

**No. 85**  
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Senate Chamber, Lansing, Thursday, November 4, 2010.

10:00 a.m.

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

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

Allen—present  
Anderson—present  
Barcia—present  
Basham—present  
Birkholz—present  
Bishop—present  
Brater—present  
Brown—present  
Cassis—present  
Cherry—present  
Clark-Coleman—present  
Clarke—present  
Cropsey—present

Garcia—present  
George—present  
Gilbert—present  
Gleason—present  
Hardiman—present  
Hunter—present  
Jacobs—present  
Jansen—present  
Jelinek—present  
Kahn—present  
Kuipers—present  
McManus—present  
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

Senator Glenn S. Anderson of the 6th District offered the following invocation:

Heavenly Father, as we gather in this incredible State Capitol two days after another election and on behalf of the people of this great state, let us not forget our responsibility to work together in a bipartisan fashion in resolving the challenges before our state. As we close out another session and prepare for the transition to a new Governor and new members of the Legislature, give us all guidance to do the right thing for our state's residents and to be thoughtful and respectful in our deliberations.

Bless those in our military who are serving throughout the world to protect and preserve our freedom. In Your holy name, we ask. Amen.

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

### Motions and Communications

Senator Cropsey moved that consideration of the motion to discharge the Committee on Government Operations from further consideration of the following resolutions be postponed for today:

**Senate Resolution No. 15**

**Senate Resolution No. 172**

The motion prevailed.

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

The motion prevailed.

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

**Senate Bill Nos. 1561 1562 1563**

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 Hardiman 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 without amendment, the following bills:

**House Bill No. 6196, entitled**

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 720, 725, 726, 727, 728, 729, and 734 (MCL 339.720, 339.725, 339.726, 339.727, 339.728, 339.729, and 339.734), sections 720, 728, and 734 as amended by 2008 PA 161, sections 725 and 729 as amended by 2007 PA 1, and sections 726 and 727 as added by 1997 PA 10.

**Senate Bill No. 1527, entitled**

A bill to amend 1933 PA 62, entitled "Property tax limitation act," by amending section 5i (MCL 211.205i), as amended by 2004 PA 391.

The bills were 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. 1413, entitled**

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 2909, 2911, and 2913 (MCL 339.2909, 339.2911, and 339.2913), as added by 2006 PA 489.

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. 1421, entitled**

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1278b (MCL 380.1278b), as amended by 2010 PA 80.

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, Senators Richardville, Bishop, Basham, Garcia, Allen, Stamas, Kahn, Scott, Brater and Barcia entered the Senate Chamber.

By unanimous consent the Senate proceeded to the order of

**Introduction and Referral of Bills**

Senator Clarke entered the Senate Chamber.

Senator Birkholz introduced

**Senate Bill No. 1564, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11102, 11107, 11118a, 11121, 11123, 11124, 11125, 11129, 11140, and 11153 (MCL 324.11102, 324.11107, 324.11118a, 324.11121, 324.11123, 324.11124, 324.11125, 324.11129, 324.11140, and 324.11153), section 11118a as added by 1996 PA 182 and section 11153 as amended by 2008 PA 403; 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 Natural Resources and Environmental Affairs.

Senator Birkholz introduced

**Senate Bill No. 1565, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 21302, 21303, 21311a, 21312a, and 21315 (MCL 324.21302, 324.21303, 324.21311a, 324.21312a, and 324.21315), section 21302 as amended by 1995 PA 22 and sections 21303, 21311a, 21312a, and 21315 as amended by 1996 PA 116, and by adding sections 20114f and 21301c.

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

Senator Barcia introduced

**Senate Bill No. 1566, entitled**

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 7o (MCL 211.7o), as amended by 2006 PA 681.

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

Senator Nofs introduced

**Senate Bill No. 1567, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 17766e (MCL 333.17766e), as added by 2005 PA 87.

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

Senator Switalski introduced

**Senate Bill No. 1568, entitled**

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 30 (MCL 206.30), as amended by 2009 PA 134.

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

Senator Switalski introduced  
**Senate Bill No. 1569, entitled**

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 30 (MCL 206.30), as amended by 2009 PA 134.

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

Senator Jacobs introduced  
**Senate Bill No. 1570, entitled**

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 520e (MCL 750.520e), as amended by 2007 PA 163.

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

Senators Cassis, Switalski, George and Gilbert introduced  
**Senate Bill No. 1571, entitled**

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 455 (MCL 208.1455), as added by 2008 PA 77.

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

Senators Cassis and Gilbert introduced  
**Senate Bill No. 1572, entitled**

A bill to amend 1995 PA 24, entitled "Michigan economic growth authority act," by amending sections 5, 8, and 10 (MCL 207.805, 207.808, and 207.810), section 5 as amended by 2008 PA 108, section 8 as amended by 2009 PA 123, and section 10 as amended by 2009 PA 125.

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

Senators Cassis and Gilbert introduced  
**Senate Bill No. 1573, entitled**

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 431 (MCL 208.1431), as amended by 2009 PA 126.

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

Senators Cassis and Gilbert introduced  
**Senate Bill No. 1574, entitled**

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," (MCL 125.2001 to 125.2094) by adding section 15. The bill was read a first and second time by title and referred to the Committee on Finance.

Senator Richardville introduced  
**Senate Bill No. 1575, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding section 2882a. The bill was read a first and second time by title and referred to the Committee on Families and Human Services.

Senator Jacobs introduced  
**Senate Bill No. 1576, entitled**

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 19a and 19c of chapter XIII (MCL 712A.19a and 712A.19c), section 19a as amended by 2008 PA 200 and section 19c as amended by 2008 PA 203.

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

Senator Jansen introduced  
**Senate Bill No. 1577, entitled**

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 14a of chapter XVII (MCL 777.14a), as added by 2002 PA 29.

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

Senators Thomas, Jacobs, Hunter, Clark-Coleman, Prusi and Switalski introduced  
**Senate Bill No. 1578, entitled**

A bill to provide for the establishment of art institute authorities; to provide for the powers and duties of an art institute authority; to authorize the levy and collection of a property tax by an art institute authority; and to provide for the powers and duties of certain government officials.

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

Senators Jacobs, Thomas, Hunter, Prusi, Clark-Coleman, Scott, Brater, Whitmer, Olshove and Switalski introduced  
**Senate Bill No. 1579, entitled**

A bill to amend 2008 PA 49, entitled "Zoological authorities act," by amending section 13 (MCL 123.1173).

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

Senator Pappageorge introduced

**Senate Bill No. 1580, entitled**

A bill to amend 1968 PA 251, entitled "Cemetery regulation act," by amending section 10 (MCL 456.530), as amended by 2008 PA 478.

The bill was read a first and second time by title and referred to the Committee on Economic Development and Regulatory Reform.

### Statements

Senators Scott and Prusi 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:

The writer Anne Lamott said, "Hope begins in the dark, the stubborn hope that if you show up and try to do the right thing, the dawn will come. You wait and watch and work: You don't give up." For years, I have fought to make insurance costs fair for everyone across this great state. I knew from the beginning that I would be fighting in the dark because there are more people in power, more vested interests against me than with me in this fight.

But I have continued fighting because I have always believed that this is the right thing and the right fight. That is why I am not giving up or backing down in these last few weeks of this legislative session. There is still time to do the right thing, and pass reforms so that no driver anywhere subsidizes drivers somewhere else in this state.

I have worked and talked to the people of my district and from other communities to find out their issues and problems with their insurance companies. The high and unfair auto insurance rates that too many Michigan drivers pay are a plague on their families and on this state.

Auto insurance rates should be based on your driving record, the kind of car you drive, and the distance you drive. If we required insurance companies to base their rates on those factors, then Michigan drivers would finally be treated fairly under a system that their government created.

There is still time to do this if you will only join me.

Senator Prusi's statement is as follows:

In a few short weeks, there will be twenty-eight of us leaving this chamber. Yesterday one of our colleagues delivered her farewell speech. I know all of us will receive our resolutions of tribute as we exit the State Senate, but I wasn't prepared yesterday to make remarks about our colleague who is leaving.

Fifteen years ago, Senator Cherry was a member of the House of Representatives when I first started as the result of a special election. She was one of the first members of that body who came over and welcomed me. In the fifteen years that have elapsed, she has been a great friend. She has served with distinction and honor in both chambers and has served well. She is always prepared and knows her issues.

For me, she has been a voice of reason. She has counseled me when she thinks I am wrong, which happens on nearly a weekly basis. She supports me when she believes I am right and has been a real true friend to me and to many members of this body.

I want her and everyone in the body to know that all of our lives become a book, and it has been a tremendous pleasure and honor for the past fifteen years to share some chapters of a book with Senator Cherry. I just want her to know I am proud to call her my friend, and we will miss her. But I know we will see each other over the years to come. I will not read

her tribute. All of us will get one that says pretty much the same thing, but just as a paraphrase, we do honor your service here, Deb, and we wish you well in your next job.

I missed my opportunity yesterday, so I decided I would take the opportunity today and express to my good friend, Senator Deb Cherry, that we appreciate all of her service, the friendship she has offered all of us, and the guidance she has given this body.

By unanimous consent the Senate returned to 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 10:33 a.m.

10:43 a.m.

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

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

- Senate Bill No. 1440**
- Senate Bill No. 1509**
- Senate Bill No. 1442**
- Senate Bill No. 1443**
- Senate Bill No. 1269**

The motion prevailed.

The following bill was read a third time:

**Senate Bill No. 1440, entitled**

A bill to amend 1929 PA 312, entitled "The metropolitan district act," (MCL 119.1 to 119.18) by adding section 5a.

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. 504**

**Yeas—37**

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

**Nays—0**

**Excused—0**

**Not Voting—1**

Olshove

In The Chair: President

The Senate agreed to the title of the bill.

Senator Thomas moved that Senator Olshove be temporarily excused from the balance of today's session.  
The motion prevailed.

Senator Olshove entered the Senate Chamber.

The following bill was read a third time:

**Senate Bill No. 1509, entitled**

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1249 (MCL 380.1249), as added by 2009 PA 205.

The question being on the passage of the bill,  
Senator Kuipers offered the following substitute:  
Substitute (S-2).

The substitute was adopted, a majority of the members serving voting therefor.

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. 505****Yeas—38**

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

**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. 1442, entitled**

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 5204 and 19708 (MCL 324.5204 and 324.19708), section 5204 as amended by 2005 PA 253 and section 19708 as amended by 2005 PA 256, and by adding sections 5204b, 5204c, and 19703a.

The question being on the passage of the bill,  
Senator Birkholz offered the following amendment:

1. Amend page 6, following line 14, by inserting:

**“SEC. 5204D. THE STATE MAY ESTABLISH A GRANT PROGRAM WITHIN THE STRATEGIC WATER QUALITY INITIATIVES FUND FOR THE PURPOSE OF FUNDING SPECIFIC WASTEWATER TREATMENT FACILITY INFRASTRUCTURE IMPROVEMENT PROJECTS DESIGNED TO PREVENT CHRONIC DISCHARGES AND PROJECTED TO HAVE SIGNIFICANT REGIONAL BENEFITS TO GREAT LAKES WATER QUALITY AND RECREATIONAL OPPORTUNITIES. IN ESTABLISHING SUCH A PROGRAM, THE STATE MAY CONSIDER THE RECOMMENDATIONS OF THE ADVISORY COMMITTEE CREATED IN SECTION 5317.”**

The amendment was adopted, a majority of the members serving voting therefor.

Senator Brater offered the following amendment:

1. Amend page 9, following line 15, by inserting:

“(h) Senate Bill No. 1267.”

The amendment was adopted, a majority of the members serving voting therefor.

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. 506**

**Yeas—36**

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

**Nays—2**

Kuipers	Patterson
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**Excused—0**

**Not Voting—0**

In The Chair: President

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

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 5204 and 19708 (MCL 324.5204 and 324.19708), section 5204 as amended by 2005 PA 253 and section 19708 as amended by 2005 PA 256, and by adding sections 5204b, 5204c, 5204d, and 19703a.

The amendment to the title was adopted.

The Senate agreed to the title as amended.



The following bill was read a third time:

**Senate Bill No. 1443, entitled**

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending section 5204a (MCL 324.5204a), as added by 2005 PA 254, and by adding section 5317.

The question being on the passage of the bill,

Senator Birkholz offered the following amendments:

1. Amend page 8, following line 3, by inserting:

**“(14) THE COMMITTEE SHALL REVIEW AND MAKE RECOMMENDATIONS REGARDING THE NEED FOR AND DESIGN OF A GRANT PROGRAM FOR THE PURPOSE OF FUNDING SPECIFIC WASTEWATER TREATMENT FACILITY INFRASTRUCTURE IMPROVEMENTS PROJECTS DESIGNED TO PREVENT CHRONIC DISCHARGES AND PROJECTED TO HAVE SIGNIFICANT REGIONAL BENEFITS TO GREAT LAKES WATER QUALITY AND RECREATIONAL OPPORTUNITIES.”** and renumbering the remaining subsections.

2. Amend page 8, line 11, after “**SUBSECTION**” by striking out “(14)” and inserting “(15)”.

The amendments were adopted, a majority of the members serving voting therefor.

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. 507**

**Yeas—36**

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

**Nays—2**

Kuipers	Patterson
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**Excused—0**

**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

**Protest**

Senator Patterson, under his constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill Nos. 1442 and 1443.

Senator Patterson’s first statement is as follows:

As has been said, I rise with a heavy heart and no disrespect to the fine chair of the committee through which this bill passed and who is the prime sponsor.

Just for a little history, 2001-2002, I was in the House while Ken Sikkema was in the Senate struggling to get a \$50 million clean water measure through the Senate. I had a conversation with a former legislator, Kirk Profit, who said, "Why don't you go ahead and introduce legislation to create a \$1 billion or \$2 billion fund?" So we worked on that. In fact, we did get it passed, and it was supposed to address what SEMCOG predicted was going to be an enormous infrastructure problem. That problem was described as being a \$35 billion to \$40 billion problem that was going to have to be addressed for southeast Michigan only.

So it is with the specific and articulated intent that this was not to be grant money. This was supposed to be a revolving loan bond fund. Now I understand times have changed and municipalities have difficulties, but this is expressly violative of the expressed intent that I expressed going around this state to editorial boards to promote ratification of this bond obligation, which is required by our Constitution and which was put before the people of the state of Michigan along with three other ballot measures in 2002.

This was the only ballot measure that was approved by the people, and I fear it is yet again another example of how we tell the people one thing and then turn around and use their money for an entirely different purpose than what they intended.

Senator Patterson's second statement is as follows:

While I am sure nobody listens to these things, posterity will reflect that the author of the bill that was ultimately approved by the voters of Michigan has so stated the original intent. If by chance this ends up in court, maybe even if I am not around to be called as a witness, they will reflect positively on what I said today; trying to be a strict adherent to the written word, the Constitution, and the oath I swore to my office.

The following bill was read a third time:

**Senate Bill No. 1269, entitled**

A bill to amend 2001 PA 142, entitled "Michigan memorial highway act," (MCL 250.1001 to 250.2080) by adding section 1059.

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. 508**

**Yeas—37**

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

**Nays—1**

Jelinek

**Excused—0**

**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

**Scheduled Meetings**

**Appropriations** - Tuesday, November 9, 11:00 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

**Legislative Retirement Board of Trustees -**

**Subcommittee -**

**Health Plan** - Friday, November 5, 12:00 noon, Room 927, South Tower, House Office Building (373-0575)

**Natural Resources and Environmental Affairs** - Tuesday, November 9, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-3447)

Senator Cropsey moved that the Senate adjourn.  
The motion prevailed, the time being 11:07 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Tuesday, November 9, 2010, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate

