

No. 117
STATE OF MICHIGAN
Journal of the Senate
94th Legislature
REGULAR SESSION OF 2007

Senate Chamber, Lansing, Wednesday, November 7, 2007.

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
Schauer—present
Scott—present
Stamas—present
Switalski—present
Thomas—present
Van Woerkom—present
Whitmer—present

Pastor Thomas Townsend of First Baptist Church of Rochester offered the following invocation:

Our Father, as we come to You this day, we thank You for all that You have given to us. We thank You for the great opportunity we have to live in this great country. We thank You for the freedoms that we enjoy and for the resources that are ours. Father, we recognize that our resources come not only from the natural beauty and bounty around us, but also from our communities, our citizens, and especially our children. Father, we are indeed a blessed people—blessed because we have the privilege to live in the United States of America but doubly blessed because we have been favored to live in this great state of Michigan.

Father, we want to thank You for the men and women who serve us in our state government. We thank You for our executive leadership and would ask Your blessing upon our Governor and her Cabinet staff. But today, our Father, we especially thank You for this legislative body, and we pray that You would encourage them as they serve the citizens of this great state. We do thank You for the example You have given to us in Your Son Jesus Christ, who came not to be served, but to share his life so that others may live. We ask that the men and women of these chambers, as well as the other branches of our government, would follow that supreme mandate and put away any personal agendas that would hinder their service to our great people. We would pray that the men and women of these sacred halls would focus on service and not self as they deal with the complex issues that come before this body as they represent the citizens of this great state.

We pray that You would bless these men and women with wisdom for the difficult and perplexing tasks that are before them. Your word tells us that if we lack wisdom, we should ask it from You and that You will give it to us in an abundant measure and not withhold it from us. Many of the issues that we face in Michigan are complex and demand much insight and knowledge, and we pray that You would privilege us with an abundant measure of wisdom for these men and women as they lead our state toward a bright and prosperous future.

We also pray, Father, that as they face the demanding issues of this legislative body, You would lead them with righteousness and godliness. We are told in Your word that righteousness exalts a nation, but sin is a reproach to any people. We would ask that not only the decisions that are made in these chambers be decisions of righteousness, but the examples that are set by these men and women would be examples of the highest ethical standards that would illustrate the righteousness that comes from Your unchanging word.

Thank You, dear Lord, for all that You have given to us for we are indeed a blessed people. Thank You for Your promises and provisions. Thank You for these men and women who sacrificially give of themselves to serve us. We do ask Your blessing upon these men and women and upon this great state in which we live.

And we ask these things in the name of Your Son, our Savior Jesus Christ the Lord. Amen.

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

Motions and Communications

Senators Kahn, Brown, Barcia and Stamas entered the Senate Chamber.

Recess

Senator Cropsey moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 10:09 a.m.

11:22 a.m.

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

The Secretary announced that the following official bills were printed on Tuesday, November 6, and are available at the legislative website:

Senate Bill Nos. 879 880 881 882 883

Messages from the Governor

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

Senate Bill No. 436

Senate Bill No. 222

Senate Bill No. 229

Senate Bill No. 232**Senate Bill No. 238****Senate Bill No. 240**

The motion prevailed.

The following message from the Governor was received and read:

November 6, 2007

I respectfully submit to the Senate, pursuant to Section 6 of Article 5 of the Michigan Constitution of 1963, the following appointments to state office under Sections 16121 and 18355 of the Public Health Code, 1978 PA 368, MCL 333.16121 and 333.18355:

Michigan Board of Dietetics and Nutrition

Mr. Carl S. Christoph of 26564 Valhalla Drive, Farmington Hills, Michigan 48331, county of Oakland, representing dietitians or nutritionists, for a term commencing August 31, 2007 and expiring June 30, 2011.

Mr. Eugene W. Magnuson of 1634 Ruddiman Street, Muskegon, Michigan 49441, county of Muskegon, representing the general public, for a term commencing August 31, 2007 and expiring June 30, 2011.

Ms. Eileen F. Mikus of 11321 Douglas Lake Road, Pellston, Michigan 49769, county of Cheboygan, representing dietitians or nutritionists, for a term commencing August 31, 2007 and expiring June 30, 2011.

Mr. Mohey A. Mowafy, Ph.D., of 1204 Ortman Road, Marquette, Michigan 49855, county of Marquette, representing dietitians or nutritionists, for a term commencing August 31, 2007 and expiring June 30, 2011.

Ms. Coco K. Newton, MPH, of 3672 Prospect Road, Ann Arbor, Michigan 48105, county of Washtenaw, representing dietitians or nutritionists, for a term commencing August 31, 2007 and expiring June 30, 2011.

Mr. William S. Prout of 6439 West Forest Edge Drive, Ludington, Michigan 49431, county of Mason, representing the general public, for a term commencing August 31, 2007 and expiring June 30, 2011.

Ms. Lorraine J. Weatherspoon, Ph.D., of 2332 Haslett Road, Haslett, Michigan 48840, county of Ingham, representing dietitians or nutritionists, for a term commencing August 31, 2007 and expiring June 30, 2011.

Sincerely,
Jennifer M. Granholm
Governor

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

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**

The motion prevailed.

Senate Bill No. 79, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 223 (MCL 257.223).

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

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

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

The Senate agreed to the full title.

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

Senate Bill No. 511, entitled

A bill to make, supplement, adjust, and consolidate appropriations for various state departments and agencies, the judicial branch, and the legislative branch for the fiscal year ending September 30, 2008; to provide for certain conditions on appropriations; to provide for the expenditure of the appropriations; and to repeal acts and parts of acts.

The House of Representatives has substituted (H-3) the bill.

The House of Representatives has passed the bill as substituted (H-3), ordered that it be given immediate effect and amended the title to read as follows:

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2008; to provide for the expenditure of the appropriations; and to repeal acts and parts of acts.

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 Cropsy 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 pro tempore, Senator Richardville, designated Senator Allen as Chairperson.

After some time spent therein, the Committee arose; and, the President pro tempore, Senator Richardville, having resumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bill:

Senate Bill No. 572, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 40114 (MCL 324.40114), as amended by 2004 PA 587.

The bill was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with amendment, the following bill:

House Bill No. 4494, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2007; and to provide for the expenditure of the appropriations.

The following is the amendment recommended by the Committee of the Whole:

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

"REPEALER

Sec. 1001. Section 724 of 2007 PA 131 is repealed."

The Senate agreed to the amendment recommended by the Committee of the Whole, and the bill as amended 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 Cropsy moved that the rules be suspended and that the following bill, now on the order of Third Reading of Bills, be placed on its immediate passage:

House Bill No. 4494

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

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

House Bill No. 4494

Senate Bill No. 682

The motion prevailed.

The following bill was read a third time:

House Bill No. 4494, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2007; and to provide for the expenditure of the appropriations.

The question being on the passage of the bill,

Senator Jacobs offered the following amendment:

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

"Sec. 415. The department shall retrain and reassign to employment positions within the department all the juvenile justice and foster care workers that held positions scheduled for elimination as part of the juvenile justice and foster care restructuring during the fiscal year 2007-2008."

The amendment was not adopted, a majority of the members serving not 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. 475

Yeas—38

Allen
Anderson

Clark-Coleman
Clarke

Jansen
Jelinek

Richardville
Sanborn

Barcia	Cropsey	Kahn	Schauer
Basham	Garcia	Kuipers	Scott
Birkholz	George	McManus	Stamas
Bishop	Gilbert	Olshove	Switalski
Brater	Gleason	Pappageorge	Thomas
Brown	Hardiman	Patterson	Van Woerkom
Cassis	Hunter	Prusi	Whitmer
Cherry	Jacobs		

Nays—0

Excused—0

Not Voting—0

In The Chair: Richardville

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.

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

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2007; to provide for the expenditure of the appropriations; and to repeal acts and parts of acts.

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. 682, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 1301, 8302, 8303, 8310, 8317, 8325, and 8715 (MCL 324.1301, 324.8302, 324.8303, 324.8310, 324.8317, 324.8325, and 324.8715), section 1301 as amended by 2004 PA 381, section 8302 as amended by 2002 PA 418, section 8303 as amended by 2004 PA 24, section 8310 as amended by 2004 PA 325, section 8317 as amended by 2007 PA 78, and section 8715 as amended by 2000 PA 100, and by adding section 8310a.

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. 476

Yeas—38

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

Nays—0

Excused—0

Not Voting—0

In The Chair: Richardville

The Senate agreed to the title of the bill.

Senator Cropsey moved that the following joint resolution be placed at the head of the Third Reading of Bills calendar:
Senate Joint Resolution I
The motion prevailed.

The following joint resolution was read a third time:
Senate Joint Resolution I, entitled

A joint resolution proposing an amendment to the state constitution of 1963, by amending section 11 of article I, sections 1 and 6 of article II, sections 2 and 3 of article IV, and section 6 of article IX and by repealing section 10 of article II and sections 4, 5, and 6 of article IV, to repeal constitutional provisions that have been declared unconstitutional.

The question being on the adoption of the joint resolution,

Senator McManus offered the following substitute:

Substitute (S-4).

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

The question being on the adoption of the joint resolution,

The joint resolution was adopted, 2/3 of the members serving voting therefor, as follows:

Roll Call No. 477

Yeas—27

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

Nays—3

Cherry	Clarke	Scott
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Excused—0

Not Voting—8

Anderson	Clark-Coleman	Hunter	Schauer
Brater	Gleason	Prusi	Whitmer

In The Chair: Richardville

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

A joint resolution proposing an amendment to the state constitution of 1963, by amending sections 1 and 6 of article II, sections 2 and 3 of article IV, and section 6 of article IX and by repealing section 10 of article II and sections 4, 5, and 6 of article IV, to repeal constitutional provisions that have been declared unconstitutional.

The amendment to the title was adopted.

The Senate agreed to the title as amended.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator Cropsey moved that the rules be suspended and that the following bill, now on Committee Reports, be placed on the General Orders calendar for consideration today:

Senate Bill No. 838

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

Senator Whitmer moved to reconsider the vote by which the following joint resolution was adopted:

Senate Joint Resolution I

The question being on the motion to reconsider,

Senator Whitmer moved that further consideration of the joint resolution be postponed for today.

The motion did not prevail.

Senator Whitmer requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The motion did not prevail, a majority of the members not voting therefor, as follows:

Roll Call No. 478

Yeas—16

Anderson	Cherry	Jacobs	Scott
Barcia	Clark-Coleman	Olshove	Switalski
Basham	Gleason	Prusi	Thomas
Brater	Hunter	Schauer	Whitmer

Nays—22

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

Excused—0

Not Voting—0

In The Chair: Richardville

The question being on the motion to reconsider the vote by which the joint resolution was adopted,

The motion did not prevail, a majority of the members serving not voting therefor.

Senator Thomas requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The motion did not prevail, a majority of the members serving not voting therefor, as follows:

Roll Call No. 479**Yeas—17**

Anderson	Clark-Coleman	Jacobs	Scott
Barcia	Clarke	Olshove	Switalski
Basham	Gleason	Prusi	Thomas
Brater	Hunter	Schauer	Whitmer
Cherry			

Nays—21

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

Excused—0**Not Voting—0**

In The Chair: Richardville

By unanimous consent the Senate returned 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 pro tempore, Senator Richardville, designated Senator Birkholz as Chairperson.

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

Senate Bill No. 838, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by repealing section 3d (MCL 205.93d).

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 Cropsey moved that the rules be suspended and that the following bill, now on the order of Third Reading of Bills, be placed on its immediate passage at the head of the Third Reading of Bills calendar:

Senate Bill No. 838

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

The following bill was read a third time:

Senate Bill No. 838, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by repealing section 3d (MCL 205.93d).

The question being on the passage of the bill,

Senator Prusi offered the following amendment:

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

"Enacting section 2. This amendatory act does not take effect unless House Bill No. 5408 of the 94th Legislature is enacted into law."

The amendment was not adopted, a majority of the members serving not voting therefor.

Senator Thomas requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

Roll Call No. 480

Yeas—16

Barcia	Clark-Coleman	Jacobs	Scott
Basham	Clarke	Olshove	Switalski
Brater	Gleason	Prusi	Thomas
Cherry	Hunter	Schauer	Whitmer

Nays—21

Allen	Cropsey	Jelinek	Patterson
Anderson	George	Kahn	Richardville
Birkholz	Gilbert	Kuipers	Sanborn
Bishop	Hardiman	McManus	Stamas
Brown	Jansen	Pappageorge	Van Woerkom
Cassis			

Excused—0

Not Voting—1

Garcia

In The Chair: Richardville

Protest

Senator Cropsey, under his constitutional right of protest (Art. 4, Sec. 18), protested against the adoption of the amendment offered by Senator Prusi to Senate Bill No. 838.

Senator Cropsey’s statement is as follows:

I voted “no” on the Prusi amendment. It was tie-barring this repeal legislation to House Bill No. 5408. Some people are saying, oh well, they wanted revenue; House Bill No. 5408 doesn’t raise any revenue. This is hypocrisy at its finest or worst.

Anyway, regardless, it was offered to be tie-barred to legislation that wasn’t raising any money with the promise that, well, perhaps in the future, we would use it to use money. Well, I don’t want to tie-bar this to what might be considered a blank check. I don’t think that’s what people want us to do. This certainly was an illogical piece of legislation to tie-bar this to.

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. 481

Yeas—23

Allen	Cassis	Jansen	Patterson
Anderson	Cropsey	Jelinek	Richardville

Barcia
Birkholz
Bishop
Brown

Garcia
George
Gilbert
Hardiman

Kahn
Kuipers
McManus
Pappageorge

Sanborn
Stamas
Van Woerkom

Nays—15

Basham
Brater
Cherry
Clark-Coleman

Clarke
Gleason
Hunter
Jacobs

Olshove
Prusi
Schauer
Scott

Switalski
Thomas
Whitmer

Excused—0

Not Voting—0

In The Chair: Richardville

The Senate agreed to the title of the bill.

Protests

Senators Prusi, Whitmer, Jacobs, Cherry, Gleason and Schauer, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 838.

Senators Prusi, Whitmer, Jacobs, Gleason and Schauer moved that the statements they made during the discussion of the bill be printed as their reasons for voting “no.”

The motion prevailed.

Senator Prusi’s statement, in which Senator Cherry concurred, is as follows:

Just to open my remarks and kind of a rebuttal to whether this was going to actually fix a problem or not, there are meetings going on, as we speak, that will clarify what’s going to be in this bill. But we’re rushing forward here to repeal the service tax act before we even see what sort of a solution may be forthcoming from the House in their deliberations. This tie-bar could be broken at any time on final passage of both parties, or if this chamber feels that House Bill No. 5408 wasn’t going to fill the bill, but this tie-bar is an interesting concept because I thought six weeks ago we had deals made where we were going to tie-bar those tax votes to reforms and to all these other parts of the entire overall deal concept. Yet, here we are six weeks later breaking the most essential piece of this away and ignoring the tie-bars which we made to the deal earlier.

Are we going to take up repeal of the reform bills that we all struggled so mightily with here six weeks ago? I doubt it, even though I keep hearing these claims that you are in the minority. I heard it again yesterday in committee that the Republicans were in the minority, and hopefully, the next time I hear that I will have the gavel passed to me as a ranking member because I certainly would like to take that majority status that is being attributed to us. But, be that as it may, those budget votes we cast in the last week were overwhelming that both sides of the aisle wanted to spend that money on the priorities of the people of the state of Michigan. Yet, now you’re going to toss that money aside. Are you going to also be ready to come back here in another couple of weeks to find \$600-\$700 million in budget cuts? That remains to be seen.

There are these ongoing discussions that are going on, but let’s be clear. This is all about “gotcha” votes here. This is all about a partisan way to make this shaped so that the media who are sitting here watching us will once again run out and say, “Those heroic Republicans just cut the tax and eliminated that onerous thing.” And once again the Democrats are going to be labeled as obstructionist, tax-and-spenders.

When are we going to come to the conclusion that the problems the state of Michigan is facing are going to require all of us to get together and find something that works for everybody instead of playing “gotcha” politics and partisan sticking it to somebody here all of the time. I think this is starting to get a little tired and a little old. We have some opportunities to do a one-vote-one-bill solution here, but you right away want to separate it out and play the “gotcha” politics with us here. I’m getting really, really tired of that.

Senator Whitmer's statement, in which Senators Jacobs and Cherry concurred, is as follows:

I'm going to take a moment to echo my sentiments from committee yesterday. I know that many of you were there. Some of you were tuned in, but for those of you who weren't, I want to try and do my best to educate you for the benefit of the chamber in our decision-making. We had two and a half hours of testimony yesterday, and I want to compliment the chair for having two and a half hours of testimony, but two and half hours is just not enough. In fact, I think it's pathetic—two and a half hours on a bill which takes \$650 million out of the budget we just finished last week. As ludicrous as that is, the good news is that it's two and a half more hours than we put into the services tax in the first place. So we are doing a little bit better, but we certainly are not doing enough.

No, I don't like the services tax. Contrary to public perception, no Democrat likes to raise taxes. Those are awfully hard votes to cast for all of us, but we do it out of necessity. It was the only thing that the majority party in this chamber would accept. Now my good colleague made reference to this despite claims on "Off the Record" this past weekend and despite claims made in Finance Committee yesterday. The Republicans are the majority party in this chamber. You are the ones who signed the deal that got us in this place in the first place.

Now we balanced the budget with a mix of cuts, revenues, and reforms. Here we are rushing through a repeal of something we passed five weeks ago to balance the budget we passed last week—a budget that took us nine months to craft. Today's simple repeal is untenable. Now we very well may repeal the services tax. In fact, I may even support that at the end of the day, but to take this action is fiscally irresponsible. Even the chair of the tax committee said if the taxes were repealed, there will likely have to be replacement revenue. Even the Majority Leader of this chamber said the only realistic way to get the measure repealed is to figure out a replacement to it first.

So I agree with those conclusions. In fact, many of the people who testified in committee yesterday but who were forbidden from talking about replacement revenue, if you read their comments and their testimony, here's what they said. These are the same people who came and said we hate the services tax, but here's the second piece of what they said and they were not allowed to say in committee yesterday. Dan Smith from the Detroit Regional Chamber, his comments said, "We also believe that an increase in the personal income tax is more palatable to balancing the budget than hurting business." So he supports some sort of an alternative. Further he says, "We would suggest even a straightforward business tax that continues to protect small business, provides credits for investment in jobs and capital." They support that. They weren't allowed to say that yesterday.

John Williams from Salisbury Management Services said, "Replacement revenue is a must if the service tax is repealed."

Fred Schlemmer from Steelpro Group was not permitted to go into saying what his written comments say, "Realizing additional revenue is needed, we are willing to look at other fixes like an MBT surcharge or other ideas you might have."

Michigan Farm Bureau said, "We strongly urge your reconsideration of this negative impact, and instead, encourage a broad-based solution that more fairly contributes to solving the state's financial crisis."

Harrell Scarcello from Scarcello Associates said, "I urge you to repeal this tax and look for a fair, above-board way to generate revenue."

Thomas McIntyre from Passageways Travel, "I count on the wisdom of this committee to actively pursue an alternative revenue source or expense-reducing solution for the state that does not eliminate such an important and valued industry in Michigan."

Now I have a stack of these quotes and I'm going to read you a couple more, but my point is that we forbid people from having full and fair testimony because we only had two and a half hours. We didn't let them say what we should do, which I think is something worth consideration.

John Zevalkink from International Warehouse Logistics Association says, "However, as a method to get rid of a tax so onerous as to threaten our survival, the International Warehouse Logistics Industry supports the replacement of the new use tax with a Michigan business tax solution."

Dan Bywalec from D&B Landscaping, "I understand that monies need to be raised, however, the tax should be across the board. I would not be opposed to a broad tax that does not pick winners and losers."

It goes on and on if you took the time to read the comments of the people who testified.

What we are seeing here today is "gotcha" politics. This is partisanship when we know that this is a deal-breaker. I hope that the business community is watching today because these actions are what create distrust and animosity in the process when we can least afford it. What we need is a bipartisan, bicameral solution, and I do not see how taking this action today achieves that end.

Senator Jacobs' statement is as follows:

I, too, was in that committee yesterday. And, in fact, my first question to the chair of the committee was if we could ask those folks who were testifying to help us to come up with some solutions, and I was called out of order.

If the system is broken, it's because we are breaking it. Now we have been accused of hastily implementing this service tax. I agree it was hastily implemented, but we cannot hastily repeal this without looking at the big picture. The people in Michigan depend on us to be looking out for all of their best interests.

While I find this to be sort of an irresponsible way to move forward, we basically made a compact with the people in Michigan when we passed our budgets. We said there would be the money to provide the programs that all of us—almost

all of us—felt were in our value system and what was important. Now we are breaking our compact with the people of Michigan by saying, “Well, maybe there will be that money for those programs, or maybe there won’t be that money for those programs.” Is this the message that we want folks we represent to hear from us?

We can not operate this compact with our constituents, so I would ask our members to think very, very carefully about doing something that is unwise and being hastily done without providing all of the people in Michigan with a big-picture solution.

Senator Gleason’s statement is as follows:

The greatest man I ever knew was my grandfather. His name was John Patrick Gleason. He said that the greatest thing you can say about anyone is that they are a person of means; that you mean what you say and say what you mean. Now the last few months have been frustrating for all of us. Did we mean to have the best plan to resolve a prior obligation? Did we mean to spend tedious and troublesome hours trying to develop a responsible ’08 budget for the citizens of this state, who sent us down here to do their work? Did we mean last week that we would spend every single penny that we put on the books? Or did we mean that today we would say, “Just kidding, folks, we didn’t really spend that \$600 million last week?” I think most of those votes were pretty much unanimous when both sides decided that money was too inviting to give back to the people or the businesses at that particular time.

Now we say, “I want my mulligan. I want to use my mulligan right now and take that money back.” Some of us get accused of being tax-and-spend Democrats down here, but, man, there was an awful lot of spending last week. Maybe we’ve seen the errors of our ways because there were some responsible dialogs.

I’m not a big fan of that sales tax—never was—but I figured I had to do the work of the people. I support other means for providing revenue for those children who need oversight in those scandalous settings some would call homes. I see that I have a responsibility to make sure that we are funding the police and fire that protect our families so that our insurance payment is nothing more than a guarantee that we may replace items and things that the police and fire make sure we don’t lose to begin with. But I think we better be like old John Patrick Gleason said—that we should be people of means. Mean what you say and say what you mean.

Now this jumping back and forth and not showing much consistency and those who didn’t have the courage or validate their votes with their conscience and their heart last week, they step forward now and say that we’re going to go down a different road. They didn’t take a tough vote last week to try to provide the services, but now they are going to find an easy way out and say we’re going to have another check to see where those Democrats are on behalf of the folks of this state.

Just ask yourself today, prior to this vote, if you are a person of means or not. It’s a very basic question that I think we should use as a benchmark for all of our deliberations. I intend to be a man of means. So I would ask that we all be very careful about the track record that we’re setting down here. I don’t think the public sees much consistency or responsibility from both chambers today because we are not staying stable in our thoughts or in our deliberations. I hope we do better in the future. We can start by doing the right thing right now, making one vote and doing what you did last week. See where you are going to spend that money. Don’t put it in front of our folks taking care of our kids and say, “Whoops. We’re going to pull that back.”

Senator Schauer’s statement is as follows:

I will be voting “no” on Senate Bill No. 838 because it not only does not solve a problem, but it creates another problem for this state. It creates additional uncertainty for the business community at the worst possible time.

I just want to clarify a couple of comments for the record. Our caucus, the Democrats here in this chamber, does view our budget as a promise, as a commitment to the people of this state, and I believe that our credibility is at risk here. I also am concerned when I hear remarks from the No. 2 Republican in this chamber saying, and this is a quote I think I got it right: “I’m imagining we’ll need some sort of replacement eventually. We’ll get around to it.” That’s, frankly, a terrible signal to be sending to the business community that is desperately looking for certainty from this state and from this government and is looking for help and support. So I will be voting “no” because I have no idea where this is heading.

This bill that is before us is tie-barred to a bill that passed last week on a party-line vote to delay the implementation of the services tax until December 20th. So is General Motors supposed to plan for a tax that to them is a headquarters tax that will be implemented on December 20th or December 1st? Or is it going away, and is it going to be replaced with something?

I think we need a reality check. Instead of this kind of posturing, we ought to be working together. Democrats are committed to enacting good public policy, good tax policy in this state that supports the budgets that we passed on an overwhelmingly bipartisan basis. We’ve got to do it quickly. We are on the verge of a scheduled two-week break, and I think it’s irresponsible for us to leave this chamber without solving this problem and leaving question marks and uncertainty in the business community and to our citizens as a whole. So I hope that we work quickly. I hope we work with the House in a bipartisan way to get this solved.

Senators Schauer, Hunter, Cropsey, Pappageorge, Garcia, and Cassis asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Schauer's statement is as follows:

I thank the sponsor of this amendment for putting up an amendment that allows us to move responsibly down the road in a bipartisan way to solve a concern that Michigan-based companies have in this state. You know, in response to the previous speaker's comments about consensus, it seems to me by the overwhelming votes for all of the spending bills which passed last week, there was a consensus to spend that amount of money in the fiscal year 2008 budget. This bill without the Prusi amendment would be in direct contrast to that consensus because it would blow a \$600 million hole in this state budget unnecessarily. Talk about uncertainty over consequences, who knows what the consequences would be if this bill passed without certainty as to the rest of the solution.

Now I think there's a consensus that we want companies like Ford, GM, Chrysler, Whirlpool, Kellogg, Steelcase, Herman Miller, and I'm probably forgetting Meijer, some of these major companies that might be headquartered in your districts, colleagues, we want those companies to continue to grow and stay here, invest, and employ people in this state. Colleagues, they want a solution that is revenue-neutral. They want a solution that is being worked on in the House. This Prusi amendment merely tie-bars this repeal with that solution.

So if you want to move forward in a bipartisan way, here is the solution. We ought to do it, and we ought to work together and do this as quickly as possible because this repeal-first rhetoric is the same rhetoric that was used in repealing the single business tax where it took us the better part of a year to put in place a replacement. You know what? That was bad for Michigan's economy. We ought to prioritize Michigan's economy, and we ought to solve this together. The Prusi amendment would allow us to do that in a way that wouldn't create uncertainty for the business community. It wouldn't create unknown consequences and a possible \$600 million hole in the state budget and cuts which would be associated with that which would hurt our state. We ought to be working together rather than in a partisan way that creates more unknowns than knowns. The answer is there. The Prusi amendment is that, and I would urge us all to work together and solve this problem together in a bipartisan way rather than a partisan way.

Senator Hunter's statement is as follows:

Just to piggyback off the comments of the Democratic Leader, you know, I've sitting at my desk running my fingers through my hair trying to figure out the logic of what we are about to do here. My colleague on the other side of the aisle is talking—well, basically, my colleague—according to this amendment, is talking about not repealing this erroneous tax until we've identified a replacement, correct? The sponsor of this legislation that we're taking up is saying, "No, let's repeal it first," and she's already said that we have no idea where the replacement is coming from or what that's going to look like. So, basically, what we are left with is the potential of cutting another \$700 million out of the budget. Well, when we went through this whole exercise a few weeks ago with the revenue enhancements and subsequent to that the budget, there were, I think, a couple of times over in the House votes were put up to, you know, bring forth an all-cuts solution and not one member of that body supported it. And I don't think anybody over here, if they were put into that situation, would support cutting another \$700 million out of the state's budget. It's just an untenable thing to consider.

So what I am trying to figure out is the logic of how we are proceeding here. Would it not be the responsible thing to show the citizens of this great state that, look, we want to do something that makes sense because we are logical legislators. Let's repeal the tax, but let's know what's coming behind it.

I understand that the process is what it is and we should let it work, but I don't think we're in any position to tell anybody in the public, "Just trust us." I think going forward, we need to make sure everything we do is above board and it makes sense and it's responsible because I think we've pretty much played that card a long time ago and here we go.

I would just ask my colleagues to think very hard about what we're about to do today.

Senator Cropsey's statement is as follows:

You know, I appreciate the remarks of the Senator from the 23rd District because I think she made the point on why it should not have been tie-barred to House Bill No. 5408. She brought up several other methods to balance the budget, to raise revenues other than doing it with the Michigan business tax. I just want to applaud her for her statement because she did make that point very well. And, therefore, I do think we made the right decision in not putting the Prusi amendment on.

Another thing that I think we need to be aware of is that when we do a budget, it is just that; it is a budget. It is not a promise; it is not a compact; it is not anything else; it is a budget. It is what we think will be our revenues and how we think we will be spending it. When we start saying, "Oh, it's a promise," and this sort of thing, we are absolutely wrong. It is a budget.

Now what I find interesting is, I think, last night the Majority Leader in the Senate, Minority Leader in the Senate, the Speaker of the House, and the Minority Leader in the House were all on a TV program last night, basically saying,

hey, this new services tax has got to go. We got to get rid of it. And this is the legislation that helps to get rid of it. I believe the Governor has stated that she thinks the service tax is not a good tax after all. I believe the Governor would like to see us get rid of the service tax. Will we have to have a replacement? I am imagining that we will be looking at some sort of replacement. This is just a start.

You know, this will be going over to the House. The House, as it has been so eloquently spoken here, is using House Bill No. 5408 to see what they can come up with as far as a replacement type of tax or replacement whatever. That might be one of the bills; it might be several of the bills, but this is just part of the process. I don't think anyone should get all shook-up too much on this whole thing. This is part of the process. We are going through the process. Everybody realizes that the services tax—or most everybody realizes—was not a good idea, and therefore, let's get rid of it and let's get on with the business.

Senator Pappageorge's statement is as follows:

I want to compliment the Senator from the 23rd District. You made an excellent argument for the fact that we are not anywhere near agreement on how we ought to replace the \$650 million that goes away with a bad tax that everyone dislikes. So there is nothing wrong with indicating to the people of Michigan that we know it's a bad tax. We have not figured out what we are going to do to replace it yet, but we want to tell you right away this tax has got to go, and that is precisely what we did today.

And, again, I thank the Senator from the 23rd District.

Senator Garcia's statement is as follows:

If we vote for this bill, for this repeal, we will be criticized for repealing the sales tax on services without finding the replacement revenues, just like we did with the single business tax when it was repealed. You know, we voted for repealing the single business tax here and, ultimately, it failed in the other chamber, but it did end up being repealed because of citizens. At the end of the day, we were able to find a replacement for the single business tax even though we took a great deal of criticism for it.

Now the sales tax on services has been roundly criticized for being rushed through here, but the truth is that we looked at several options to come up with the necessary revenue before we put this on the table. There were a number of discussions held throughout the Legislature, and all those other options were rejected. So we ended up with the compromise that is before us—a combination of an income tax increase and a sales tax on services.

Well, maybe the sales tax on services wasn't a good idea, but we couldn't reach an agreement for additional cuts, so we did end up raising taxes. Now we're going to go back to the drawing board. All right. Fine, but the Senator from the 23rd District quoted other colleagues saying we would probably end up replacing the revenue, and since the leadership last night from both sides of the aisle and from both chambers said that the sales tax on services needs to go, we will probably end up having to replace that revenue. If this bill passes this chamber, and I'm pretty sure it will, I doubt very much it will go into effect unless there are some replacement revenues found.

As one previous speaker said, this is a process. If this tax is such a bad idea, then we need to set in motion a repeal of it, especially since we're going on break for two weeks. We have to set in motion that repeal, but I doubt very much that this will see a repeal through the House or that the Governor will sign it unless the replacement revenues are there.

So I urge those who are going to be involved in finding solutions for the replacement of this to work quickly and work in a bipartisan manner, which we'll need to compromise because at the end of the day, we're still going to be short that revenue whether we like it or not. Now I would prefer that we had more cuts, but given the fact that we have divided government, we're probably not going to see that. We need to find something that works for everybody.

I will reluctantly support this bill because I have full faith and confidence in our leaders that they will find a compromise, and they will set things in motion to replace it. We can't afford to have the kind of logjam that we've had here for the last six months.

Senator Cassis' statement is as follows:

Well, here we go again. How ironic is it that despite the outpouring of fear and anxiety from countless real human beings subject to the tax yesterday, not just the lobbyists testifying on the immediate need to repeal this onerous service tax before the December 1 implementation that's approximately 23 days from now. Those on the other side of the aisle in that committee abstained and let down the business community. There is no other way you can spin this.

Importantly, no revenue bill was before the committee yesterday, so I would suggest my good colleagues on the other side of the aisle that you bring it on. Bring it on; not just talk, but act. The good Senator from the 23rd District said, "I don't like the service tax, but I'm not ready to act on the overwhelming already-distressed job providers of this state and give them relief." Many of whom, I'm convinced, are in her district. The Senator also made a revisionist statement today in an attempt to rewrite recent history. I think it is very important to not be economical with the truth or economical with the facts. For the record, the services tax, as we all know, was a House-concocted and ill-conceived tax. Over 70 Democrats in the House and Senate voted for it and only 3 Republican Senators. Don't blame us. Look at your "yes" votes.

The Senator from the 23rd District, no one forced you to go green, nor forced the Senator from my neighboring community representing Farmington and Farmington Hills to go green on the services tax. Once again, the Senator from the 23rd District also misrepresented the facts of the committee yesterday. Business groups and lobbyists that were mentioned who did not testify, they were not there when their time came, and the good Senator from the 23rd District also was gone much of the time.

Now, to be clear, we cannot shift the burden of taxes onto our already-distressed job providers—small and medium—in this state. They testified that they will be laying off more workers, and we already have the highest unemployment in the nation. We are trying to help our ailing domestic Big Three companies today because who will be buying their cars if there is no work and if businesses are forced to leave the state? How can it be that many of my colleagues on the other side of the aisle today are abandoning our businesses?

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senator Jelinek introduced

Senate Bill No. 884, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2008; and to provide for the expenditure of the appropriations.

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

Senators Kahn, Jelinek, Van Woerkom, Cropsey, Gilbert, Pappageorge, McManus, Brown, Allen, Birkholz, Garcia, Stamas and Barcia introduced

Senate Bill No. 885, entitled

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

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

Statements

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

The motion prevailed.

Senator Scott’s statement is as follows:

You folks remember Pearl Bailey, that lusty and lovable African-American actress and singer? Well, Miss Bailey once said, “You never find yourself until you face the truth.” I suspect that there are a lot of folks in this chamber today who are still looking for themselves because they haven’t yet faced the truth. The truth is that thousands of Michigan homeowners and drivers cannot afford to insure their homes or cars because of the unreasonable and unaffordable cost of coverage, so they do without or they do without other basic necessities simply to pay those insurance bills.

Every session day for nearly four years I have offered you that simple truth. Please face it and act responsibly to pass my bills.

Committee Reports

The Committee on Judiciary reported

Senate Bill No. 591, entitled

A bill to amend 1961 PA 236, entitled “Revised judicature act of 1961,” (MCL 600.101 to 600.9947) by adding chapter 30.

With the recommendation that the substitute (S-3) 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, Cropsey, Sanborn, Patterson, Whitmer, Clarke and Prusi

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, November 6, 2007, at 12:30 p.m., Room 210, Farnum Building

Present: Senators Kuipers (C), Cropsey, Sanborn, Patterson, Whitmer, Clarke and Prusi

The Committee on Finance reported

Senate Bill No. 838, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by repealing section 3d (MCL 205.93d).

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.

Nancy Cassis
Chairperson

To Report Out:

Yeas: Senators Cassis, Gilbert, McManus and Jansen

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 Finance submitted the following:

Meeting held on Tuesday, November 6, 2007, at 12:10 p.m., Room 110, Farnum Building

Present: Senators Cassis (C), Gilbert, McManus, Jansen, Prusi, Jacobs and Whitmer

COMMITTEE ATTENDANCE REPORT

The Committee on Homeland Security and Emerging Technologies submitted the following:

Meeting held on Tuesday, November 6, 2007, at 1:00 p.m., Room 100, Farnum Building

Present: Senators Brown (C), Garcia, Richardville, Pappageorge, Hunter, Olshove and Thomas

COMMITTEE ATTENDANCE REPORT

The Committee on Families and Human Services submitted the following:

Meeting held on Tuesday, November 6, 2007, at 2:30 p.m., Room 210, Farnum Building

Present: Senators Jansen (C), Hardiman and Jacobs

COMMITTEE ATTENDANCE REPORT

The Committee on Commerce and Tourism submitted the following:

Meeting held on Tuesday, November 6, 2007, at 2:30 p.m., Room 100, Farnum Building

Present: Senators Allen (C), Stamas, Clarke and Hunter

Excused: Senator Gilbert

Scheduled Meetings**Appropriations -****Subcommittee -**

Higher Education - Thursday, November 29, 9:00 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building
(373-2768)

Energy Policy and Public Utilities - Thursday, November 8, 8:30 a.m., Room 210, Farnum Building (373-7350)
(CANCELED)

Legislative Retirement Board of Trustees -

Subcommittee -

Investment - Thursday, November 8, 2:00 p.m., Room 927, South Tower, House Office Building (373-0575)

Senator Cropsey moved that the Senate adjourn.
The motion prevailed, the time being 1:08 p.m.

The President pro tempore, Senator Richardville, declared the Senate adjourned until Thursday, November 8, 2007, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

