

No. 23
JOURNAL OF THE SENATE

Senate Chamber, Lansing, Tuesday, March 20, 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
Gast—present
Goschka—present

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

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

Senator Leon Stille of the 32nd District offered the following invocation:

Our Father in Heaven, as we begin this day of business give us guidance. Bless us with Your presence, so that the spirit of Your grace may permeate our deliberations and the decisions made here this week. Keep us mindful and considerate of those with needs and struggling daily. Give us a measure of compassion, a sense of fairness, and a degree of compromise to lead us to decisions in the best interest of all of our citizens of our state.

We are grateful for the bounty You have blessed us with, and we acknowledge Your presence in our work. In Jesus' name we pray. Amen.

Senators Hoffman, Cherry and Young entered the Senate Chamber.

Motions and Communications

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

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

Senators Dunaskiss and Smith entered the Senate Chamber.

The following communication was received:
Office of the Auditor General

March 14, 2001

Enclosed is a copy of the following audit report and/or executive digest:
Performance Audit of the Division of Immunization Community Public Health Department of Community Health,
March, 2001.

Sincerely,
Thomas H. McTavish, C.P.A.
Auditor General

The communication was referred to the Secretary for record.

The following communication was received:
Department of Community Health

March 16, 2001

In accordance with Public Act 519 of 1997, Section 18.353, the Michigan Department of Community Health is submitting the *Crime Victims Services Commission 1999 Annual Report* to the Legislature. The report details significant program achievements and activities during October, 1998 through September 30, 1999.

If you have any questions, please feel free to contact my office at 335-0267.

Cordially,
James K. Haveman, Jr.

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 Thursday, March 15:
House Bill Nos. 4222 4223 4384 4429

The Secretary announced the enrollment printing and presentation to the Governor on Friday, March 16, for his approval the following bills:

Enrolled Senate Bill No. 71 at 2:50 p.m.

Enrolled Senate Bill No. 70 at 2:52 p.m.

Enrolled Senate Bill No. 199 at 2:54 p.m.

The Secretary announced the printing and placement in the members' files on Thursday, March 15, of:

Senate Bill Nos. 323 324 325 326 327 328 329 330

**House Bill Nos. 4450 4451 4452 4453 4454 4455 4456 4457 4458 4459 4460 4461 4462 4463
4464 4465 4466 4467**

The Secretary announced the printing and placement in the members' files on Friday, March 16, of:

Senate Bill Nos.	331	332	333	334	335	336	337							
House Bill Nos.	4468	4469	4470	4471	4472	4473	4474	4475	4476	4477	4478	4479	4480	4481
	4482	4483	4484	4485										

Messages from the Governor

The following messages from the Governor were received and read:

March 16, 2001

There is herewith presented for consideration and confirmation by the Senate, the following appointment to office:

Automobile Theft Prevention Authority Board of Directors

Mr. Marvin H. Winkler, Jr., 4861 Audobon, Detroit, Michigan 48224, county of Wayne, as a member representing law enforcement authorities, succeeding Mr. Charles E. Wilson of Detroit, who has resigned, for a term expiring on July 1, 2002.

March 16, 2001

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

Michigan Board of Medicine

Dr. Hassan M. Yaish, 7301 Mohansic, Bloomfield Hills, Michigan 48301, county of Oakland, as a member representing physicians, succeeding Dr. Mary Elizabeth Roth of West Bloomfield, who has resigned, for a term expiring on December 31, 2003.

Ms. Marybeth Novak, 4416 W. Timberwood, Traverse City, Michigan 49686, county of Grand Traverse, as a member representing the general public, succeeding Mrs. Preeti P. Gadola of Haslett, who has resigned, for a term expiring on December 31, 2001.

March 16, 2001

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

Eastern Michigan University Board of Regents

Ms. Karen Quinlan Valvo, 1607 Huron River Drive, Ypsilanti, Michigan 48108, county of Washtenaw, as a member representing the general public, succeeding Colonel William James Stephens of West Bloomfield, whose term has expired, for a term expiring on December 31, 2008.

Ms. Jan A. Brandon, 660 Barton Shore Drive, Ann Arbor, Michigan 48105, county of Washtenaw, as a member representing the general public, succeeding herself, for a term expiring on December 31, 2008.

March 19, 2001

There is herewith presented for consideration and confirmation by the Senate, the following appointment to office:

Northern Michigan University Board of Control

Ms. Mary C. Lukens, 2242 Pinegrove Court, Ann Arbor, Michigan 48103, county of Washtenaw, as a member representing the general public, succeeding Mr. Gilbert L. Ziegler of Williamsburg, whose term has expired, for a term expiring on December 31, 2008.

Sincerely,
John Engler
Governor

The appointments were referred to the Committee on Government Operations.

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 Young 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. 4322, entitled

A bill to amend 1956 PA 218, entitled “The insurance code of 1956,” by amending section 3913 (MCL 500.3913), as added by 1992 PA 84.

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

Introduction and Referral of Bills

Senator Koivisto introduced

Senate Bill No. 338, entitled

A bill to license and regulate the conducting of video gaming; to license and regulate certain video gaming agents; to impose certain duties and authority upon certain state departments, agencies, and officers; to provide for the distribution of video gaming revenues; and to provide penalties.

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

Senator Koivisto introduced

Senate Bill No. 339, entitled

A bill to amend 1998 PA 58, entitled “Michigan liquor control code of 1998,” by amending sections 217, 903, and 1023 (MCL 436.1217, 436.1903, and 436.2023), section 903 as amended by 2000 PA 431.

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

Senator Koivisto introduced

Senate Bill No. 340, entitled

A bill to amend 1995 PA 279, entitled “Horse racing law of 1995,” by amending sections 7, 9, 17, and 20 (MCL 431.307, 431.309, 431.317, and 431.320), sections 7 and 9 as amended by 2000 PA 164, section 17 as amended by 1998 PA 408, and section 20 as amended by 2000 PA 471.

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

Senators Goschka and Gougeon introduced

Senate Bill No. 341, entitled

A bill to amend 1993 PA 331, entitled “State education tax act,” (MCL 211.901 to 211.906) by adding section 5a.

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

Senator Koivisto introduced

Senate Bill No. 342, entitled

A bill to make, supplement, and adjust appropriations for the department of management and budget for the fiscal year ending September 30, 2002; to provide for the expenditure of the appropriations; and to prescribe certain conditions for the appropriations.

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

Senators Koivisto, Hart, DeBeaussaert, Byrum, North, Gougeon, Stille, Dingell, McCotter, McManus, Cherry, Bennett, Emerson and Smith introduced

Senate Bill No. 343, entitled

A bill to amend 1976 PA 388, entitled “Michigan campaign finance act,” by amending section 33 (MCL 169.233), as amended by 1999 PA 238.

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

Senator Byrum introduced

Senate Bill No. 344, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending sections 7212 and 7401 (MCL 333.7212 and 333.7401), section 7212 as amended by 1998 PA 248 and section 7401 as amended by 2000 PA 314.

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

Senators Schuette, Hammerstrom, Johnson and Emmons introduced

Senate Bill No. 345, entitled

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding section 3516. The bill was read a first and second time by title and referred to the Committee on Health Policy.

Senator Van Regenmorter introduced

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.

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

Senator Bullard introduced

Senate Bill No. 347, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," by amending section 2503 (MCL 339.2503), as amended by 1990 PA 269.

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

Senator Bullard introduced

Senate Bill No. 348, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," by amending section 2503 (MCL 339.2503), as amended by 1990 PA 269.

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

Senator Bullard introduced

Senate Bill No. 349, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 2431, 2558, 3216, 3220, 3232, 3240, 3248, 3252, and 3272 (MCL 600.2431, 600.2558, 600.3216, 600.3220, 600.3232, 600.3240, 600.3248, 600.3252, and 600.3272), section 2558 as amended by 1996 PA 214 and section 3240 as amended by 2000 PA 380, and by adding section 2421h.

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

House Bill No. 4222, entitled

A bill to amend 1905 PA 282, entitled "An act to provide for the assessment of the property, by whomsoever owned, operated or conducted, of railroad companies, union station and depot companies, telegraph companies, telephone companies, sleeping car companies, express companies, car loaning companies, stock car companies, refrigerator car companies, and fast freight companies, and all other companies owning, leasing, running or operating any freight, stock, refrigerator, or any other cars, not being exclusively the property of any railroad company paying taxes upon its rolling stock under the provisions of this act, over or upon the line or lines of any railroad or railroads in this state, and for the levy of taxes thereon by a state board of assessors, and for the collection of such taxes, and to repeal all acts or parts of acts contravening any of the provisions of this act," by amending sections 12 and 13 (MCL 207.12 and 207.13), as amended by 1995 PA 257.

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 Local, Urban and State Affairs.

House Bill No. 4223, entitled

A bill to amend 1911 PA 44, entitled "An act to create a state board of equalization; to prescribe its powers and duties; to provide that said board shall be furnished with certain information by the several boards of supervisors and by the state tax commission; to provide for meeting the expense authorized by this act, and to repeal all acts or parts of acts contravening the provisions of this act," by amending sections 4 and 5 (MCL 209.4 and 209.5), section 4 as amended by 1986 PA 143 and section 5 as amended by 1981 PA 52.

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 Local, Urban and State Affairs.

House Bill No. 4384, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 622 (MCL 380.622), as amended by 1997 PA 47.

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 Education.

House Bill No. 4429, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1201 (MCL 380.1201).

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 Education.

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

The motion prevailed.

Senator Byrum's statement is as follows:

I have a special woman with me today, Gloria Denning. Gloria has been a dedicated public servant and employee of the Michigan Legislature for the past ten years. She spent many of those years working for former Senator Virgil Smith and just recently in my Senate office. Gloria has taken a new position with United States Senator Debbie Stabenow, so she will be leaving the employ of the Michigan Legislature.

I wanted to present a special tribute to Gloria today and to acknowledge her dedicated service to all of us. I also wanted to make sure you knew that the Senators Gloria worked for were made very efficient and that she did outstanding constituent work which was to the benefit of the public whom we all have served. So I would like to present this special tribute to Gloria.

Recess

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

The motion prevailed, the time being 10:24 a.m.

10:35 a.m.

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

By unanimous consent the Senate returned to the order of

Third Reading of Bills

The following bill was read a third time:

Senate Bill No. 272, entitled

A bill to amend 2000 PA 296, entitled "An act to make appropriations for the department of community health and certain state purposes related to mental health, public health, and medical services for the fiscal year ending September 30, 2001; to provide for the expenditure of those appropriations; to create funds; to require and provide for reports; to prescribe the powers and duties of certain local and state agencies and departments; to provide for disposition of fees and other income received by the various state agencies; and to repeal acts and parts of acts," by adding section 418.

The question being on the passage of the bill,

Senator Gougeon offered the following amendment:

1. Amend page 1, line 1, by striking out all of section 418 and inserting:

"SEC. 418. (1) FROM THE FUNDS APPROPRIATED IN SECTION 104 FOR MEDICAID MENTAL HEALTH SERVICES AND MEDICAID SUBSTANCE ABUSE SERVICES, FOR EACH MONTH OF FISCAL YEAR 2000-01 BEGINNING ON APRIL 1, 2001, THE DEPARTMENT SHALL INCREASE THE BASE CAPITATION PAYMENT RATE TO EACH COMMUNITY MENTAL HEALTH BOARD FOR MENTAL HEALTH SERVICES BY 6.3%, SERVICES FOR THE DEVELOPMENTALLY DISABLED BY 4.9%, AND SUBSTANCE ABUSE SERVICES BY 7.5%. THIS SUBSECTION REPLACES THE DEPARTMENT'S FORMULA FOR DETERMINING THE AMOUNT OF REIMBURSEMENT FOR RETROACTIVE MEDICAID ELIGIBLES FOR MENTAL HEALTH SERVICES, SERVICES TO THE DEVELOPMENTALLY DISABLED, AND SUBSTANCE ABUSE SERVICES TO COMMUNITY MENTAL HEALTH BOARDS USED BY THE DEPARTMENT PRIOR TO THE EFFECTIVE DATE OF THIS AMENDATORY ACT.

(2) TO IMPLEMENT THE CAPITATION RATE INCREASES IN SUBSECTION (1), FOR EACH MONTH OF FISCAL YEAR 2000-01 BEGINNING ON APRIL 1, 2001, THE DEPARTMENT SHALL ADJUST THE CAPITATION PAYMENT TO EACH COMMUNITY MENTAL HEALTH BOARD BY MODIFYING THAT COMMUNITY MENTAL HEALTH BOARD'S INTENSITY FACTOR TO REFLECT THAT COMMUNITY MENTAL HEALTH BOARD'S NUMBER OF RETROACTIVE ELIGIBLE MONTHS AS A PERCENTAGE OF TOTAL MEDICAID ELIGIBLE MONTHS. FOR EACH MONTH OF FISCAL YEAR 2000-01 BEGINNING ON APRIL 1, 2001, THE DEPARTMENT SHALL ONLY MAKE MONTHLY CAPITATION PAYMENTS TO A COMMUNITY MENTAL HEALTH BOARD FOR INDIVIDUALS ELIGIBLE FOR MEDICAID FOR THAT MONTH. IF THIS SUBSECTION CANNOT BE IMPLEMENTED ON APRIL 1, 2001 BECAUSE PROGRAMMING CHANGES IN THE DEPARTMENT'S PAYMENT SYSTEM ARE REQUIRED, THE CURRENT MEDICAID RETROACTIVE REIMBURSEMENT METHODOLOGIES WILL REMAIN IN EFFECT UNTIL THE FIRST DAY OF THE MONTH FOLLOWING THE MONTH THAT THE SYSTEM PROGRAMMING CHANGES HAVE BEEN EFFECTED.

(3) THE DEPARTMENT SHALL IMMEDIATELY CONVENE AN ADVISORY GROUP COMPRISED OF DEPARTMENT OF COMMUNITY HEALTH AND STATE BUDGET OFFICE STAFF, UP TO 4 REPRESENTATIVES FROM THE MICHIGAN ASSOCIATION OF COMMUNITY MENTAL HEALTH BOARDS, AND THE CHAIRPERSONS OF THE SENATE AND HOUSE APPROPRIATIONS SUBCOMMITTEES ON COMMUNITY HEALTH OR THEIR DESIGNEES, TO MONITOR THE DEPARTMENT'S COMPLIANCE WITH THE CAPITATION RATE INCREASES REQUIRED UNDER SUBSECTION (1).

(4) ALL OF THE FOLLOWING APPLY TO APPROPRIATIONS FOR MEDICAID MENTAL HEALTH SERVICES OR MEDICAID SUBSTANCE ABUSE SERVICES IN FISCAL YEAR 2000-01:

(A) THE DEPARTMENT SHALL NOT TRANSFER OR LAPSE ANY SPENDING AUTHORIZATION FROM EITHER THE MEDICAID MENTAL HEALTH SERVICES OR MEDICAID SUBSTANCE ABUSE SERVICES LINE ITEMS.

(B) IF AGGREGATE CAPITATION PAYMENTS FAIL TO EXHAUST THE SPENDING AUTHORIZATION OF THESE LINE ITEMS BY THE END OF FISCAL YEAR 2000-01, THE DEPARTMENT SHALL DISTRIBUTE THE REMAINING FUNDS TO EACH COMMUNITY MENTAL HEALTH BOARD BASED ON A FORMULA THAT REFLECTS EACH COMMUNITY MENTAL HEALTH BOARD'S FISCAL YEAR 2000-01 TOTAL MEDICAID CAPITATION PAYMENTS AS A PROPORTION OF THE FISCAL YEAR 2000-01 TOTAL MEDICAID ELIGIBLE CAPITATION PAYMENTS FOR ALL COMMUNITY MENTAL HEALTH BOARDS.

(C) IF CHANGES IN CASELOAD OR CASE MIX AFTER MARCH 31, 2001 RESULT IN EXPENDITURE INCREASES NOT OTHERWISE FUNDED UNDER THE SPENDING AUTHORIZATION FROM EITHER THE MEDICAID MENTAL HEALTH SERVICES OR MEDICAID SUBSTANCE ABUSE SERVICES LINE ITEMS, THE STATE BUDGET DIRECTOR SHALL RECOMMEND A TRANSFER OR SUPPLEMENTATION OF FUNDS SUFFICIENT TO OFFSET THE INCREASE IN EXPENDITURES.”.

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

Senator Johnson offered the following amendment:

1. Amend page 3, following line 2, following subdivision (C), by inserting:

“(5) THE CHANGE FROM RETROSPECTIVE TO PROSPECTIVE PAYMENTS FOR PERIODS OF RETROACTIVE ELIGIBILITY SHALL NOT BE IMPLEMENTED UNTIL THE DEPARTMENT HAS FILED A WAIVER AMENDMENT WITH, AND RECEIVED APPROPRIATE APPROVALS FROM, THE HEALTH CARE FINANCING ADMINISTRATION TO IMPLEMENT SUCH A CHANGE.

(6) THE DEPARTMENT SHALL RETAIN THE ABILITY TO IDENTIFY AND REPORT TO COMMUNITY MENTAL HEALTH BOARDS THE MONTHS OF RETROACTIVE ELIGIBILITY IN ORDER TO FACILITATE THE APPROPRIATE APPLICATION OF MEDICAID FUNDS TO THESE INDIVIDUALS.”.

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

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 27

Yeas—35

Bennett
Bullard
Byrum
Cherry
DeBeaussaert
DeGrow

Emmons
Gast
Goschka
Gougeon
Hammerstrom
Hart

Koivisto
Leland
McCotter
McManus
Miller
Murphy

Schwarz
Shugars
Sikkema
Smith
Steil
Stille

Dingell
Dunaskiss
Emerson

Hoffman
Jaye
Johnson

North
Peters
Schuette

Van Regenmorter
Young

Nays—0

Excused—1

Vaughn

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Senators Van Regenmorter, Bennett, Smith, Peters, Miller, DeBeaussaert, Byrum, McManus, North, Steil, Sikkema and Schuette moved that they be named co-sponsors of the following bill:

Senate Bill No. 272

The motion prevailed.

Committee Reports

The Committee on Government Operations reported

Senate Bill No. 315, entitled

A bill to establish Holocaust remembrance week in the state of Michigan.

With the recommendation that the bill pass.

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

Thaddeus G. McCotter
Chairperson

To Report Out:

Yeas: Senators McCotter, Hammerstrom, Sikkema and Byrum

Nays: None

The bill was referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Government Operations submits the following:

Meeting held on Thursday, March 15, 2001, at 11:01 a.m., Room 405, Capitol Building

Present: Senators McCotter (C), Hammerstrom, Sikkema and Byrum

Excused: Senator Miller

Scheduled Meetings

Appropriations - Wednesday, March 21, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

Subcommittees -

Higher Education - Friday, April 20, 10:00 a.m., University of Michigan-Flint, Harding Mott University Center, corner of Kearsley Street and southbound Chavez, Flint; Monday, April 23, 10:00 a.m., Grand Valley State University, Grand Rapids Campus-DeVos Center, 401 W. Fulton Street, Grand Rapids; Friday, May 4, 10:00 a.m., Concordia College, Student Union-Riverside Rooms A, B, and C, 4090 Geddes Road, Ann Arbor; Friday, May 11, 10:00 a.m., Lake Superior State University, Cisler Center, 650 W. Easterday Avenue, Sault Ste. Marie; and Tuesday, May 15, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-3447)

Retirement - Tuesday, March 27, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-1777)

Families, Mental Health and Human Services - Wednesday, March 28, 3:00 p.m., Room 100, Farnum Building (373-3543)

Human Resources and Labor - Wednesday, March 28, 1:00 p.m. or later immediately following session, Room 110, Farnum Building (373-1801)

Judiciary - Wednesday, March 21, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-6920)

Legislative Retirement Board of Trustees - Wednesday, March 21, 3:00 p.m., Room H65, Capitol Building (373-1725)

Local, Urban and State Affairs - Wednesday, March 21, 2:30 p.m., Exhibit Hall A, Lansing Center, Lansing (373-1707)

Senator Emmons moved that the Senate adjourn.
The motion prevailed, the time being 10:47 a.m.

The President, Lieutenant Governor Posthumus, declared the Senate adjourned until Wednesday, March 21, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

