 4, 2009, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate