No. 15 STATE OF MICHIGAN Journal of the Senate

91st Legislature REGULAR SESSION OF 2002

Senate Chamber, Lansing, Thursday, February 21, 2002.

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—excused
DeBeaussaert—present
DeGrow—present
Dingell—present
Dunaskiss—present
Emerson—present
Emmons—present
Garcia—present
Gast—excused
Goschka—present

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

Sanborn—present	
Schuette—present	
Schwarz—present	
Scott—present	
Shugars—present	
Sikkema—present	
Smith—present	
Steil—present	
Stille—present	
Von Dogonmonton	

Van Regenmorter—present Vaughn—excused

Young—present

Senator Joe Young, Jr., of the 1st District offered the following invocation:

Dear God, sometimes we forget to thank You, and we say we will thank You soon. But in spite of ourselves, You bless us and we still forget again. Please forgive us for the things that we have done that we should not have, and please forgive us for the things that we should have done that we didn't do—if it is Your will.

We ask this in Your name—our Lord, King, Jesus Christ, Savior, and God. Amen.

Senator Dunaskiss entered the Senate Chamber.

Motions and Communications

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

Senator Emmons moved that Senator Gast be excused from today's session.

The motion prevailed.

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

The Secretary announced the printing and placement in the members' files on Wednesday, February 20, of:

Senate Bill Nos.	1099	1101	1102	1103	1104	1106	1107	1108	1109	1111	1112	1113	1114	1115
	1116	1117	1122	1123	1124	1125								
House Bill Nos.	5638	5639	5640	5641	5642	5643	5644	5645	5646	5647	5648	5649	5650	5651
	5652	5653	5654	5655	5656	5657	5658	5659	5660	5675	5676	5677	5678	5679
	5680													

Messages from the House

Senate Bill No. 796, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 1902, 1903, and 1904 (MCL 324.1902, 324.1903, and 324.1904), section 1902 as amended by 1996 PA 134 and sections 1903 and 1904 as added by 1995 PA 60, and by adding section 1907a.

The House of Representatives has substituted (H-2) the bill.

The House of Representatives has passed the bill as substituted (H-2), ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

Pursuant to rule 3.202, the bill was laid over one day.

Senate Bill No. 798, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 74119 (MCL 324.74119), as added by 1995 PA 58.

The House of Representatives has substituted (H-2) the bill.

The House of Representatives has passed the bill as substituted (H-2), ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

Pursuant to rule 3.202, the bill was laid over one day.

Senate Bill No. 799, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 43902 (MCL 324.43902), as amended by 2000 PA 69.

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

The House of Representatives has passed the bill as substituted (H-1), ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

Pursuant to rule 3.202, the bill was laid over one day.

Senate Bill No. 800, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 43704 (MCL 324.43704), as amended by 2001 PA 50.

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

The House of Representatives has passed the bill as substituted (H-1), ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

Pursuant to rule 3.202, the bill was laid over one day.

Senate Bill No. 801, entitled

A bill to amend 1984 PA 22, entitled "Michigan civilian conservation corps act," by amending section 12a (MCL 409.312a), as added by 1994 PA 394.

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

The House of Representatives has passed the bill as substituted (H-1), ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

Pursuant to rule 3.202, the bill was laid over one day.

Senate Joint Resolution T, entitled

A joint resolution proposing an amendment to the state constitution of 1963, by amending sections 19 and 35, section 36 related to the Michigan state parks endowment fund, and section 37 of article IX, to eliminate certain investment restrictions for certain state funds, to increase the accumulated principal limitation of the Michigan natural resources trust fund, to modify provisions of the Michigan natural resources trust fund and the state parks endowment fund related to their allowable expenditures and the investment of their assets, to provide for the investment of the assets of the Michigan veterans' trust fund, and to renumber certain sections.

The House of Representatives has substituted (H-2) the joint resolution.

The House of Representatives has adopted the joint resolution by a 2/3 vote as substituted (H-2).

Pursuant to rule 3.202, the joint resolution was laid over one day.

Senators Murphy and Smith entered the Senate Chamber.

By unanimous consent the Senate proceeded to the order of

Third Reading of Bills

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

Senate Bill No. 809

Senate Bill No. 1028

House Bill No. 4690

House Bill No. 5393

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 809, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 231 (MCL 750.231), as amended by 1998 PA 510.

The question being on the passage of the bill,

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

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 1028, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 503 and 504 (MCL 750.503 and 750.504).

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. 193

Yeas—34

Bennett Goschka McManus Scott Bullard Gougeon Shugars Miller Hammerstrom Byrum Murphy Sikkema DeBeaussaert North Hart Smith DeGrow Hoffman Peters Steil Sanborn Dingell Johnson Stille

Dunaskiss Van Regenmorter Koivisto Schuette

Emerson Leland Schwarz Young

Emmons McCotter

Nays—0

Excused—4

Cherry Garcia Gast Vaughn

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The President pro tempore, Senator Schwarz, assumed the Chair.

The following bill was read a third time:

House Bill No. 4690, entitled

A bill to enter into the interstate compact for the supervision of adult offenders; and for related purposes.

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. 194 Yeas—34

Bennett Goschka McManus Scott Bullard Gougeon Miller Shugars Sikkema Byrum Hammerstrom Murphy DeBeaussaert Hart North Smith **DeGrow** Hoffman Peters Steil Dingell Johnson Sanborn Stille Dunaskiss Van Regenmorter Koivisto Schuette

Emerson Leland Schwarz Young

Emmons McCotter

Nays—0

Excused—4

Garcia Vaughn Cherry Gast

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 of the bill.

The following bill was read a third time:

House Bill No. 5393, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending sections 1 and 12 of chapter XVII (MCL 777.1 and 777.12), section 1 as amended by 2000 PA 279 and section 12 as amended by 2001 PA 160, and by adding sections 12a, 12b, 12c, 12d, 12e, 12f, 12g, 12h, 12j, 12k, 12m, and 12n to chapter XVII.

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. 195 Yeas—34

Bennett	Goschka	McManus	Scott
Bullard	Gougeon	Miller	Shugars
Byrum	Hammerstrom	Murphy	Sikkema
DeBeaussaert	Hart	North	Smith
DeGrow	Hoffman	Peters	Steil
Dingell	Johnson	Sanborn	Stille
Dunaskiss	Koivisto	Schuette	Van Regenmorter

Emerson Leland Schwarz Young

Emmons McCotter

Nays-0

Excused—4

Cherry Garcia Gast 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.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

"An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide

for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,".

The Senate agreed to the full title.

By unanimous consent the Senate proceeded to the order of

Resolutions

Senator Emmons moved that consideration of the following concurrent resolution be postponed for today:

Senate Concurrent Resolution No. 11

The motion prevailed.

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

Senate Resolution No. 170

The resolution consent calendar was adopted.

Senator Goschka offered the following resolution:

Senate Resolution No. 170.

A resolution honoring the life and memory of Robert L. Fish.

"Greatness is not found in possessions, power, position or prestige. It is discovered in goodness, humility, service and character."

William Ward

Whereas, It is with deep respect and gratitude that we offer this memorial as a celebration of the life of the Honorable Robert L. Fish, chairman of the Saginaw County Board of Commissioners. He was truly a dedicated public servant for the people of Michigan; and

Whereas, The passing of Bob Fish has saddened everyone who had the privilege of knowing him, and we extend our respect and sympathies to his family and many friends, knowing he will be deeply missed and remembered for his devotion and selfless commitment to serving others; and

Whereas, Mr. Fish was involved in community service for many years, serving on the Albee Township Parks Commission for six years and as the Albee Township clerk for eight years; and

Whereas, As chairman of the Saginaw County Board of Commissioners, elected for a fourth time in 2002, Bob Fish will be remembered by his colleagues as a man of leadership and diligence, as well as a problem solver who built bridges and believed in the spirit of teamwork. His colleagues and the citizens of Saginaw County will forever appreciate the leadership and encouragement Bob Fish provided for his constituency; and

Whereas, Mr. Fish had a spirited love for life that he shared with his loving wife Marty, his children, Anne and Robert, Jr., and his extended family. He will not only be remembered for his abilities as a governmental leader, but as one who led by example of true lasting values; now, therefore, be it

Resolved by the Senate, That the members of this legislative body honor the life and memory of Robert L. Fish. With great appreciation we salute this public servant who enthusiastically carried out the responsibilities given him by the people of Saginaw County; and be it further

Resolved, That a copy of this resolution be transmitted to the family of Robert L. Fish as evidence of our admiration and esteem.

Senator Young was named co-sponsor of the resolution.

Recess

Senator Emmons moved that the Senate recess subject to the call of the Chair. The motion prevailed, the time being 10:20 a.m.

10:28 a.m.

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

During the recess, Senator Garcia entered the Senate Chamber.

Senator Garcia stated that had he been present when the votes were taken on the passage of the following bills, he would have voted "yea":

Senate Bill No. 1028 House Bill No. 4690 House Bill No. 5393

Introduction and Referral of Bills

Senators Steil, Shugars, Garcia, Sanborn, Bullard, Stille and Hammerstrom introduced

Senate Bill No. 1126, entitled

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending sections 19, 27, 29, and 48 (MCL 421.19, 421.27, 421.29, and 421.48), section 19 as amended by 1996 PA 535, section 27 as amended by 1995 PA 181, section 29 as amended by 1995 PA 25, and section 48 as amended by 1983 PA 164, and by adding section 13*l*.

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

Senators Emmons, Hammerstrom and Johnson introduced

Senate Bill No. 1127, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 520a, 520b, 520c, 520d, and 520e (MCL 750.520a, 750.520b, 750.520c, 750.520d, and 750.520e), sections 520a and 520e as amended by 2000 PA 505, section 520b as amended by 1983 PA 158, section 520c as amended by 2000 PA 227, and section 520d as amended by 1996 PA 155.

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

Senators Schwarz and Gougeon introduced

Senate Bill No. 1128, entitled

A bill to amend 1943 PA 240, entitled "State employees' retirement act," by amending sections 1b, 1d, 5, 11, 13, 19, 20, 20d, 21, 24, 33, 38, 46, 48, 49, and 52 (MCL 38.1b, 38.1d, 38.5, 38.11, 38.13, 38.19, 38.20, 38.20d, 38.21, 38.24, 38.33, 38.38, 38.46, 38.48, 38.49, and 38.52), section 1b as amended by 1996 PA 33, sections 1d and 49 as added by 1995 PA 176, sections 11 and 13 as amended and section 52 as added by 1996 PA 487, section 19 as amended by 1998 PA 205, section 20 as amended by 1996 PA 521, section 20d as amended by 1996 PA 532, section 38 as amended by 1996 PA 279, and section 48 as added by 1990 PA 110, and by adding section 19g.

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

Senators Stille, Bennett and Steil introduced

Senate Bill No. 1129, entitled

A bill to provide for the creation of the community development authority; to provide for the operation of the authority; to assemble and clear title to certain property in a coordinated manner; to facilitate the use and development of certain property; to promote economic growth; to prescribe the powers and duties of the authority; to provide for the creation and appointment of a board to govern the authority and to prescribe its powers and duties; to authorize the acquisition, maintenance, and disposal of interests in real and personal property; to authorize the conveyance of certain property by certain public entities or public officials to the authority; to authorize the enforcement of tax liens and the clearing or quieting of title by the authority; to provide for the distribution and use of revenues collected or received by the authority; to prescribe powers and duties of certain public entities and state and local officers and agencies; to authorize the issuance of bonds and notes; to authorize the release of tax liens; to exempt property, income, and operations of an authority from tax; and to extend protections against certain liabilities to the authority.

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

Senators Bennett, Stille and Steil introduced

Senate Bill No. 1130, entitled

A bill to create and operate the aeropark economic development authority; to provide for the operation of the aeropark economic development authority; to provide for the economic development and use of the geographic areas surrounding certain public airports; to provide for the creation and appointment of a board to govern the authority and

to prescribe its powers and duties; to provide for the powers and duties of the authority; to authorize the acquisition, maintenance, and disposal of interests in real and personal property; to confer authority and operational jurisdiction over real and personal property located in aeropark economic development zones upon the authority; to provide for the distribution and use of revenues collected and received by the authority; to provide for the issuance of bonds and notes; and to exempt property, income, and operations of the authority from tax.

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

Committee Reports

The Committee on Economic Development, International Trade and Regulatory Affairs reported

House Bill No. 4987, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," by amending section 2512 (MCL 339.2512), as amended by 2000 PA 436.

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Bill Schuette Chairperson

To Report Out:

Yeas: Senators Schuette, McCotter, Sanborn, Leland and Peters

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Economic Development, International Trade and Regulatory Affairs reported

House Bill No. 5119, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 525 (MCL 436.1525).

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.

Bill Schuette Chairperson

To Report Out:

Yeas: Senators Schuette, McCotter, Sanborn, Leland and Peters

Navs: None

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Economic Development, International Trade and Regulatory Affairs submitted the following:

Meeting held on Tuesday, February 19, 2002, at 1:07 p.m., Room 110, Farnum Building

Present: Senators Schuette (C), McCotter, Sanborn, Leland and Peters

The Committee on Transportation and Tourism reported

Senate Bill No. 1094, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 720 (MCL 257.720), as amended by 1996 PA 136.

With the recommendation that the bill 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

Navs: None

The bill was referred to the Committee of the Whole.

The Committee on Transportation and Tourism reported

Senate Bill No. 1096, entitled

A bill to amend 1937 PA 10, entitled "An act to define the use of travel aids by blind persons; to provide protection against accidents to such persons; to require instruction and examination in certain circumstances; and to provide penalties for violation hereof," by amending sections 1a and 2 (MCL 752.51a and 752.52), section 1a as added and section 2 as amended by 1986 PA 62.

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Bill Bullard, Jr. Chairperson

To Report Out:

Yeas: Senators Bullard, Steil, Leland and Hart

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Transportation and Tourism reported

House Bill No. 4022, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 628 (MCL 257.628), as amended by 2000 PA 167.

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Bill Bullard, Jr. Chairperson

To Report Out:

Yeas: Senators Bullard, Steil and North

Nays: Senators Leland and Hart

The bill was referred to the Committee of the Whole.

The Committee on Transportation and Tourism reported

House Bill No. 4037, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 310 (MCL 257.310), as amended by 1998 PA 226.

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.

Bill Bullard, Jr. Chairperson

To Report Out:

Yeas: Senators Bullard, Steil, North and Hart

Nays: Senator Leland

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

The Committee on Transportation and Tourism reported

House Bill No. 5337, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 722 (MCL 257.722), as amended by 2000 PA 6.

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Bill Bullard, Jr. Chairperson

To Report Out:

Yeas: Senators Bullard, North and Leland

Nays: Senators Steil and Hart

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Transportation and Tourism submitted the following:

Meeting held on Tuesday, February 19, 2002, at 3:00 p.m., Room 110, Farnum Building

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

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Corrections submitted the following:

Meeting held on Wednesday, February 20, 2002, at 1:00 p.m., Room 100, Farnum Building

Present: Senators North (C), Hoffman and Smith

COMMITTEE ATTENDANCE REPORT

The Subcommittee on School Aid and Department of Education submitted the following:

Meeting held on Wednesday, February 20, 2002, at 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Stille (C), Bennett and DeBeaussaert

COMMITTEE ATTENDANCE REPORT

The Committee on Transportation and Tourism submitted the following:

Meeting held on Tuesday, February 20, 2002, at 3:00 p.m., Room 110, Farnum Building

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

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Natural Resources submitted the following:

Meeting held on Wednesday, February, 20, 2002, at 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators McManus (C), Gast, Koivisto and DeBeaussaert

Excused: Senator Hoffman

Scheduled Meetings

Appropriations - Wednesday, February 27, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

Subcommittees -

Community Health - Monday, March 11, 3:00 p.m., Senate Hearing Room, Ground Floor, Michigan National Tower (373-1777)

Corrections - Wednesday, February 27, 1:00 p.m., Room 100, Farnum Building, and Tuesday, March 5, 1:00 p.m., Room 210, Farnum Building (373-2413)

Environmental Quality - Tuesdays, February 26 and March 5, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-7350)

Higher Education - Friday, February 22, 9:30 a.m., Oakland University, Library Drive, 242 Elliott Hall, Rochester; Friday, March 1, 10:00 a.m., Calvin College, 3201 Burton S.E., Hekman Library, Meeter Center Lecture Hall, Grand Rapids; and Friday, March 8, 9:30 a.m., University of Michigan-Ann Arbor, 909 S. University Drive, William L. Clements Library, Ann Arbor (373-3447)

Natural Resources - Wednesdays, February 27 and March 6, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1725)

School Aid and Department of Education - Tuesdays, February 26 and March 5, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1635)

Families, Mental Health and Human Services - Wednesday, February 27, 3:00 p.m., Room 100, Farnum Building (373-3543)

Health Policy - Tuesday, February 26, 3:00 p.m., Room 100, Farnum Building (373-0793)

Judiciary - Wednesday, February 27, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-6920)

Senator Emmons moved that the Senate adjourn. The motion prevailed, the time being 10:31 a.m.

The President pro tempore, Senator Schwarz, declared the Senate adjourned until Tuesday, February 26, at 10:00 a.m.

CAROL MOREY VIVENTI Secretary of the Senate.