

**No. 125**  
**STATE OF MICHIGAN**  
**Journal of the Senate**  
**94th Legislature**  
**REGULAR SESSION OF 2007**

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Senate Chamber, Lansing, Saturday, December 1, 2007.

12:05 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—excused  
Prusi—present  
Richardville—present  
Sanborn—present  
Schauer—present  
Scott—present  
Stamas—present  
Switalski—present  
Thomas—present  
Van Woerkom—present  
Whitmer—present

Senator Judson S. Gilbert II of the 25th District offered the following invocation:

Heavenly Father, we thank You for this new day. We pray for wisdom as we do these proceedings on behalf of the people of the state of Michigan, and we'd ask Your blessings on this great state. And I would pray for safety as all of us drive home this evening.

This we ask in Christ's name. Amen.

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

### Motions and Communications

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

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

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

November 30, 2007

Pursuant to PA 98 of 2007, we are making the following joint appointment to the Legislative Commission on Statutory Mandates:

Mr. Dennis Pollard of 419 Puritan, Birmingham, Michigan 48009, county of Oakland, for a term of three years.  
If you have any questions please call Bill Sullivan at 373-2417.

Sincerely,  
Michael D. Bishop  
Senate Majority Leader

Andy Dillon  
Speaker of the House

The communication was referred to the Secretary for record.

The following communication was received and read:  
Office of the Speaker of the House

November 30, 2007

Pursuant to PA 96 of 2007, we make the following joint appointments to the Legislative Commission on Efficiency:  
Ms. Fern Griesbach of 675 Fogg Road, Leslie, Michigan 49251, for a term of three years.  
Mr. Charles M. Moore of 9410 Pineview Drive, Plymouth, Michigan 48170, for a term of three years.  
Ms. Jan Stark of 2665 Crooks Road, Royal Oak, Michigan 48067, for a term of three years.  
If you have any questions please call Sarah Gonzales Triplett at (517) 373-1865.

Sincerely,  
Andy Dillon  
Speaker of the House

Michael D. Bishop  
Senate Majority Leader

The communication was referred to the Secretary for record.

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

November 30, 2007

Mr. John Strand  
Legislative Council  
Fourth Floor - Boji Tower  
Lansing, Michigan 48909

Dear Mr. Strand:

Pursuant to PA 98 of 2007, I am calling upon the co-chairs of the Legislative Commission on Statutory Mandates to schedule the first meeting of the commission for the purpose of organizing.

Sincerely,  
Michael D. Bishop  
Senate Majority Leader

The communication was referred to the Secretary for record.

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

**Senate Bill Nos. 926 927 928 929 930 931 932 933 934 935 936 937 938 939**  
**940 941 942**

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

Senator Garcia entered the Senate Chamber.

The President, Lieutenant Governor Cherry, assumed the Chair.

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

- Senate Bill No. 534**
- Senate Bill No. 539**
- Senate Bill No. 885**
- Senate Bill No. 910**

The motion prevailed.

The following bill was read a third time:

**Senate Bill No. 534, entitled**

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending section 2 (MCL 125.2652), as amended by 2006 PA 32.

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. 511**

**Yeas—37**

Allen	Clark-Coleman	Jacobs	Richardville
Anderson	Clarke	Jansen	Sanborn
Barcia	Cropsey	Jelinek	Schauer
Basham	Garcia	Kahn	Scott
Birkholz	George	Kuipers	Stamas

Bishop  
Brater  
Brown  
Cassis  
Cherry

Gilbert  
Gleason  
Hardiman  
Hunter

McManus  
Olshove  
Pappageorge  
Prusi

Switalski  
Thomas  
Van Woerkom  
Whitmer

**Nays—0**

**Excused—1**

Patterson

**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. 539, entitled**

A bill to amend 1996 PA 381, entitled “Brownfield redevelopment financing act,” by amending section 16 (MCL 125.2666), as amended by 2000 PA 145.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

**Roll Call No. 512**

**Yeas—37**

Allen  
Anderson  
Barcia  
Basham  
Birkholz  
Bishop  
Brater  
Brown  
Cassis  
Cherry

Clark-Coleman  
Clarke  
Cropsey  
Garcia  
George  
Gilbert  
Gleason  
Hardiman  
Hunter

Jacobs  
Jansen  
Jelinek  
Kahn  
Kuipers  
McManus  
Olshove  
Pappageorge  
Prusi

Richardville  
Sanborn  
Schauer  
Scott  
Stamas  
Switalski  
Thomas  
Van Woerkom  
Whitmer

**Nays—0**

**Excused—1**

Patterson

**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. 885, entitled**

A bill to amend 1996 PA 376, entitled “Michigan renaissance zone act,” by amending sections 8d, 8e, 9, and 10 (MCL 125.2688d, 125.2688e, 125.2689, and 125.2690), section 8d as amended by 2006 PA 93, section 8e as added by 2006 PA 270, and section 10 as amended by 2005 PA 164.

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. 513**

**Yeas—36**

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

**Nays—0**

**Excused—1**

Patterson

**Not Voting—1**

Cassis

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

**Senate Bill No. 910, entitled**

A bill to amend 1995 PA 24, entitled “Michigan economic growth authority act,” by amending sections 6 and 9 (MCL 207.806 and 207.809), section 6 as amended by 2003 PA 248 and section 9 as amended by 2000 PA 144.

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. 514****Yeas—37**

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

**Nays—0****Excused—1**

Patterson

**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  
**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 Cherry as Chairperson.

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

**Senate Bill No. 667, entitled**

A bill to amend 1846 RS 83, entitled "Of marriage and the solemnization thereof," by amending section 7 (MCL 551.7), as amended by 2006 PA 613.

Substitute (S-2).

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

**Recess**

Senator Cropsey moved that the Senate recess subject to the call of the Chair.  
The motion prevailed, the time being 12:24 a.m.

4:42 a.m.

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

By unanimous consent the Senate returned to the order of

**Motions and Communications**

Senator Bishop moved that the conferee appointments to the following bill be withdrawn:

**House Bill No. 5408**

The motion prevailed.

Senator Cropsey moved that rule 3.311 be suspended to permit reconsideration of the vote by which the House substitute to the following bill was not concurred in:

**House Bill No. 5408**

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

By unanimous consent the Senate proceeded to the order of

**Messages from the House**

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

**Senate Bill No. 53**

**House Bill No. 4120**

**Senate Bill No. 511**

**House Bill No. 4507**

**Senate Bill No. 388**

**Senate Bill No. 593**

The motion prevailed.

**House Bill No. 5408, entitled**

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending the title and sections 265, 403, 447, 515, and 601 (MCL 208.1265, 208.1403, 208.1447, 208.1515, and 208.1601) and by adding chapter 2C; and to repeal acts and parts of acts.

Senator Cropsey moved to reconsider the vote by which the House substitute was not concurred in.

The motion prevailed.

The question being on concurring in the House substitute to the Senate substitute,

Senator Gilbert offered the following substitute to the House substitute:

Substitute (S-8).

The question being on the adoption of the substitute,

Senator Gilbert offered the following amendments to the substitute:

1. Amend page 25, line 8, after "**THE**" by striking out "**2009**" and inserting "**2010**".
2. Amend page 25, line 9, after "**AFTER**" by striking out "**2009**" and inserting "**2010**".

The amendments to the substitute were adopted.

The substitute, as amended, was adopted.

**Protest**

Senator Brater, under her constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the Senate substitute to the House substitute to the Senate substitute to House Bill No. 5408 and moved that the statement she made during the discussion of the Senate substitute be printed as her reasons for voting "no."

The motion prevailed.

Senator Brater's statement is as follows:

It is 4:45 a.m. Saturday morning; the public is asleep. About a month ago, we were in this chamber at the same time passing what was supposed to be a correction to an ongoing budget problem. Now we are back here doing the same thing again in the middle of the night. Those of us on the Democratic side came in here a couple of minutes ago, were told what was negotiated, and now we're being asked to vote.

I do not want to go home and take those phone calls again from my constituents that say, "Why did you do this in the darkness of night? Why didn't you have deliberations and let the public have their input?" I just protest this procedure, and for that reason, I can't support it.

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

**Roll Call No. 515****Yeas—33**

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

**Nays—4**

Anderson	Brater	Cassis	Sanborn
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**Excused—1**

Patterson

**Not Voting—0**

In The Chair: President

Senator Cropsey moved that the bill be given immediate effect.

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

Senator Gilbert offered to amend the title to read as follows:

A bill to amend 2007 PA 36, entitled “An act to provide for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations,” by amending the title and sections 105, 111, 113, 201, 239, 265, 403, 405, 409, 413, 445, 447, 515, and 601 (MCL 208.1105, 208.1111, 208.1113, 208.1201, 208.1239, 208.1265, 208.1403, 208.1405, 208.1409, 208.1413, 208.1445, 208.1447, 208.1515, and 208.1601), section 201 as amended by 2007 PA 90, and by adding chapter 2C and section 451; and to repeal acts and parts of acts.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

**Protests**

Senators Brater and Cassis, under their constitutional right of protest (Art. 4, Sec. 18), protested against concurring in the House substitute to the Senate substitute, as substituted, to House Bill No. 5408.

Senator Brater moved that the statement she made during the discussion of the Senate substitute be printed as her reasons for voting “no.”

The motion prevailed.



Senator Brater's statement is as follows:

It is 4:45 a.m. Saturday morning; the public is asleep. About a month ago, we were in this chamber at the same time passing what was supposed to be a correction to an ongoing budget problem. Now we are back here doing the same thing again in the middle of the night. Those of us on the Democratic side came in here a couple of minutes ago, were told what was negotiated, and now we're being asked to vote.

I do not want to go home and take those phone calls again from my constituents that say, "Why did you do this in the darkness of night? Why didn't you have deliberations and let the public have their input?" I just protest this procedure, and for that reason, I can't support it.

Senator Cassis' statement is as follows:

I voted "no" on the fiscal year '08 budgets above 2.1 percent projected rate of inflation, and "no" on growth of overall general fund increase in spending of 8.2 percent. I voted "no" against the service tax. The surcharge represents a 22 percent tax increase on Michigan's smaller and medium-sized businesses, and shifts a larger proportion of tax burden to them.

I authored the repeal of the service tax, Senate Bill No. 838. On November 20, I voted for a 14 percent MBT surcharge tie-barred to the repeal of the service tax, Senate Bill No. 838, and a three-year hard date sunset.

This morning, December 1, I voted against a 22 percent MBT surcharge, an almost 8 percent increase, that will be in place for ten years, the biggest overall tax increase in a generation. No meaningful reforms, no budget reductions occurred as a result of House Bill No. 5408. In my opinion, House Bill No. 5408 says, "Yes to some pork, yes to more spending, \$119 million left in the BSF, and somewhere around \$150 million lapsed funds."

The original MBT will be more than just revenue-neutral and now compounds the MBT with a 22 percent surcharge. How does this advance Michigan's competitiveness with other states that have no surcharge? While the service tax represents poison that would kill businesses, the 22 percent surcharge just leaves them maimed. The service tax, brought to us, as was said, in the wee hours of the morning, has now been morphed into the emperor's new clothing in the garb of a "shift-and-shaft" surcharge tax.

By unanimous consent the Senate returned to the order of

#### **Motions and Communications**

Senator Cropsey moved that when the Senate adjourns today, it stand adjourned until Tuesday, December 4, at 10:00 a.m.

The motion prevailed.

#### **Committee Reports**

The Committee on Education reported

##### **House Bill No. 4220, entitled**

A bill to amend 1978 PA 566, entitled "An act to encourage the faithful performance of official duties by certain public officers and public employees; to prescribe standards of conduct for certain public officers and public employees; to prohibit the holding of incompatible public offices; and to provide certain judicial remedies," by amending section 3 (MCL 15.183), as amended by 2004 PA 110.

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.

Wayne Kuipers  
Chairperson

To Report Out:

Yeas: Senators Kuipers, Van Woerkom, Cassis and Gleason

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 Education submitted the following:

Meeting held on Thursday, November 29, 2007, at 2:55 p.m., Room 210, Farnum Building

Present: Senators Kuipers (C), Van Woerkom, Cassis and Gleason

Excused: Senator Whitmer

The Committee on Agriculture reported

**House Bill No. 5034, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 8501 (MCL 324.8501), as amended by 2006 PA 503.

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.

Gerald Van Woerkom  
Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Gilbert, Birkholz, Gleason and Whitmer

Nays: None

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

The Committee on Agriculture reported

**House Bill No. 5035, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 8517 (MCL 324.8517), as added by 1998 PA 276.

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, Gleason and Whitmer

Nays: None

The bill was referred to the Committee of the Whole.

#### COMMITTEE ATTENDANCE REPORT

The Committee on Agriculture submitted the following:

Meeting held on Thursday, November 29, 2007, at 9:30 a.m., Room 110, Farnum Building

Present: Senators Van Woerkom (C), Gilbert, Birkholz, Gleason and Whitmer

#### Scheduled Meetings

#### Appropriations -

##### Subcommittees -

**Capital Outlay** - Wednesday, December 5, 9:00 a.m., House Appropriations Room, 3rd Floor, Capitol Building (373-8080)

**Natural Resources Department** - Tuesday, December 4, 1:00 p.m. or later immediately following session, Senate Appropriations Room, 3rd Floor, Capitol Building (373-2768)

**Homeland Security and Emerging Technologies** - Tuesday, December 4, 12:30 p.m., Room 100, Farnum Building (373-5932)

**Legislative Retirement Board of Trustees** - Wednesday, December 5, 3:00 p.m., Room H-252, Capitol Building (373-0575)

**Michigan Capitol Committee** - Thursday, December 6, 9:00 a.m., Room 426, Capitol Building (373-5527)

**Natural Resources and Environmental Affairs** - Wednesday, December 5, 1:30 p.m., Room 110, Farnum Building (373-3447)

Senator Cropsy moved that the Senate adjourn.  
The motion prevailed, the time being 4:58 a.m.

In pursuance of the order previously made, the President, Lieutenant Governor Cherry, declared the Senate adjourned until Tuesday, December 4, 2007, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate

