

No. 33
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Senate Chamber, Lansing, Wednesday, April 21, 1999.

10:00 a.m.

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

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—excused
North—present
Peters—present

Rogers—present
Schuette—present
Schwarz—present
Shugars—present
Sikkema—present
A. Smith—present
V. Smith—present
Steil—present
Stille—present
Van Regenmorter—present
Vaughn—present
Young—present

Senator George Z. Hart of the 6th District offered the following invocation:

On this day, let us dedicate this prayer in memory of the victims and their families in Colorado:

Our Father Who art in heaven, halloweth be Thy name,

Thy kingdom come;

Thy will be done, on earth as it is in heaven.

Give us this day our daily bread and forgive us our trespasses as we forgive those who trespass against us.

Lead us not into temptation but deliver us from evil,

For Thine is the kingdom and the power and the glory forever. Amen.

Senator Bullard entered the Senate Chamber.

Motions and Communications

Senator V. Smith moved that Senator Miller be temporarily excused from today's session.

The motion prevailed.

Senator V. Smith moved that Senator Murphy be excused from today's session.

The motion prevailed.

Senator Rogers moved that Senator Goschka be temporarily excused from today's session.

The motion prevailed.

Senator Rogers moved that rule 3.901 be suspended to allow staff photographers to take photographs from the Gallery. The motion prevailed, a majority of the members serving voting therefor.

Senators Emerson, Miller and Jaye entered the Senate Chamber.

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, April 20:
House Bill Nos. 4019 4020 4026 4359 4394

The Secretary announced the enrollment printing and presentation to the Governor on Tuesday, April 20, for his approval the following bills:

Enrolled Senate Bill No. 58 at 2:24 p.m.

Enrolled Senate Bill No. 336 at 2:26 p.m.

By unanimous consent the Senate proceeded to the order of

General Orders

Senator Rogers 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 pro tempore, Senator Schwarz, designated Senator Young as Chairperson.

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

Senate Bill No. 374, entitled

A bill to amend 1996 PA 376, entitled "Michigan renaissance zone act," by amending section 10 (MCL 125.2690), as amended by 1998 PA 239.

House Bill No. 4318, entitled

A bill to amend 1971 PA 227, entitled "An act to prescribe the rights and duties of parties to home solicitation sales," by amending section 1 (MCL 445.111), as amended by 1998 PA 126.

Senate Bill No. 57, entitled

A bill to amend 1990 PA 187, entitled “The pupil transportation act,” by amending sections 5, 7, 10, 10a, 17, 19, and 55 (MCL 257.1805, 257.1807, 257.1810, 257.1810a, 257.1817, 257.1819, and 257.1855), section 7 as amended by 1992 PA 227, section 10 as amended by 1996 PA 191, section 10a as added by 1990 PA 322, and section 55 as amended by 1991 PA 184.

The bills were 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. 53, entitled

A bill to amend 1976 PA 451, entitled “The revised school code,” (MCL 380.1 to 380.1852) by adding section 1284b.

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, Senators Stille, Goschka, Schuette and Dunaskiss entered the Senate Chamber.

By unanimous consent the Senate returned to the order of

Messages from the House

Senate Bill No. 125, entitled

A bill to amend 1949 PA 300, entitled “Michigan vehicle code,” by amending sections 320a and 732 (MCL 257.320a and 257.732), section 320a as amended by 1998 PA 350 and section 732 as amended by 1998 PA 348.

The House of Representatives has passed the bill, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

Senator Rogers moved that the bill be given immediate effect.

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

The Senate agreed to the full title.

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

Senate Bill No. 126, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 81134, 81135, 82128, 82129, and 82141 (MCL 324.81134, 324.81135, 324.82128, 324.82129, and 324.82141), section 81134 as amended by 1998 PA 355 and sections 81135, 82128, 82129, and 82141 as added by 1995 PA 58.

The House of Representatives has amended the bill as follows:

1. Amend page 7, following line 8, section 82128, subsection (5), after “than” by striking out “90” and inserting “93”.

The House of Representatives has passed the bill as amended, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title.

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

Senator Rogers moved that the rule be suspended.

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

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

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

Roll Call No. 133

Yeas—36

Bennett	Gast	Leland	Shugars
Byrum	Goschka	McCotter	Sikkema
Cherry	Gougeon	McManus	Smith, A.
DeBeaussaert	Hammerstrom	Miller	Smith, V.
DeGrow	Hart	North	Steil
Dingell	Hoffman	Peters	Stille
Dunaskiss	Jaye	Rogers	Van Regenmorter
Emerson	Johnson	Schuette	Vaughn
Emmons	Koivisto	Schwarz	Young

Nays—0

Excused—1

Murphy

Not Voting—1

Bullard

In The Chair: President

Senator Rogers moved that the bill be given immediate effect.

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

The Senate agreed to the full title.

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

By unanimous consent the Senate proceeded to the order of

Resolutions

House Concurrent Resolution No. 26.

A concurrent resolution to memorialize the Congress of the United States to enact legislation to affirm the regulation of insurance matters by the states.

Whereas, In 1994, the Michigan Legislature passed legislation (HB 5281) granting lending institutions the authority to sell all lines of insurance; and

Whereas, That legislation, which became 1994 PA 409, includes necessary consumer and fair market protections, such as requiring the separation of lending and insurance transactions; prohibitions against offering or discussing insurance while a loan transaction is pending; requiring separate lending and insurance areas; requirements for full written disclosures to customers; and inclusion of strong prohibitions against sharing confidential insurance-related information in bank loan files with bank-affiliated agencies; and

Whereas, In a joint letter published November 7, 1994, HB 5281 was lauded and strongly supported by the Michigan Bankers Association, Michigan Association of Insurance Agents, Michigan League of Savings Institutions, Michigan Association of Life Underwriters, Michigan Chamber of Commerce, Michigan Consumer Federation, Michigan Credit Union League, Small Business Association of Michigan, Michigan Association of Credit Unions, Michigan Retail Hardware Association, Greater Detroit Chamber of Commerce, and National Electrical Contractors Association (Michigan Chapter); and

Whereas, In 1995, the Rhode Island Legislature resoundingly passed legislation substantially similar to Michigan law, granting lending institutions the authority to sell insurance; and

Whereas, The Comptroller of the Currency is an appointed, federal bureaucrat who has a track record of promulgating regulations that serve to expand bank insurance powers. These new insurance activities, deemed to be banking issues by the Comptroller, often conflict with established state laws; and

Whereas, On January 13, 1997, the Office of the Comptroller of the Currency (OCC) issued a request for comments on Rhode Island's Financial Institution Insurance Sales Act to assist in the determination as to whether Section 92 of the Federal Bank Act provided the Comptroller of the Currency sufficient authority to preempt Rhode Island's banks-in-insurance statute; and

Whereas, The McCarran-Ferguson Act of 1945 relegates authority to the individual states for regulation of the insurance activities of all entities; and

Whereas, The preemption of state insurance laws by an unelected federal bureaucrat is in direct conflict with the fifty-four-year tradition of state regulation of insurance under McCarran-Ferguson and thereby raises vitally important questions of states' rights and the primacy of duly elected representatives to enact laws governing insurance activities within their state borders; and

Whereas, In the Eighty-ninth Michigan Legislature, Michigan's Senate Majority and Minority Leaders, Speaker of the House and House Minority Leader, members of the Senate Financial Services Committee, and Majority and Minority Chairs of the House Insurance and Banking Committees all delivered letters to the Comptroller of the Currency forcefully opposing the OCC's desire to preempt Rhode Island's banks-in-insurance statute; and

Whereas, The National Association of Insurance Commissioners (NAIC); National Conference of State Legislators (NCSL); and the National Conference of Insurance Legislators (NCOIL) all submitted letters strongly opposing the Comptroller of the Currency's desire to preempt state insurance law; and

Whereas, In past court disputes between federal banking and state insurance regulators, federal courts have granted "unequal deference" to federal regulators, thereby rendering decisions based not on the merits of the case, but on deference to the federal regulator; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we memorialize the Congress of the United States to enact legislation to affirm the authority of the states to regulate insurance matters, including preventing the Office of the Comptroller of the Currency from preempting state laws regulating the sale of insurance through lending institutions and ending the practice of federal regulators being able to be granted "unequal deference" in litigation between state and federal regulations on insurance matters; 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.

The House of Representatives has adopted the concurrent resolution.

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

Senator Rogers moved that the rule be suspended.

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

The question being on the adoption of the concurrent resolution,

Senator Rogers moved that the concurrent resolution be referred to the Committee on Financial Services.

The motion prevailed.

Senators Emmons and Goschka were named co-sponsors of the resolution.

By unanimous consent the Senate proceeded to the order of

Statements

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

The motion prevailed.

Senator Shugars' statement is as follows:

I am mortified, as the rest of you are, about the tragedy in Littleton, Colorado. My heart goes out to the community and the parents who have been impacted by this event.

But this issue is larger than gun control. While the effects of the gunmen's actions are clearly seen, at the core of this problem is what was their motivation? I know there are no easy answers, but I submit to you that our society is fostering a subculture amongst our youth by wrapping First Amendment protection around the activities of performers such as Marilyn Manson, who promotes such things as violence, hate, rape and illegal drug use. These demonic messages are dangerous seeds in what is becoming a spiritual warfare.

We need to be responsible and stand up to this. We, in part, have been irresponsible for not caring more about putting restrictions on such blatantly negative influences on our young people.

As we reflect on this tragedy and remember them in our prayers, let us also not forget the opportunity to impact this change. As you remember that last year I handed out some of the lyrics on this floor. Let me go back to Marilyn Manson, which two of the people who did this yesterday were listeners and promoters of the Satanism that Marilyn Manson promotes. Let me just read a little bit of it, and I won't get into the vile part. This is "Get Your Gun."

"The most that I can learn is in the wreckage you burn. Get your gun. Get your gun. Get your gun. Get your gun.

And good guys' badges don't mean a (expletive) to me. Get your gun. Get your gun. Get your gun."

In the name of decency and goodness and respect, I ask that Marilyn Manson volunteer to cancel tonight's performance in respect to the victims and the families in Littleton, Colorado.

By unanimous consent the Senate returned to the order of

Introduction and Referral of Bills

Senators Sikkema, Bennett, Stille, McCotter, Goschka, McManus, Gougeon, Van Regenmorter, Steil, North, Schuette, Rogers, Johnson, Hammerstrom, Schwarz, Gast and Dunaskiss introduced

Senate Bill No. 529, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 2511; and to repeal acts and parts of acts.

The bill was read a first and second time by title and referred to the Committee on Natural Resources and Environmental Affairs.

Senators Sikkema and Gast introduced

Senate Bill No. 530, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 12562 (MCL 333.12562), as amended by 1996 PA 67.

The bill was read a first and second time by title and referred to the Committee on Natural Resources and Environmental Affairs.

Senator Stille introduced

Senate Bill No. 531, entitled

A bill to amend 1994 PA 425, entitled "An act to provide for the creation of community swimming pool authorities; to provide powers and duties of the authorities; to provide for the levy of a tax by the authorities; and to provide for the collection and distribution of the tax," by amending section 1 (MCL 123.1061).

The bill was read a first and second time by title and referred to the Committee on Local, Urban and State Affairs.

Senators Jaye, McCotter and Goschka introduced

Senate Bill No. 532, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," (MCL 205.51 to 205.78) by adding section 4r.

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

Senator Steil introduced

Senate Bill No. 533, entitled

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending sections 17 and 20 (MCL 421.17 and 421.20), section 17 as amended by 1996 PA 535 and section 20 as amended by 1994 PA 162.

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

Senator Byrum introduced

Senate Bill No. 534, entitled

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," (MCL 550.1101 to 550.1704) by adding section 402c.

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

Senator DeBeaussaert introduced

Senate Bill No. 535, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 8807 (MCL 324.8807), as added by 1998 PA 287, and by adding section 8807a.

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

Senator DeBeaussaert introduced

Senate Bill No. 536, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 1301 and 1302.

The bill was read a first and second time by title and referred to the Committee on Natural Resources and Environmental Affairs.

House Bill No. 4019, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 7216 (MCL 333.7216).

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 Health Policy.

House Bill No. 4020, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 39 (MCL 211.39).

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 Finance.

House Bill No. 4026, entitled

A bill to amend 1976 PA 388, entitled "Michigan campaign finance act," by amending section 16 (MCL 169.216), as amended by 1992 PA 188.

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 Government Operations.

House Bill No. 4359, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 520a (MCL 750.520a), as amended by 1983 PA 158.

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 Judiciary.

House Bill No. 4394, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 81140a and 82147a.

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 Natural Resources and Environmental Affairs.

Committee Reports**COMMITTEE ATTENDANCE REPORT**

The Subcommittee on School Aid submits the following:

Meeting held on Thursday, April 15, 1999, at 5:00 p.m., Macomb Intermediate School District, 4401 Garfield Road, Clinton Township, Michigan

Present: Senators Stille (C), Bennett and DeBeaussaert

COMMITTEE ATTENDANCE REPORT

The Subcommittee on Community Health submits the following:

Meeting held on Tuesday, April 20, 1999, at 1:00 p.m., Room 110, Farnum Building

Present: Senators Gougeon (C), Schwarz, Bennett, Emerson and A. Smith

COMMITTEE ATTENDANCE REPORT

The Committee on Finance submits the following:

Meeting held on Tuesday, April 20, 1999, at 1:05 p.m., 8th Floor Conference Room, Farnum Building

Present: Senators Emmons (C), Bullard, Hammerstrom, Peters and Dingell

COMMITTEE ATTENDANCE REPORT

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

Meeting held on Tuesday, April 20, 1999, at 1:12 p.m., Room 210, Farnum Building

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

Scheduled Meeting

Natural Resources and Environmental Affairs Committee - Tuesday, April 27, at 2:30 p.m., 8th Floor Conference Room, Farnum Building (3-0797).

Senator Rogers moved that the Senate adjourn.
The motion prevailed, the time being 10:43 a.m.

The President, Lieutenant Governor Posthumus, declared the Senate adjourned until Thursday, April 22, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.