

**No. 21**  
**JOURNAL OF THE SENATE**

---

Senate Chamber, Lansing, Wednesday, March 14, 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—excused  
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 Kenneth R. Sikkema of the 31st District offered the following invocation:

Lord, as we begin our day, we bow before You acknowledging that You are the Giver of all that is good. We thank you for the opportunity You've given each of us to serve. We are mindful of our obligations and responsibilities to consider the needs not just of our own district, but of the needs of the entire state. Bless our work both in this chamber and in our committees throughout the day. This and more we ask in Your name. Amen.

### Motions and Communications

The following communication was received:  
Office of the Auditor General

March 9, 2001

Enclosed is a copy of the following audit report and/or executive digest:  
Performance Audit of Performance Pay Programs, March 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, March 13:  
**House Bill Nos. 4190 4234**

Senators Murphy, Schuette, DeGrow, Young and Cherry entered the Senate Chamber.

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

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

Senator Jaye entered the Senate Chamber.

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

### Messages from the Governor

The following message from the Governor was received and read:

March 13, 2001

Please be advised of the following correction:

#### **Michigan Potato Industry Commission**

Mr. Paul J. Groulx, 1143 E. Munger Road, Munger, Michigan 48747, county of Bay, as a member representing growers in District 5, succeeding Mr. Thomas Paul Bishop of Pinconning, who has resigned, for a term expiring on July 1, 2004.

Sincerely,  
John Engler  
Governor

The appointment was referred to the Committee on Government Operations.

Senator Dunaskiss entered the Senate Chamber.

### 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 Stille 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 with a substitute therefor, the following bill:

**Senate Bill No. 56, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 2891 (MCL 333.2891), as amended by 1992 PA 78.

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.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

**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.

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.

### Resolutions

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

**Senate Resolution No. 26**

The resolution consent calendar was adopted.

Senator North offered the following resolution:

**Senate Resolution No. 26.**

A resolution to commemorate the life of Kirk Schaller of Petoskey.

Whereas, It is with deep sadness that we learned of the passing of Kirk Schaller, a caring person who enriched the lives of many; and

Whereas, With genuine respect for his legacy of accomplishments, we join together in extending our condolences to his family and many friends. He will be sincerely missed and long remembered; and

Whereas, The life of Kirk is a study of the power of hard work, dedication, and commitment to his career, his family, and his friends. Known by many as a "newspaperman extraordinaire," we are clearly grateful for his achievements. His leadership, concern, and contributions earned the respect of his colleagues in the newspaper business throughout the state; and

Whereas, Indeed he was admired and highly respected throughout northern Michigan for his generosity and fortitude—two characteristics that, combined, helped to make him a gentleman who gained strength from giving to others; and

Whereas, In every endeavor during his productive lifetime, Kirk displayed integrity and dignity. He earned much respect, and his passing leaves an unfillable void; and

Whereas, His passion for sailing and downhill skiing took him to all corners of the globe and resulted in many lifelong friendships; now, therefore, be it

Resolved by the Senate, That we commemorate the life of Kirk Schaller and share in the bereavement of the Schaller family. We recognize that the legacy of accomplishments of this distinguished man will long continue; and be it further

Resolved, That a copy of this resolution be transmitted to the family of Kirk Schaller to express our sympathy and to honor his life. May they know of the respect and affection that is held for him and his life's work.

Senator Emmons offered the following resolution:

**Senate Resolution No. 25.**

A resolution to amend the Standing Rules of the Senate.

Resolved by the Senate, That Rule 1.101 of the Standing Rules of the Senate be hereby amended to read as follows: "1.101 PRESIDING OFFICER

a) The Lieutenant Governor shall be the President of the Senate and shall preside over all sessions of the Senate or, in his or her absence, the President pro tempore, Assistant President pro tempore, ~~or~~ Associate President pro tempore, OR ASSISTANT ASSOCIATE PRESIDENT PRO TEMPORE shall preside.

b) The Lieutenant Governor may vote only when the Senators are equally divided in their vote (see Const. Art. 5, Sec. 25).

c) In the absence of the President of the Senate, President pro tempore, Assistant President pro tempore, ~~or~~ Associate President pro tempore, OR ASSISTANT ASSOCIATE PRESIDENT PRO TEMPORE, the Secretary of the Senate shall preside until the Senate shall appoint a Senator to act as presiding officer or until the President of the Senate, President pro tempore, Assistant President pro tempore, ~~or~~ Associate President pro tempore, OR ASSISTANT ASSOCIATE PRESIDENT PRO TEMPORE shall appear. In the absence of all, or all but one Senator, the Secretary of the Senate shall preside.”

; and be it further

Resolved, That Rule 1.104 of the Standing Rules of the Senate be hereby amended to read as follows:

**“1.104 ELECTION OF SENATE OFFICERS**

a) A President pro tempore, Assistant President pro tempore, ~~and~~ Associate President pro tempore, AND ASSISTANT ASSOCIATE PRESIDENT PRO TEMPORE shall be elected by a vote of a majority of the Senators elected and serving. They shall be elected at the first session of a quadrennium. All officers elected by the Senate are to hold office until their successors are elected and qualified or until the expiration of their term, whichever occurs first.

b) Prior to the commencement of the quadrennium session, the majority party shall meet in an organizational caucus and elect a Majority Leader, Majority Floor Leader, Majority Whip, Majority Caucus Chairperson, Assistant Majority Leader, Assistant Majority Floor Leader, Assistant Majority Whip, and Assistant Majority Caucus Chairperson. At a similar organizational caucus, the minority party shall elect a Minority Leader, Minority Floor Leader, Minority Whip, Minority Caucus Chairperson, Assistant Minority Leader, Assistant Minority Floor Leader, Assistant Minority Whip, and Assistant Minority Caucus Chairperson.

c) All majority party Senate Officers shall serve at the pleasure of the majority party caucus. All minority party Senate Officers shall serve at the pleasure of the minority party caucus.

d) All majority and minority caucuses shall be subject to the provisions of the Section 8 of the Open Meetings Act (see MCL 15.268).”

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, a majority of the members serving voting therefor.

By unanimous consent the Senate returned to the order of

**Motions and Communications**

Senator Emmons moved that rule 3.902 be suspended to allow the guests of the Secretary of the Senate admittance to the Senate floor.

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

**Assistant Associate President Pro Tempore**

The President, Lieutenant Governor Posthumus, announced that the next order of business was the election of the Assistant Associate President pro tempore of the Senate.

Senator Cherry nominated Senator Miller as Assistant Associate President pro tempore of the Senate.

Senator Emmons seconded the nomination.

The question being on the election of Senator Miller as Assistant Associate President pro tempore of the Senate,

The election was approved, a majority of the members serving voting therefor, as follows:

**Roll Call No. 25**

**Yeas—34**

Bennett	Emmons	Koivisto	Schwarz
Bullard	Gast	Leland	Shugars
Byrum	Goschka	McCotter	Sikkema
Cherry	Gougeon	Miller	Smith
DeBeaussaert	Hammerstrom	Murphy	Steil

DeGrow  
Dingell  
Dunaskiss  
Emerson

Hart  
Hoffman  
Jaye  
Johnson

North  
Peters  
Schuette

Stille  
Van Regenmorter  
Young

**Nays—0**

**Excused—2**

McManus

Vaughn

**Not Voting—0**

In The Chair: President

### **Oath of Office**

The Assistant Associate President pro tempore, Senator Miller, took and subscribed to the Constitutional Oath of Office, which was administered by the President, Lieutenant Governor Posthumus, and entered upon the discharge of his respective duties.

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

The motion prevailed.

Senator Cherry's statement is as follows:

I know that all of us appreciate that this office is an important one because the business of this body depends upon presiding officers who conduct the business of the Senate in a fair and impartial, understanding way. I know that there is no question that Senator Art Miller is held in that regard on both sides of the aisle in this institution.

Art Miller has served in this institution for a number of years. I believe Art is our highest serving, highest seniority member, of this body. He certainly has served Democrats as their leader for a period of time longer than any other individual has served as Democratic leader in this state's history. We clearly cherish Art as a colleague, as a member of the institution, and as a friend. I have no doubt that when Art is called upon to chair the body that he will do so in the manner that we all believe is important: in a fair, impartial way, showing no favoritism to one side or other.

It gives me great honor to stand here today, Mr. President, and offer Art's name in nomination. Art was the leader when I came to the Senate. He was a mentor. He was a guide. He's been that to every member who has served this body. Mr. President, I would urge not only his nomination, but his election to the position.

The Assistant Associate President pro tempore, Senator Miller, assumed the Chair.

By unanimous consent the Senate proceeded to the order of

### **Introduction and Referral of Bills**

Senators Emmons, Hammerstrom and Stille introduced

#### **Senate Bill No. 323, entitled**

A bill to require warranties on new manufactured homes; to require certain repairs to manufactured homes; and to provide remedies for the failure to repair.

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

Senators Hammerstrom, Young, North, McCotter, Bullard, Byrum, Johnson and Dunaskiss introduced

#### **Senate Bill No. 324, entitled**

A bill to amend 1975 PA 228, entitled "Single business tax act," (MCL 208.1 to 208.145) by adding section 39d.

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

Senators Hammerstrom, North, Young, Smith, Shugars, Schwarz, Byrum, Johnson and Dunaskiss introduced  
**Senate Bill No. 325, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16186 and 16263 (MCL 333.16186 and 333.16263), section 16186 as amended by 1993 PA 80 and section 16263 as amended by 2000 PA 11, and by adding section 16338 and part 186.

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

Senators Hart, Leland, Cherry, Young, Emerson, Murphy, North, Byrum, Koivisto, Miller, Smith, Dingell, McCotter and DeBeaussaert introduced

**Senate Bill No. 326, entitled**

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding section 1292.

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

Senator Schwarz introduced

**Senate Bill No. 327, entitled**

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 7o (MCL 211.7o), as amended by 2000 PA 309.

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

Senator Jaye introduced

**Senate Bill No. 328, entitled**

A bill to amend 1974 PA 258, entitled "Mental health code," (MCL 330.1001 to 330.2106) by adding chapter 10A.

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

Senator Jaye introduced

**Senate Bill No. 329, entitled**

A bill to amend 1927 PA 372, entitled "An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act," by amending section 5b (MCL 28.425b), as added by 2000 PA 381.

The bill was read a first and second time by title and referred to the Committee on Hunting, Fishing and Forestry.

Senator Jaye introduced

**Senate Bill No. 330, entitled**

A bill to amend 1927 PA 372, entitled "An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license; to provide for the forfeiture of firearms possessed in violation of this act; to provide for penalties and remedies for violations of this act; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending section 2 (MCL 28.422), as amended by 1994 PA 338.

The bill was read a first and second time by title and referred to the Committee on Hunting, Fishing and Forestry.

**House Bill No. 4190, entitled**

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending section 96 (MCL 388.1696), as added by 2000 PA 297.

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 Appropriations.

**House Bill No. 4234, entitled**

A bill to amend 1993 PA 354, entitled "Railroad code of 1993," by amending section 315 (MCL 462.315).

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 Transportation and Tourism.

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

The motion prevailed.

Senator Emmons' statement is as follows:

I also have some people up in the Gallery today who are connected very closely to the bill that I just introduced—the Daymons from Montcalm County. Mike is a tribute to a person who makes a difference, who decided that he was not going to stand still for injustice. And even though my bill will not help Mike and his wife Katherine, he knows that somebody else is not going to have to go through the nonsense that he went through and will be protected from unscrupulous people who put together manufactured housing that's below standard.

So I'd like you to welcome Mike. For all the people that this bill helps, that person standing in the Gallery is the person who pushed this along, and we want to thank you.

### Committee Reports

The Committee on Natural Resources and Environmental Affairs reported

#### **Senate Bill No. 109, 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," (MCL 691.1401 to 691.1415) by adding section 16.

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.

Ken Sikkema  
Chairperson

To Report Out:

Yeas: Senators Sikkema, Dunaskiss, Gast and Peters

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 Natural Resources and Environmental Affairs submits the following:

Meeting held on Tuesday, March 13, 2001, at 1:00 p.m., Room 810, Farnum Building

Present: Senators Sikkema (C), Dunaskiss, Gast and Peters

Excused: Senator Young

### COMMITTEE ATTENDANCE REPORT

The Subcommittee on Family Independence Agency submits the following:

Meeting held on Tuesday, March 6, 2001, at 1:30 p.m., Room 210, Farnum Building

Present: Senators Goschka (C), Gougeon and Murphy

### COMMITTEE ATTENDANCE REPORT

The Subcommittee on Community Health submits the following:

Meeting held on Tuesday, March 13, 2001, at 11:00 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Gougeon (C), Schwarz, Johnson, Smith and Murphy

### COMMITTEE ATTENDANCE REPORT

The Subcommittee on General Government submits the following:

Meeting held on Tuesday, March 13, 2001, at 1:15 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Schwarz (C), Johnson and Young

**COMMITTEE ATTENDANCE REPORT**

The Subcommittee on Family Independence Agency submits the following:  
Meeting held on Tuesday, March 13, 2001, at 1:30 p.m., Room 210, Farnum Building  
Present: Senators Goschka (C), Gougeon and Murphy

**COMMITTEE ATTENDANCE REPORT**

The Subcommittee on Career Development Strategic Fund Agency submits the following:  
Meeting held on Tuesday, March 13, 2001, at 3:00 p.m., Senate Appropriations, 3rd Floor, Capitol Building  
Present: Senators Johnson (C), Stille and Dingell

**Scheduled Meetings**

**Appropriations** - Tuesday, March 20, and Wednesday, March 21, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-6960)

**Subcommittees -**

**Community Health** - Tuesday, March 20, 12:00 noon, Senate Appropriations Room, 3rd Floor, Capitol Building (373-1777)

**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, Cislser 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)

**State Police and Military Affairs** - Thursday, March 15, 8:30 a.m., Room 110, Farnum Building (373-2426)

**Government Operations** - Thursday, March 15, 11:00 a.m., Room 405, Capitol Building (373-1707)

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

Senator Emmons moved that the Senate adjourn.  
The motion prevailed, the time being 10:35 a.m.

The Assistant Associate President pro tempore, Senator Miller, declared the Senate adjourned until Thursday, March 15, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate.