

No. 43
STATE OF MICHIGAN
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95th Legislature
REGULAR SESSION OF 2010

Senate Chamber, Lansing, Thursday, May 13, 2010.

2:00 p.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

Reverend John Miller of First Congregational Church of Royal Oak offered the following invocation:

Dear God, may the words of our mouths and the meditations of our hearts be acceptable in Your sight, for You are our rock and our redeemer. God, You call us to love You in all that we do and all that we say, think, and feel. You call us to love one another even as we know You love us.

Help us, God, to seek justice for all; to love, support, and sustain mercy and loving kindness; to walk humbly as Your servants and servants to our neighbors. O God, fill this place with Your powerful presence. Speak to our hearts of Your light and truth. Inspire and guide all that happens here, today and always. Amen.

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

Motions and Communications

Senators Gilbert, George and Clarke 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 2:08 p.m.

3:18 p.m.

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

The following communication was received and read:
Office of the Auditor General

May 11, 2010

Enclosed is a copy of the following audit report:

Performance audit of the Office of Scholarships and Grants, Student Financial Services Bureau, Department of Treasury.
Auditor General

The audit report was referred to the Committee on Government Operations.

The Secretary announced that the following House bills were received in the Senate and filed on Wednesday, May 12:
House Bill Nos. 5243 5999 6000 6051 6052

The Secretary announced that the following official bills were printed on Wednesday, May 12, and are available at the legislative website:

Senate Bill Nos. 1324 1325 1326 1327 1328 1329 1330 1331 1332 1333 1334 1335
House Bill Nos. 6153 6154 6155 6156

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 Sanborn 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. 5899, entitled

A bill to amend 2009 PA 149, entitled "An act to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish

rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” (MCL 339.101 to 339.2919) by amending the title, as amended by 1993 PA 93, and by adding section 1809a,” by amending enacting section 1.

House Bill No. 5900, entitled

A bill to amend 2009 PA 148, entitled “An act to amend 1980 PA 299, entitled “An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” (MCL 339.101 to 339.2919) by adding section 1809b,” by amending enacting section 1.

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 rules be suspended and that the following bills, now on the order of Third Reading of Bills, be placed on their immediate passage at the head of the Third Reading of Bills calendar:

House Bill No. 5899

House Bill No. 5900

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

Senator Thomas moved that Senator Jacobs be temporarily excused from the balance of today’s session.

The motion prevailed.

Senator Jacobs entered the Senate Chamber.

Senator Cropsey moved that Senator Patterson be excused from the balance of today’s session.

The motion prevailed.

The following bill was read a third time:

House Bill No. 5899, entitled

A bill to amend 2009 PA 149, entitled “An act to amend 1980 PA 299, entitled “An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” (MCL 339.101 to 339.2919) by amending the title, as amended by 1993 PA 93, and by adding section 1809a,” by amending enacting section 1.

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. 236

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	Olshove	Van Woerkom
Cassis	Hunter	Pappageorge	Whitmer
Cherry			

Nays—0

Excused—1

Patterson

Not Voting—0

In The Chair: President

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 title of the bill.

The following bill was read a third time:

House Bill No. 5900, entitled

A bill to amend 2009 PA 148, entitled “An act to amend 1980 PA 299, entitled “An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” (MCL 339.101 to 339.2919) by adding section 1809b,” by amending enacting section 1.

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. 237

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	Olshove	Van Woerkom
Cassis	Hunter	Pappageorge	Whitmer
Cherry			

Nays—0

Excused—1

Patterson

Not Voting—0

In The Chair: President

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 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

The motion prevailed.

Senators Kuipers, Allen, Cropsey, Van Woerkom, Jelinek, George, Hardiman, Kahn, Brown and Gilbert offered the following resolution:

Senate Resolution No. 158.

A resolution to urge the U.S. Environmental Protection Agency to rescind rules that would require dairy farms to have oil spill prevention plans for milk storage tanks.

Whereas, The U.S. Environmental Protection Agency (EPA) has classified milk as an oil subject to federal regulation. The EPA will soon be requiring small and large dairy farms to prepare and implement oil spill prevention plans for potential spills from milk bulk tanks; and

Whereas, The EPA has stretched common sense in subjecting farmers to laws clearly never intended to apply to milk. The federal Clean Water Act requirements to prevent oil spills were obviously directed at petroleum-based oils, not milk. EPA's actions represent a clear overreach and an example of misplaced priorities that will apply more unnecessary government regulation to our nation's farmers while more serious problems are not addressed; and

Whereas, The preparation and implementation of an oil spill, prevention, control, and countermeasure plan will cost thousands of dairy farmers time and money with little discernible environmental benefit. The EPA has created an onerous solution searching for a problem; now, therefore, be it

Resolved by the Senate, That we urge the U.S. Environmental Protection Agency to rescind rules that would require dairy farms to have oil spill prevention plans for milk storage tanks; and be it further

Resolved, That copies of this resolution be transmitted to Administrator of the U.S. Environmental Protection Agency, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

Pending the order that, under rule 3.204, the resolution be referred to the Committee on Government Operations,

Senator Cropsey moved that the rule be suspended.

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

The question being on the adoption of the resolution,

Senator Cropsey moved that the resolution be referred to the Committee on Agriculture and Bioeconomy.

The motion prevailed.

Senator Nofs was named co-sponsor of the resolution.

Senator Jelinek offered the following concurrent resolution:

Senate Concurrent Resolution No. 40.

A concurrent resolution to memorialize Congress to enact pending legislation to grant permanent lawful resident status to Ibrahim Parlak.

Whereas, Ibrahim Parlak was born in Turkey in 1962. A Kurd, Ibrahim Parlak was tortured and imprisoned for his involvement in Kurdish human rights efforts in his homeland as a young man. Fearing for his life, he fled Turkey and arrived in the United States in 1991, settling in Chicago for a short time before moving to southwestern Michigan in 1992, where he has lived as a model immigrant. As a small business owner and dedicated father, this gentleman has built a life in Harbart, Michigan, that has been exemplary; and

Whereas, Granted political asylum in 1992, Ibrahim Parlak began the naturalization process as soon as he was eligible to do so, applying for citizenship in 1998. At each stage of this process, he was fully honest with immigration officials, admitting that he had to leave Turkey with false documents and revealing all his actions with Kurdish groups; and

Whereas, Mr. Parlak's naturalization application was denied in November 2001, shortly after the terror attacks of 9/11. Apparently, Mr. Parlak's association, during his years in Turkey, with certain people affiliated with a Kurdish organization

now considered to be a terrorist group was noted by the Immigration and Naturalization Service. Mr. Parlak had been entirely forthcoming with all his activities in his application for political asylum when he arrived in the United States. In spite of this, federal officials commenced deportation proceedings, and in 2004, Ibrahim Parlak was imprisoned, without bail, for 10 months before a federal district court judge ruled his detention unconstitutional; and

Whereas, Mr. Parlak's efforts to clear his name and restart his effort to fulfill his dream of becoming an American citizen have drawn the strong support of many people in southwestern Michigan. His reputation in the food service industry, his impeccable standing in the community, his devotion to his American-born daughter, and his personal integrity are well-known by all who have interacted with him over the years. The hundreds of statements and signatures in support of Mr. Parlak reflect the widespread respect and admiration he has generated since arriving in this country; and

Whereas, Through the efforts of Congressman Upton and Senator Levin, private bills (H.R.976/S.403) are pending in Congress to grant relief to Ibrahim Parlak and allow him to pursue citizenship and to continue to contribute to a stronger Michigan and America; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we memorialize Congress to enact pending legislation to grant permanent lawful resident status to Ibrahim Parlak and to allow him to work to become an American citizen; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

Pending the order that, under rule 3.204, the concurrent resolution be referred to the Committee on Government Operations,

Senator Cropsey moved that the rule be suspended.

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

The question being on the adoption of the concurrent resolution,

Senator Cropsey moved that the concurrent resolution be referred to the Committee on Appropriations.

The motion prevailed.

Introduction and Referral of Bills

Senator Jelinek introduced

Senate Bill No. 1336, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 5867 (MCL 600.5867) and by adding section 5867a.

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

Senators Kahn and Bishop introduced

Senate Bill No. 1337, entitled

A bill to amend 1994 PA 295, entitled "Sex offenders registration act," by amending sections 4, 4a, 5a, 5b, 7, and 9 (MCL 28.724, 28.724a, 28.725a, 28.725b, 28.727, and 28.729), section 4 as amended by 2004 PA 240, sections 4a and 7 as amended and section 5b as added by 2004 PA 237, section 5a as amended by 2005 PA 322, and section 9 as amended by 2005 PA 132.

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

Senator Cassis introduced

Senate Bill No. 1338, entitled

A bill to amend 1976 PA 331, entitled "Michigan consumer protection act," by amending section 3 (MCL 445.903), as amended by 2008 PA 310.

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

House Bill No. 5243, entitled

A bill to amend 1939 PA 280, entitled "The social welfare act," (MCL 400.1 to 400.119b) by adding section 74c. The House of Representatives has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 5999, entitled

A bill to revise, consolidate, and codify the laws relating to fireworks; to regulate the purchase, possession, sale, and use of fireworks; to establish a fireworks safety fund; to establish a fireworks safety fee; to provide for the transfer and expenditure of funds; to prescribe the powers and duties of certain state agencies; to provide for penalties and remedies; and to repeal acts and parts of acts.

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

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

House Bill No. 6000, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 11b of chapter XVII (MCL 777.11b), as amended by 2008 PA 538.

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

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

House Bill No. 6051, entitled

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," (MCL 125.2001 to 125.2094) by adding chapter 7A.

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

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

House Bill No. 6052, entitled

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," (MCL 125.2001 to 125.2094) by adding sections 79c, 79d, and 79e.

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

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

Statements

Senators Scott and Sanborn 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 Pearl S. Buck said, "Every great mistake has a halfway moment when it can be recalled and perhaps remedied." Now is the moment when we can remedy the injustice being done to far too many citizens who are forced to pay more than they should for auto insurance.

No one, no matter where a person lives, should pay high rates simply because of their address. A person's driving record should be the determining factor for their insurance rates. Making this simple change would help remedy the great mistake that has plagued drivers trying to buy and pay for auto insurance.

It is up to the Legislature to fix this problem. It is our job and our responsibility. The Legislature helped create this problem, and we should fix it now instead of letting days, weeks, and months go by while our constituents struggle with an insurance bill that is needlessly expensive.

We talk a lot about reform, and yet, we refuse to make the one reform that would certainly save a lot of Michigan citizens a significant amount of money. We have the bills in committee, and all we have to do is move them.

Senator Sanborn's statement is as follows:

I arose this morning and was shocked to read a story printed in the *Detroit Free Press* by Dawson Bell reporting that there has been a judicial tenure complaint filed against Justice Betty Weaver; very disconcerting. Further, that tenure complaint is being investigated by the Judicial Tenure Commission, and it is Betty Weaver who is the liaison to the commission.

Because of the appearance of impropriety, I think it is important that this be totally vetted; that the tenure commission be allowed to investigate the complaints; and in the meantime, that Justice Betty Weaver recuse herself of her position as liaison to the tenure commission. It seems a bit like the fox guarding the henhouse. The concern, of course, is that she may have undue influence over the commission. I am not saying that anything happened, but while this subject matter is being vetted, I think it is very important that she not have any undue influence over the tenure commission.

We do not know if this is an isolated incident, if there is any credibility to the allegations, or if this is just the tip of the iceberg. In this day and age when people are so distrustful of their politicians, it is important that we have transparency in the process, and when it goes to the highest court in the state of Michigan, that the public is comfortable with the fact that there are no cover-ups going on.

So, again, I am asking that Justice Weaver recuse herself of her position as liaison to the Judicial Tenure Commission and that she cooperate with the investigation.

By unanimous consent the Senate returned to the order of
Motions and Communications

Senator Cropsey moved that rule 2.106 be suspended to allow committees to meet during Senate session. The motion prevailed, a majority of the members serving voting therefor.

Recess

Senator Cropsey moved that the Senate recess until 9:45 p.m. The motion prevailed, the time being 3:38 p.m.

The Senate reconvened at the expiration of the recess and was called to order by the President pro tempore, Senator Richardville.

Recess

Senator Cropsey moved that the Senate recess until 10:30 p.m. The motion prevailed, the time being 9:47 p.m.

The Senate reconvened at the expiration of the recess and was called to order by the President pro tempore, Senator Richardville.

Recess

Senator Cropsey moved that the Senate recess until 11:00 p.m. The motion prevailed, the time being 10:31 p.m.

The Senate reconvened at the expiration of the recess and was called to order by the President pro tempore, Senator Richardville.

Recess

Senator Cropsey moved that the Senate recess until 11:15 p.m. The motion prevailed, the time being 11:01 p.m.

The Senate reconvened at the expiration of the recess and was called to order by the President pro tempore, Senator Richardville.

Recess

Senator Cropsey moved that the Senate recess until 11:45 p.m. The motion prevailed, the time being 11:16 p.m.

The Senate reconvened at the expiration of the recess and was called to order by the President pro tempore, Senator Richardville.

Senator Cropsey moved that when the Senate adjourns today, it stand adjourned until Friday, May 14, at 12:10 a.m. The motion prevailed.

Committee Reports

COMMITTEE ATTENDANCE REPORT

The Subcommittee on General Government submitted the following:
Meeting held on Wednesday, May 12, 2010, at 9:00 a.m., Room 110, Farnum Building
Present: Senators Pappageorge (C), Jansen, McManus, Anderson and Cherry

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Department of Transportation submitted the following:
Meeting held on Wednesday, May 12, 2010, at 9:30 a.m., Room 405, Capitol Building
Present: Senators Hardiman (C), Cropsey and Anderson

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Higher Education submitted the following:
Meeting held on Thursday, May 13, 2010, at 9:00 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building
Present: Senators Stamas (C), George, Kahn, Barcia, Anderson and Brater
Excused: Senator Hardiman

COMMITTEE ATTENDANCE REPORT

The Committee on Energy Policy and Public Utilities submitted the following:
Meeting held on Thursday, May 13, 2010, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower
Present: Senators Patterson (C), Brown, Kuipers, Richardville, Nofs, Olshove, Thomas and Clark-Coleman
Absent: Senators Birkholz and Clarke

COMMITTEE ATTENDANCE REPORT

The Subcommittee on State Police and Military Affairs submitted the following:
Meeting held on Thursday, May 13, 2010, at 1:30 p.m., Rooms 402 and 403, Capitol Building
Present: Senators Garcia (C), Cropsey and Barcia

Scheduled Meetings

Appropriations -

Subcommittee -

Community Health Department - Thursday, May 27, 1:00 p.m., Room 110, Capitol Building (373-2768)

Campaign and Election Oversight - Wednesday, May 19, 12:00 noon, Room 405, Capitol Building (373-1725)

Economic Development and Regulatory Reform - Wednesday, May 19, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-7670)

Senator Cropsey moved that the Senate adjourn.
The motion prevailed, the time being 11:47 p.m.

In pursuance of the order previously made, the President pro tempore, Senator Richardville, declared the Senate adjourned until Friday, May 14, 2010, at 12:10 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate