

No. 73
STATE OF MICHIGAN
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95th Legislature
REGULAR SESSION OF 2010

Senate Chamber, Lansing, Wednesday, September 8, 2010.

10:00 a.m.

The Senate was called to order by the Assistant President pro tempore, Senator Alan Sanborn.

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—excused
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 John G. Pappageorge of the 13th District offered the following invocation:

We are thankful for this day, Lord, that You have given us; for its blessings, its opportunities, and its challenges. May we appreciate and use each day that comes to us. We pray for strength and guidance for each day as it comes, for each day's duties, and for each day's problems. May we be challenged to give our best always, and may we be assured of Your presence with us as we address our differences, while keeping in mind that our commitment is to treat all citizens of this great state fairly and equitably with each piece of legislation we pass. Amen.

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

Motions and Communications

Senators Kahn, Gleason, Patterson, Hunter and Stamas entered the Senate Chamber.

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

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

Senate Resolution No. 172

The motion prevailed.

Senator Cropsey moved that the following bill, now on the order of General Orders, be read a second time by title:

House Bill No. 6247

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 4 (MCL 168.4), as amended by 2003 PA 302.

The motion prevailed.

Senator Cropsey moved that rule 3.703 be suspended and that the bill remain on the General Orders calendar for consideration today.

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

Senator Cropsey moved that when the Senate adjourns today, it stand adjourned until Tuesday, September 14, at 10:00 a.m.

The motion prevailed.

Senator Thomas moved that Senator Jacobs be excused from today's session.

The motion prevailed.

Recess

Senator Cropsey moved that the Senate recess subject to the call of the Chair.

The motion prevailed, the time being 10:06 a.m.

11:20 a.m.

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

During the recess, Senator Garcia entered the Senate Chamber.

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senator Nofs introduced

Senate Bill No. 1480, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding section 610a.

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

Senators Hunter, Clark-Coleman, Scott, Thomas, Prusi, Clarke, Basham, Whitmer, Olshove, Barcia and Cherry introduced
Senate Bill No. 1481, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 3204, 3205, 3205a, and 3205c (MCL 600.3204, 600.3205, 600.3205a, and 600.3205c), section 3204 as amended and section 3205 as added by 2009 PA 29, section 3205a as added by 2009 PA 30, and section 3205c as added by 2009 PA 31.

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

Senator Switalski introduced
Senate Bill No. 1482, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 80164a.

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

Senator Garcia introduced
Senate Bill No. 1483, entitled

A bill to amend 1970 PA 169, entitled "Local historic districts act," by amending section 4 (MCL 399.204), as amended by 1992 PA 96.

The bill was read a first and second time by title and referred to the Committee on Local, Urban and State Affairs.

Senator Cropsey introduced
Senate Bill No. 1484, entitled

A bill to amend 1968 PA 15, entitled "Correctional industries act," by amending sections 4 and 7 (MCL 800.324 and 800.327), as amended by 1996 PA 537.

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

Senator Cropsey introduced
Senate Bill No. 1485, entitled

A bill to amend 1968 PA 15, entitled "Correctional industries act," by amending section 6 (MCL 800.326), as amended by 2007 PA 102.

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

House Bill No. 5872, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending section 11 (MCL 388.1611), as amended by 2010 PA 110, and by adding section 11p.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title.

Senator Cropsey moved that rule 3.203 be suspended and that the bill be referred to the Committee of the Whole and placed on the order of General Orders.

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

House Bill No. 6086, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies and for community colleges for the fiscal year ending September 30, 2010; and to provide for the expenditure of the appropriations.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title.

Senator Cropsey moved that rule 3.203 be suspended and that the bill be referred to the Committee of the Whole and placed on the General Orders calendar for consideration today.

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

By unanimous consent the Senate returned to the order of

Messages from the Governor

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

Senate Bill No. 1163

The motion prevailed.

The following message from the Governor was received and read:

September 3, 2010

Due to errors on the September 3, 2010 letter filed with your office pursuant to Section 4 of the Child Abuse and Neglect Prevention Act, 1982 PA 250, MCL 722.604, please be advised of the following corrections appearing in **bold** print:

State Child Abuse and Neglect Prevention Board

Mr. John H. Brown of 7879 Old Elm Court, Ada, Michigan 49301, county of Kent, succeeding Tamara Vander Ark, whose term will expire, is appointed to represent the private sector, for a term commencing December 20, 2010 and expiring December 19, 2013.

Mr. Mark McDaniel of 1057 Cambria Drive, East Lansing, Michigan 48823, county of Ingham, succeeding Abby Dart, whose term will expire, is appointed to represent parents, for a term commencing December 20, 2010 and expiring December 19, 2013.

Father James M. Williams of 1203 Wenniway Drive, Mackinaw City, Michigan 49701, county of Emmet, succeeding Scott Stevenson, whose term will expire, is appointed to represent the religious community, for a term commencing December 20, 2010 and expiring December 19, 2013.

Ms. Shirley Mann Gray of 5399 West Bloomfield Lake Road, West Bloomfield, Michigan 48323, county of Oakland, is reappointed to represent professional providers of child abuse and neglect prevention services, for a term commencing December 20, **2010** and expiring December 19, 2013.

Ms. Cynthia K. Williams of 844 Pebblebrook Lane, East Lansing, Michigan 48823, county of Ingham, is reappointed to represent the legal community, for a term commencing December 20, **2010** and expiring December 19, 2013.

Sincerely,
Jennifer M. Granholm
Governor

The message was referred to the Committee on Government Operations.

By unanimous consent the Senate proceeded to the order of

General Orders

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

The motion prevailed, and the Assistant President pro tempore, Senator Sanborn, designated Senator Thomas as Chairperson.

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

House Bill No. 5855, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 3525 (MCL 500.3525), as added by 2000 PA 252.

House Bill No. 6247, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 4 (MCL 168.4), as amended by 2003 PA 302.

House Bill No. 6248, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 642a (MCL 168.642a), as amended by 2005 PA 71.

The bills were 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 following bill be placed at the head of the Third Reading of Bills calendar:

Senate Bill No. 1252

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 1252, entitled

A bill to amend 1917 PA 253, entitled "An act to authorize the transfer of moneys from the general fund of counties, in certain instances, to the county road fund of said counties, to be used in the construction, maintenance and repair of highways," by amending section 1 (MCL 247.121).

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. 406

Yeas—37

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			

Nays—0

Excused—1

Jacobs

Not Voting—0

In The Chair: Sanborn

The Senate agreed to the title of the bill.

By unanimous consent the Senate proceeded to the order of
Resolutions

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

Senate Resolution No. 41

Senate Resolution No. 75

Senate Resolution No. 88

House Concurrent Resolution No. 41

Senate Resolution No. 168

Senate Resolution No. 169

Senate Concurrent Resolution No. 48

The motion prevailed.

The question was placed on the adoption of the following resolution consent calendar:

Senate Resolution No. 177

The resolution consent calendar was adopted.

Senator Bishop offered the following resolution:

Senate Resolution No. 177.

A resolution designating September 11-17, 2010, as Michigan Patriot Week.

Whereas, The history and First Principles of the United States of America should serve as the cornerstone of civic education. In great reverence to the victims of the 9-11 attacks, we acknowledge that American citizens must take time to honor the principles, founders, documents, and symbols of their history; and

Whereas, The events that led to the signing of *The Constitution of the United States of America* by the delegates of the Constitutional Convention on September 17, 1787, have significance for every American and are honored in public schools across the nation on September 17 as Constitution Day; and

Whereas, Revolution, the rule of law, social compact, equality, unalienable rights, and limited government are the First Principles upon which America was founded and flourishes; and

Whereas, Exceptional, visionary, and indispensable Americans such as Thomas Paine, Patrick Henry, John Adams, John Marshall, George Washington, Abraham Lincoln, Frederick Douglass, Martin Luther King, Jr., Elizabeth Cady Stanton, Susan Anthony, Thomas Jefferson, and James Madison founded and advanced the United States; and

Whereas, The Bennington Flag, work of Betsy Ross, American Flag, Suffragist Flag, Union Flag, Gadsden Flag, and the flag of the state of Michigan are key physical symbols of American history that should be studied and remembered by each American citizen; now, therefore, be it

Resolved by the Senate, That we hereby designate September 11-17, 2010, as Michigan Patriot Week, symbolically beginning this celebration on September 11 and concluding on Constitution Day. We urge the citizens, government agencies, municipalities, businesses, nonprofit organizations, and schools of the state of Michigan to recognize and participate in this extended holiday by honoring and celebrating the First Principles, key historical figures, founding documents, and symbols of America so that they may offer the reverence that is due to our free republic; and be it further

Resolved, That copies of this resolution be transmitted to the Michigan Council for Social Studies, Michigan Center for Civic Education, State Board of Education, Michigan public and nonpublic schools, State Bar of Michigan, Oakland County Bar Association, Oakland County Circuit Court, Speaker of the House Andy Dillon, and Governor Jennifer M. Granholm.

Senators Anderson, Clarke, Gleason, Kuipers, Pappageorge and Richardville were named co-sponsors of the resolution.

Recess

Senator Cropsey moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 11:31 a.m.

11:59 a.m.

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

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

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

House Bill No. 6086, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies and for community colleges for the fiscal year ending September 30, 2010; and to provide for the expenditure of the appropriations.

The bill 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:

House Bill No. 6086

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

The following bill was read a third time:

House Bill No. 6086, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies and for community colleges for the fiscal year ending September 30, 2010; and to provide for the expenditure of the appropriations.

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. 407

Yeas—21

Birkholz	Cropsey	Hunter	Nofs
Bishop	Garcia	Jansen	Stamas
Brater	George	Jelinek	Switalski
Brown	Gilbert	Kuipers	Thomas
Cassis	Hardiman	McManus	Van Woerkom
Cherry			

Nays—14

Allen	Clarke	Pappageorge	Richardville
Anderson	Gleason	Patterson	Sanborn
Barcia	Kahn	Prusi	Whitmer
Clark-Coleman	Olshove		

Excused—1

Jacobs

Not Voting—2

Basham Scott

In The Chair: Sanborn

Senator Cropsey moved that the bill be given immediate effect.

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

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 House Bill No. 6086 and moved that the statement he made during the discussion of the bill be printed as his reasons for voting “no.”

The motion prevailed.

Senator Patterson’s statement is as follows:

I purposely have not chosen to serve on the Appropriations Committee; might be because it is a tough duty. However, I am very concerned about what we are doing today because I, like every other member of this Senate body, swore an oath. I have often pointed to the fact that I was admitted to the State Bar a long, long time ago, perhaps in a galaxy far, far away.

I am not the only attorney in here, but every one of us swore an oath, and I submit that what we are about to do is wrong from a constitutional standpoint. If you look at Article 9, Section 11—let me make sure I am citing the right thing here—if you look at Article 11, Section 1. If you look at our Constitution, the phrase “higher education” does not include community colleges.

Now dollars are fungible, but when you look at the language of the Constitution that was adopted by “We, the People,” they restricted by expressing, “There shall be established a state school aid fund which shall be used exclusively for aid to school districts, higher education, and school employees’ retirement systems, as provided by law.”

I ask anybody here to explain how that can be any more specific or restrictive? I am not suggesting that there is any malevolent intent. I am just pleading with you to consider your oath. Don’t distort the clear meaning of the constitutional provision. And, with all due respect to our majority legal counsel, I don’t want to hear anymore from them. I want to hear from members of this chamber that they, with clear conscience, have made an informed decision that higher education includes community college.

These are important institutions. They need to be funded, but the State School Aid Fund was set up as a separate, restricted fund by “We, the People of the State of Michigan.” Is there any wonder why the word “politician” is held at such disregard? Everyone from this chamber, save one, was unable to move up or change positions because “We, the People” don’t trust politicians—we are known for quick fixes. We are known for playing games with the language, and I, for one, am not going to jeopardize my reputation any further than it has already been jeopardized by serving now for all these many years.

By unanimous consent the Senate proceeded to the order of
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:

Scott Buchanan wrote, “Every human being has a responsibility for injustice anywhere in the community.” I was always taught that when you see an injustice, you try to do something about it. This is why I get up day after day and remind you that the injustice of unfair auto insurance rates is still needlessly complicating people’s lives.

People send us to Lansing to act on their behalf and to do what is right for them and for this state. We still need to do what is right and pass meaningful auto insurance reform. Newspapers across Michigan from Detroit to Grand Rapids have editorialized on the problems with the way rates are currently set. There are clearly problems that we need to address, and the sooner we do it, the likelier we are to fix these problems before session ends in December.

We know what the problems are. We should take care of them on our watch and not leave these problems for another Legislature. Join me today to end this injustice, and give Michigan drivers fair and affordable auto insurance.

Committee Reports

COMMITTEE ATTENDANCE REPORT

The Committee on Judiciary submitted the following:

Meeting held on Tuesday, September 7, 2010, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower

Present: Senators Kuipers (C), Cropsey, Patterson, Stamas, Clarke and Basham

Excused: Senators Sanborn and Whitmer

Scheduled Meetings

Conference Committees -

Military and Veterans Affairs (HB 5885) - Thursday, September 9, 3:00 p.m., Room 428, Capitol Building (373-8080)

State Police (HB 5888) - Thursday, September 9, 3:30 p.m., Room 428, Capitol Building (373-8080)

Economic Development and Regulatory Reform - Wednesday, September 15, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-7670)

Health Policy - Wednesday, September 15, 3:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-0793)

Natural Resources and Environmental Affairs - Wednesday, September 15, 1:00 p.m., Room 110, Farnum Building (373-3447)

Senator Cropsey moved that the Senate adjourn.
The motion prevailed, the time being 12:13 p.m.

In pursuance of the order previously made, the Assistant President pro tempore, Senator Sanborn, declared the Senate adjourned until Tuesday, September 14, 2010, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

