

No. 63
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Wednesday, September 26, 2001.

10:00 a.m.

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

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

Bennett—present
Bullard—present
Byrum—present
Cherry—present
DeBeaussaert—present
DeGrow—present
Dingell—present
Dunaskiss—present
Emerson—present
Emmons—present
Garcia—present
Gast—present
Goschka—present

Gougeon—present
Hammerstrom—present
Hart—present
Hoffman—present
Johnson—present
Koivisto—present
Leland—present
McCotter—present
McManus—present
Miller—present
Murphy—excused
North—present

Peters—present
Schuette—present
Schwarz—present
Scott—present
Shugars—present
Sikkema—present
Smith—present
Steil—present
Stille—present
Van Regenmorter—present
Vaughn—excused
Young—present

Senator George Z. Hart of the 6th District offered the following invocation:
 "God bless America, land that I love.
 Stand beside her and guide her through the night with the light from above.
 From the mountains to the prairies, to the ocean white with foam.
 God bless America, my home sweet home.
 God bless America, my home sweet home."

Senator Garcia entered the Senate Chamber.

Motions and Communications

Senator Emmons moved that Senators Dunaskiss, Gast and Schwarz be temporarily excused from today's session.
 The motion prevailed.

Senator Gast entered the Senate Chamber.

Senator Emerson moved that Senator Young be temporarily excused from today's session.
 The motion prevailed.

Senator Emerson moved that Senator Murphy be excused from today's session.
 The motion prevailed.

Senator Emmons moved that when the Senate adjourns today, it stand adjourned until Tuesday, October 2.
 The motion prevailed.

The following communication was received:
 Office of the Auditor General

September 25, 2001

Enclosed is a copy of the following audit report and/or executive digest:
 Performance Audit of the Unemployment Agency, Department of Consumer and Industry Services, September 2001.
 Sincerely,
 Thomas H. McTavish, C.P.A.
 Auditor General

The communication was referred to the Secretary for record.

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, September 25:
House Bill Nos. 4788 5036

Senator Emmons moved that the rules be suspended and that the following bill, now on Committee Reports, be placed on General Orders Calendar for consideration today:
Senate Bill No. 602
 The motion prevailed, a majority of the members serving voting therefor.

Messages from the Governor

The following message from the Governor was received and read:

September 25, 2001

There are herewith presented for consideration and confirmation by the Senate, the following reappointments to office:

Worker's Compensation Appellate Commission

Mr. James J. Kent, 1415 Fair Oaks, East Lansing, Michigan 48823, county of Ingham, as a member representing the general public, succeeding himself, for a term expiring on October 1, 2005.

Mr. Gregory A. Przybylo, 4281 Farm Meadows Court, Okemos, Michigan 48864, county of Ingham, as a member representing the general public, succeeding himself, for a term expiring on October 1, 2005.

Sincerely,
 John Engler
 Governor

The appointments were referred to the Committee on Government Operations.

Senator Young entered the Senate Chamber.

By unanimous consent the Senate proceeded to the order of
General Orders

Senator Emmons 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 Posthumus, designated Senator Byrum as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Posthumus, having resumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bill:

House Bill No. 4793, entitled

A bill to amend 1964 PA 170, entitled "An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers and paying damages sought or awarded against them; to provide for the legal defense of public officers and employees; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal certain acts and parts of acts," by amending section 1 (MCL 691.1401), as amended by 1999 PA 205.

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 a substitute therefor, the following bill:
Senate Bill No. 602, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding sections 217m and 217n.

Substitute (S-3).

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

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:
Senate Bill No. 346, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2922a (MCL 600.2922a), as added by 1998 PA 211.

Substitute (S-1).

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

During the Committee of the Whole, Senator Schwarz entered the Senate Chamber.

By unanimous consent the Senate returned to the order of
Third Reading of Bills

Senator Emmons 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:

Senate Bill No. 602

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

Senator Emmons moved that the following bill be placed at the head of the Third Reading of Bills calendar:

Senate Bill No. 602

The motion prevailed.

Whereas, As compensation for the loss of years of goodwill and the erosion of the value of large financial investments, Oldsmobile dealerships will be paid a one-time settlement. As federal tax laws now stand, this payment would be subject to personal and business federal taxes as income. In reality, however, the settlement money clearly should be categorized as involuntary converted property. Under this determination, the manufacturer's settlement would be treated like other property that can be converted to similar purposes over a specific period of time; and

Whereas, Every effort should be made to encourage the reinvestment of settlement resources to mitigate job loss, lessen the economic stress to local communities, and protect families from more serious financial difficulties. In addition, it would be poor public policy for the federal government to reap a tax revenue windfall as a result of this rare and unique situation; and

Whereas, As the home of the Olds automotive legacy and 20 of the top 50 Oldsmobile dealerships, Michigan has a major stake in the fair treatment of these businesses and individuals. It would be wrong for the tax code to act as a disincentive to the reinvestment of the settlement dollars in job-creating enterprises; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to enact H.R. 2374 to amend the Internal Revenue Code to consider certain transitional dealer assistance related to the phase-out of Oldsmobile as an involuntary conversion; 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 resolution be referred to the Committee on Government Operations, Senator Emmons moved that the rule be suspended.

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

The resolution was adopted.

Senator Young was named co-sponsor of the resolution.

Introduction and Referral of Bills

Senators Byrum, Hammerstrom, Scott, Smith, Miller, Hart, Peters, Murphy, Young, DeBeaussaert, Cherry, Emerson and Koivisto introduced

Senate Bill No. 672, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding sections 217p and 217q.

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

Senators Byrum, Scott, Smith, Hart, Peters, Murphy, Young, DeBeaussaert, Cherry, Emerson and Koivisto introduced

Senate Bill No. 673, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 720 (MCL 168.720) and by adding section 720a.

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

Senator Bullard introduced

Senate Bill No. 674, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding section 221.

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

Senator Van Regenmorter introduced

Senate Bill No. 675, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending sections 12 and 17 (MCL 777.12 and 777.17), section 12 as amended by 2001 PA 104 and section 17 as amended by 2000 PA 300.

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

Senator Hammerstrom introduced

Senate Bill No. 676, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending section 720 (MCL 168.720) and by adding section 720a.

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

Senator Hoffman introduced
Senate Bill No. 677, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 629e (MCL 257.629e), as amended by 2000 PA 268.

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

Senators Bullard and Emmons introduced
Senate Bill No. 678, entitled

A bill to amend 1937 PA 94, entitled "Use tax act," by amending section 3 (MCL 205.93), as amended by 1999 PA 117.

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

House Bill No. 4788, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 8121 (MCL 600.8121), as amended by 2000 PA 449.

The House of Representatives has passed the bill.

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

By unanimous consent the Senate returned to the order of

Messages from the House

Senate Bill No. 551, entitled

A bill to amend 1855 PA 105, entitled "An act to regulate the disposition of the surplus funds in the state treasury; to provide for the deposit of surplus funds in certain financial institutions; to lend surplus funds pursuant to loan agreements secured by certain commercial, agricultural, or industrial real and personal property; to authorize the loan of surplus funds to certain municipalities; to authorize the participation in certain loan programs; to authorize an appropriation; and to prescribe the duties of certain state agencies," (MCL 21.141 to 21.147) by adding section 2e.

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

Senator Emmons moved that the bill be given immediate effect.

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

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

Senate Bill No. 233, entitled

A bill to make appropriations for the department of consumer and industry services and certain other state purposes for the fiscal year ending September 30, 2002; to provide for the expenditure of those appropriations; to provide for the imposition of certain fees; to provide for the disposition of fees and other income received by the state agencies; to provide for reports to certain persons; and to prescribe powers and duties of certain state departments and certain state and local agencies and officers.

(For Conference Report, see Senate Journal No. 61, p. 1607.)

The House of Representatives has adopted the report of the Committee of Conference and ordered that the bill be given immediate effect.

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

Recess

Senator Emmons moved that the Senate recess subject to the call of the President.

The motion prevailed, the time being 10:28 a.m.

11:44 a.m.

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

Senate Bill No. 291, entitled

A bill to make appropriations for the department of history, arts, and culture, certain other state departments, and certain other state purposes for the fiscal years ending September 30, 2002 and September 30, 2003; to make, supplement, and adjust appropriations for certain state departments and certain other state purposes for the fiscal years ending September 30, 2001 and September 30, 2002; to provide for the expenditure of those appropriations; to provide for the imposition of certain fees; to provide for the disposition of fees and other income received by the state agencies; to provide for reports to certain persons; to prescribe powers and duties of certain state departments and certain state and local agencies and officers; and to repeal acts and parts of acts.

The House of Representatives has substituted (H-1) the bill.

The House of Representatives has passed the bill as substituted (H-1) and amended the title to read as follows:

A bill to make appropriations for the department of history, arts, and libraries, certain other state departments, and certain other state purposes for the fiscal year ending September 30, 2002; to make, supplement, and adjust appropriations for certain state departments and certain other state purposes for the fiscal years ending September 30, 2001 and September 30, 2002; to provide for the expenditure of those appropriations; to provide for the imposition of certain fees; to provide for the disposition of fees and other income received by the state agencies; to provide for reports to certain persons; to prescribe powers and duties of certain state departments and certain state and local agencies and officers; and to repeal acts and parts of acts.

Pending the order that, under rule 3.202, the bill be laid over one day,

Senator Emmons moved that the rule be suspended.

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

The question being on concurring in the substitute made to the bill by the House,

Senator Gougeon offered the following amendment to the substitute:

1. Amend page 31, following line 3, by striking out all of section 227 and inserting:

“Sec. 227. The department shall not submit a section 1115 health insurance flexibility and accountability (HIFA) demonstration waiver or similar proposal to the federal centers for Medicare and Medicaid unless the proposal has been approved by the house of representatives and senate appropriations subcommittees on community health.”

The amendment to the substitute was adopted.

Senator Smith offered the following amendment to the substitute:

1. Amend page 29, following line 17, by inserting:

“Sec. 216. By February 15 of each year, the department of management and budget shall provide the state budget director, the senate and house appropriations subcommittees, and the senate and house fiscal agencies with an annual report on estimated restricted funds balances and projected revenues and expenditures for the two consecutive fiscal years previous to the fiscal year being debated. Any funds in excess of the previous fiscal year are unallotted and shall be reauthorized only upon approval of both appropriations committees.”

The amendment to the substitute was not adopted.

Senator North offered the following amendments to the substitute:

1. Amend page 14, following line 7, by inserting:

“Oscoda Wurtsmith Airport Authority 1,500,000”.

2. Amend page 14, line 12, by striking out “4,000,000” and inserting “5,500,000” and adjusting the subtotals, totals, and section 201 accordingly.

3. Amend page 54, following line 26, by inserting:

“Sec. 604. The funding appropriated in part 1 for the Oscoda Wurtsmith Airport Authority shall be used to provide assistance to former TIMCO company employees.”

The amendments to the substitute were adopted.

Senator Gast offered the following amendments to the substitute:

1. Amend page 5, following line 7, by inserting:

“Special projects \$ 200,000”.

2. Amend page 5, line 11, by striking out “200,000” and inserting “400,000”.

3. Amend page 5, following line 11, following “Special revenue funds:” by inserting:

“Healthy Michigan fund 1,500,000”.

4. Amend page 5, following line 11, after “State general fund/general purpose” by striking out “1,500,000” and inserting “0”.

5. Amend page 8, following line 2, by inserting:

“Powertrain-Saginaw malleable iron facility supplemental environmental projects 89,800”.

6. Amend page 8, following line 7, by inserting:

“Environmental response fund 89,800”.

7. Amend page 8, line 14, by striking out “Environmental response fund” and inserting “Clean Michigan initiative - response activities”.

8. Amend page 8, line 18, by striking out all of lines 18 and 19.

9. Amend page 8, line 23, by striking out all of line 23.

10. Amend page 13, line 10, by striking out “529,500” and inserting “753,700”.

11. Amend page 13, line 13, by striking out “529,500” and inserting “753,700”.

12. Amend page 14, line 6, by striking out all of line 6.

13. Amend page 14, line 11, by striking out all of line 11 and adjusting the subtotals, totals, and section 201 accordingly.

14. Amend page 31, following line 3, following section 227 by inserting:

“Sec. 227a. From the amount appropriated in part 1 for the cancer prevention and control program, \$500,000.00 shall be allocated to the Karmanos Cancer Institute/Wayne State University, \$500,000.00 shall be allocated to the University of Michigan comprehensive cancer center, and \$500,000.00 shall be allocated to Michigan State University for cancer and cancer prevention services and activities, consistent with the current priorities of the Michigan cancer consortium.”.

15. Amend page 60, line 14, by striking out all of section 1301 and inserting:

“Sec. 1301. (1) The department is authorized to receive and expend up to \$4,084,900.00 from the USDA’s Commodity Credit Corporation to assist Michigan’s specialty crop producers. These funds are to be allocated as follows:

(a) \$500,000.00 for support activities that promote agriculture including:

(i) Establishment and expansion of export markets.

(ii) Facilitate implementation of funded value-added projects.

(iii) Administrative support for grant development and processing.

(b) Up to \$3,250,000.00 for program grants that develop new or expand existing markets for specialty crop producers including:

(i) Up to \$2,100,000.00 in direct program grants to Michigan’s specialty crop producers.

(ii) \$1,150,000.00 to the agricultural development fund for the support of grants for value added agricultural processing and agricultural production ventures for specialty crops in accordance with the Julian-Stille value-added act, 2000 PA 322, MCL 285.301 to 285.304.

(c) Up to \$334,900.00 for grants to provide for the processing, transportation, and distribution of commodities to eligible recipient agencies as provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508[a]).

(2) Funds appropriated in part 1 for the Specialty Crop Program are considered work project appropriations and any unencumbered funds are carried forward into the succeeding fiscal year. The following is in compliance with section 451(3) of the management and budget act, 1984 PA 431, MCL 18.1451:

(a) This project will be accomplished through the efforts of state employees, contracted services and grants to specialty crop producers.

(b) The total estimated cost of this project is \$4,084,900.00.

(c) The tentative completion date for this project is September 30, 2004.”.

The amendments to the substitute were adopted.

Senator Johnson offered the following amendment to the substitute:

1. Amend page 30, following line 12, by striking out all of section 221.

The amendment to the substitute was adopted.

The question being on concurring in the House substitute, as amended,

The substitute was concurred in, a majority of the members serving voting therefor, as follows:

Roll Call No. 310

Yeas—33

Bennett	Emmons	Leland	Scott
Bullard	Garcia	McCotter	Shugars
Byrum	Gast	McManus	Sikkema
Cherry	Goschka	Miller	Smith
DeBeaussaert	Gougeon	North	Steil
DeGrow	Hammerstrom	Peters	Stille
Dingell	Hart	Schuette	Van Regenmorter
Dunaskiss	Johnson	Schwarz	Young
Emerson			

Nays—2

Hoffman

Koivisto

Excused—2

Murphy

Vaughn

Not Voting—0

In The Chair: Schwarz

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 as amended.

Senator Emmons moved to reconsider the vote by which the House substitute was concurred in to the following bill:

Senate Bill No. 291, entitled

A bill to make appropriations for the department of consumer and industry services and certain other state purposes for the fiscal year ending September 30, 2002; to provide for the expenditure of the appropriations; and to provide for the disposition of fees and other income received by the state agencies.

The question being on the motion to reconsider,

Senator Emmons moved that further consideration of the bill be postponed temporarily.

The motion prevailed.

Recess

Senator Emmons moved that the Senate recess subject to the call of the President.

The motion prevailed, the time being 12:04 p.m.

12:09 p.m.

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

By unanimous consent the Senate returned to consideration of the following bill:

Senate Bill No. 291, entitled

A bill to make appropriations for the department of consumer and industry services and certain other state purposes for the fiscal year ending September 30, 2002; to provide for the expenditure of the appropriations; and to provide for the disposition of fees and other income received by the state agencies.

(The House substitute was concurred in earlier today and the motion to reconsider the vote postponed. See p. 1695.)

The question being on the motion to reconsider the vote by which the House substitute was concurred in,

Senator Emmons withdrew the motion.

Senator Emmons moved that, pursuant to rule 1.114, upon receipt of the following bill returned from the House of Representatives, the Secretary of the Senate be directed to proceed with the enrollment printing and presentation of the bill to the Governor:

Senate Bill No. 291

The motion prevailed.

Committee Reports

The Committee on Transportation and Tourism reported

Senate Bill No. 602, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," (MCL 257.1 to 257.923) by adding sections 217m and 217n.

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.

Bill Bullard, Jr.
Chairperson

To Report Out:

Yeas: Senators Bullard, Steil, North, Leland and Hart

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 Transportation and Tourism submits the following:

Meeting held on Tuesday, September 25, 2001, at 3:00 p.m., Room 110, Farnum Building

Present: Senators Bullard (C), Steil, North, Leland and Hart

Scheduled Meetings

Families, Mental Health and Human Services - Wednesday, October 3, 3:00 p.m., Room 100, Farnum Building (373-3543)

Government Operations - Thursdays, October 4 and 11, 1:00 p.m. or later immediately following session, Senate Hearing Room, Ground Floor, Michigan National Tower (373-1707)

Great Lakes Conservation Task Force - Monday, October 1, 6:00 p.m., Monroe Community College, Administration Building, Dining Hall, 1555 Raisinville Road, Monroe; Thursday, October 18, 6:00 p.m., Northern Michigan University, Don H. Bollum University Center, Ontario Room, 2nd Floor, 1401 Presque Isle Avenue, Marquette; Tuesday, October 30, 6:00 p.m., City of Port Huron Municipal Office Center, 100 McMorran Boulevard, Port Huron; Monday, November 26, 6:00 p.m., Saginaw Valley State University, Curtis Center, 2250 Pierce Road, University Center; (Location information for the following meetings will be provided in a future notice): Monday, October 8, 6:00 p.m., Macomb; Monday, November 5, 5:00 p.m., St. Joseph (373-0797)

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

Senator Emmons moved that the Senate adjourn.

The motion prevailed, the time being 12:10 p.m.

In pursuance of the order previously made, the President pro tempore, Senator Schwarz, declared the Senate adjourned until Tuesday, October 2, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.