No. 40 STATE OF MICHIGAN

JOURNAL OF THE

House of Representatives

93rd Legislature REGULAR SESSION OF 2005

House Chamber, Lansing, Wednesday, May 11, 2005.

1:00 p.m.

The House was called to order by Associate Speaker Pro Tempore Elsenheimer.

The roll was called by the Clerk of the House of Representatives, who announced that a quorum was present.

Accavitti—present Acciavatti—present Adamini—present Amos—present Anderson—present Angerer—present Ball—present Baxter—present Bennett—present Bieda—present Booher—present Brandenburg—present Brown—present Byrnes—present Byrum—present Casperson—present Caswell—present Caul—present Cheeks—present Clack—present Clemente—present Condino—present Cushingberry—present DeRoche—present Dillon—present Donigan—present Drolet—present Elsenheimer—present

Emmons—present Espinoza—present Farhat—present Farrah—present Gaffney-present Garfield—present Gillard—present Gleason—present Gonzales-present Gosselin—present Green—present Hansen—present Hildenbrand—present Hood—present Hoogendyk—present Hopgood-present Huizenga—excused Hummel—present Hune—present Hunter-present Jones-present Kahn—present Kehrl—present Kolb-present Kooiman—present LaJoy—present Law, David—present Law, Kathleen—present

Lemmons, III—present Lemmons, Jr.—present Lipsey—present Marleau—present Mayes-present McConico—present McDowell—present Meisner-present Meyer—present Miller—present Moolenaar—present Moore—present Mortimer—present Murphy—present Newell—present Nitz-present Nofs—present Palmer—present Palsrok-present Pastor—present Pavlov—present Pearce—present Phillips—present Plakas—present

Polidori—present

Proos—present

Leland—present

Robertson—present Rocca—present Sak-present Schuitmaker—present Shaffer—present Sheen-present Sheltrown—present Smith, Alma—present Smith, Virgil—present Spade—present Stahl-present Stakoe—present Steil-present Stewart—present Taub—present Tobocman—present Vagnozzi-present Van Regenmorter—present Vander Veen—excused Walker-present Ward—present Waters—present Wenke—present Whitmer—present Williams-present Wojno-present Zelenko-excused

Rep. Dave Hildenbrand, from the 86th District, offered the following invocation:

"Dear Father in Heaven:

We pause before You today with humble hearts. Please guide our work in this historic Chamber.

Where there are differences, we ask for compromise.

Where there is frustration, we ask for understanding.

And where there is tension, we ask for peace.

May our work here be in the true spirit of Your will.

I also ask You to bless the men and women serving in our armed forces who risk their lives everyday so we may enjoy so many freedoms of Life, Liberty, and the Pursuit of Happiness.

And finally Lord, we thank You for the countless blessings in our everyday lives. Continue to watch over us and guide us.

In Your name we pray. AMEN."

Rep. Palmer moved that Reps. Huizenga and Vander Veen be excused from today's session. The motion prevailed.

Rep. Waters moved that Rep. Zelenko be excused from today's session.

The motion prevailed.

Reports of Standing Committees

The Speaker laid before the House

House Resolution No. 30.

A resolution to memorialize Congress to enact legislation allowing the Department of Commerce (DOC) to help shield children by establishing and requiring the .xxx domain name for adult-only web sites.

(For text of resolution, see House Journal No. 17, p. 247.)

(The resolution was reported by the Committee on Commerce on May 10, consideration of which, under the rules, was postponed until today.)

The question being on the adoption of the resolution,

The resolution was adopted.

The Speaker laid before the House

House Concurrent Resolution No. 10.

A concurrent resolution to memorialize Congress to enact legislation allowing the Department of Commerce (DOC) to help shield children by establishing and requiring the .xxx domain name for adult-only web sites.

(For text of concurrent resolution, see House Journal No. 28, p. 407.)

(The concurrent resolution was reported by the Committee on Commerce on May 10, consideration of which, under the rules, was postponed until today.)

The question being on the adoption of the concurrent resolution,

The concurrent resolution was adopted.

Second Reading of Bills

House Bill No. 4638, entitled

A bill to amend 1980 PA 523, entitled "Michigan code of military justice of 1980," by amending sections 2, 3, 4, 7, 8, 9, 13, 14, 15, 16, 25, 26, 27, 29, 80, 84, 85, 92, 94, 99, 103, 105, 107, 108, 112, 113, 132, and 134 (MCL 32.1002, 32.1003, 32.1004, 32.1007, 32.1008, 32.1009, 32.1013, 32.1014, 32.1015, 32.1016, 32.1025, 32.1026, 32.1027, 32.1029, 32.1080, 32.1084, 32.1085, 32.1092, 32.1094, 32.1099, 32.1103, 32.1105, 32.1107, 32.1108, 32.1112, 32.1113, 32.1132, and 32.1134), section 16 as amended by 1990 PA 300, and by adding sections 50a, 88, 109, and 121.

Was read a second time, and the question being on the adoption of the proposed substitute (H-1) previously recommended by the Committee on Veterans Affairs and Homeland Security,

The substitute (H-1) was adopted, a majority of the members serving voting therefor.

Rep. Garfield moved that the bill be placed on the order of Third Reading of Bills.

The motion prevailed.

House Bill No. 4446, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 17015 (MCL 333.17015), as amended by 2002 PA 685.

Was read a second time, and the question being on the adoption of the proposed substitute (H-1) previously recommended by the Committee on Health Policy,

The substitute (H-1) was adopted, a majority of the members serving voting therefor.

Rep. Robertson moved to amend the bill as follows:

- 1. Amend page 4, line 23, by striking out all of subdivision (**F**).
- 2. Amend page 6, line 16, after "(8)" by inserting "BEFORE OBTAINING THE PATIENT'S SIGNATURE ON THE ACKNOWLEDGMENT AND CONSENT FORM AS REQUIRED UNDER THIS SUBSECTION, A PHYSICIAN OR A QUALIFIED PERSON ASSISTING THE PHYSICIAN SHALL PERFORM AN ULTRASOUND ON THE PATIENT, PROVIDE THE PATIENT WITH AN OPPORTUNITY TO VIEW THE ACTIVE ULTRASOUND IMAGE OF THE FETUS, AND OFFER TO PROVIDE THE PATIENT WITH A PHYSICAL PICTURE OF THE ULTRASOUND IMAGE OF THE FETUS.".

The motion prevailed and the amendments were adopted, a majority of the members serving voting therefor.

Rep. Kahn moved to amend the bill as follows:

1. Amend page 12, following line 9, by inserting:

"(H) INCLUDE ON THE INFORMED CONSENT WEBSITE DEVELOPED UNDER SUBDIVISION (G) A LIST OF HEALTH CARE PROVIDERS, FACILITIES, AND CLINICS THAT OFFER TO PERFORM ULTRASOUNDS FREE OF CHARGE. THE LIST SHALL BE ORGANIZED GEOGRAPHICALLY AND SHALL INCLUDE THE NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH HEALTH CARE PROVIDER, FACILITY, AND CLINIC."

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

Rep. Adamini moved to amend the bill as follows:

1. Amend page 6, line 16, after "(8)" by inserting "BEFORE OBTAINING THE PATIENT'S SIGNATURE ON THE ACKNOWLEDGEMENT AND CONSENT FORM AS REQUIRED UNDER THIS SUBSECTION, A PHYSICIAN OR A QUALIFIED PERSON ASSISTING THE PHYSICIAN SHALL PROVIDE THE PATIENT WITH AN OPPORTUNITY TO VIEW THE ACTIVE ULTRASOUND IMAGE OF THE FETUS AND OFFER TO PROVIDE THE PATIENT WITH A PHYSICAL PICTURE OF THE ULTRASOUND IMAGE OF THE FETUS IF AN ULTRASOUND IS PERFORMED."

The question being on the adoption of the amendment offered by Rep. Adamini,

Rep. Adamini demanded the yeas and nays.

The demand was supported.

The question being on the adoption of the amendment offered by Rep. Adamini,

The amendment was not adopted, a majority of the members serving not voting therefor, by yeas and nays, as follows:

Roll Call No. 117 Yeas—36

Accavitti Condino Law, Kathleen **Phillips** Adamini Cushingberry Leland Smith, Alma Anderson Donigan Lemmons, III Smith, Virgil Bennett Farrah Lemmons, Jr. Stewart Bieda Gillard Lipsey Tobocman **Byrnes** Gonzales McConico Vagnozzi Byrum Hopgood Meisner Waters

Wojno

Cheeks Hunter Miller Whitmer Clack Kolb Murphy Williams

Nays-69

Acciavatti Gaffney Maves Robertson Garfield McDowell Angerer Rocca Ball Gleason Mever Sak Baxter Gosselin Moolenaar Schuitmaker Booher Green Moore Shaffer Brandenburg Hansen Mortimer Sheen Brown Hildenbrand Newell Sheltrown Casperson Hoogendyk Nitz Spade Caswell Hummel Nofs Stahl Caul Hune Palmer Stakoe Palsrok Clemente Jones Steil DeRoche Kahn Pastor Taub Dillon Kehrl Pavlov Van Regenmorter Drolet Kooiman Pearce Walker Elsenheimer LaJoy Plakas Ward Law. David Polidori Wenke Emmons

Espinoza Farhat

In The Chair: Elsenheimer

Rep. Murphy moved to amend the bill as follows:

- 1. Amend page 4, following line 22, by inserting:
- "(F) PROVIDE THE PATIENT WITH INFORMATION ON FAMILY PLANNING, INCLUDING, BUT NOT LIMITED TO, ALL METHODS OF CONTRACEPTIVES APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, ABSTINENCE AND NATURAL FAMILY PLANNING METHODS." and relettering the remaining subdivision.

Proos

2. Amend page 5, line 9, after "through" by striking out "(e)" and inserting "(F)".

Marleau

- 3. Amend page 5, line 13, after "through" by striking out "(e)" and inserting "(F)".
- 4. Amend page 11, line 18, after "9161," by inserting "THE FAMILY PLANNING SERVICES INFORMATION DESCRIBED IN SUBDIVISION (H),".
 - 5. Amend page 12, line 3, after "through" by striking out "(e)" and inserting "(F)".
 - 6. Amend page 12, following line 9, by inserting:
- "(H) DEVELOP, DRAFT, AND PRINT, IN NONTECHNICAL ENGLISH, ARABIC, AND SPANISH, WRITTEN INFORMATION ON THE VARIOUS FAMILY PLANNING SERVICES, INCLUDING, BUT NOT LIMITED TO, THE VARIOUS CONTRACEPTIVES APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, METHODS OF NATURAL FAMILY PLANNING, AND A LIST OF FAMILY PLANNING PROVIDERS IN THIS STATE THAT RECEIVE FEDERAL OR STATE FUNDS TO PROVIDE FAMILY PLANNING SERVICES."

The question being on the adoption of the amendments offered by Rep. Murphy,

Rep. Murphy demanded the yeas and nays.

The demand was supported.

The question being on the adoption of the amendments offered by Rep. Murphy,

The amendments were not adopted, a majority of the members serving not voting therefor, by yeas and nays, as follows:

Roll Call No. 118 Yeas—40

Accavitti Condino Law, Kathleen Plakas Adamini Cushingberry Leland Smith, Alma Anderson Donigan Lemmons, III Smith, Virgil Farrah Lemmons, Jr. Bennett Stewart Bieda Gillard Lipsey Tobocman Gonzales **Byrnes McConico** Vagnozzi Byrum Hood Meisner Waters Miller Whitmer Casperson Hopgood Cheeks Hunter Murphy Williams Clack Kolb **Phillips** Woino

Nays-66

Acciavatti Farhat Marleau Gaffnev Maves Amos Garfield Angerer McDowell Ball Gleason Meyer Baxter Gosselin Moolenaar Booher Green Moore Brandenburg Hansen Mortimer Hildenbrand Newell Brown Caswell Hoogendyk Nofs Caul Hummel Palmer Clemente Hune Palsrok DeRoche Jones Pastor Dillon Kahn Pavlov Drolet Kehrl Pearce Elsenheimer Kooiman Polidori **Emmons** LaJoy **Proos** Espinoza Law, David

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In The Chair: Elsenheimer

Rep. Robertson moved that the bill be placed on the order of Third Reading of Bills.

The question being on the motion made by Rep. Robertson

Rep. Ward demanded the yeas and nays.

The demand was supported.

The question being on the motion made by Rep. Robertson

The motion prevailed, a majority of the members present voting therefor, by yeas and nays, as follows:

Roll Call No. 119 Yeas—73

Acciavatti Gaffney Mayes Garfield McDowell Amos Gillard Angerer Meyer Moolenaar Ball Gleason Baxter Gosselin Moore Booher Green Mortimer Brandenburg Hansen Newell Brown Hildenbrand Nitz Casperson Hoogendyk Nofs Caswell Hummel Palmer Palsrok Caul Hune Clemente Jones **Pastor** DeRoche Kahn Pavlov

Rocca Sak Schuitmaker Shaffer Sheen Sheltrown Spade Stahl Stakoe Steil Stewart Taub

Vagnozzi

Dillon Kehrl Van Regenmorter Pearce Walker Drolet Kooiman Plakas Elsenheimer LaJoy Polidori Ward Law, David Proos Wenke **Emmons** Marleau Wojno Espinoza Robertson Farhat

Nays—33

Accavitti Condino Kolb Miller Adamini Cushingberry Law, Kathleen Murphy Anderson Donigan Leland Smith, Alma Bennett Farrah Lemmons, III Smith, Virgil Tobocman Bieda Gonzales Lemmons, Jr. **Byrnes** Lipsey Waters Hood McConico Byrum Hopgood Whitmer Cheeks Hunter Meisner Williams Clack

In The Chair: Elsenheimer

Rep. Cushingberry, having reserved the right to explain his nay vote, made the following statement:

"Mr. Speaker and members of the House:

I voted no because this is an unfunded mandate on Ob-Gyn Doctors who already face significant challenges in Michigan from high malpractice insurance costs, low Medicaid Medicare reimbursement rates, shrinking practitioners and hospitals as well as constant second-guessing on how to conduct themselves in practice by HMO administrators. In many cases there is no need to do an ultrasound. Who will pay for this mandate? If it is not medically necessary the insurance industry will not pay. Can the State afford to pay? Where will the funds come from? We don't have funds to appropriately care for hungry babies, the mentally infirmed, and individuals without health insurance. With a shrinking pool of medical providers, I can't support this legislation. I refer you to the letter from the American College of Obstetricians and Gynecologist dated May 3, 2005 which was distributed by the Representative from the 109th district today as well as their website for a well reasoned logic to defeat this legislation."

Rep. Ward moved that House Committees be given leave to meet during the balance of today's session. The motion prevailed.

By unanimous consent the House returned to the order of

Reports of Standing Committees

The Committee on Agriculture, by Rep. Nitz, Chair, reported

House Bill No. 4635, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 8515 and 8516 (MCL 324.8515 and 324.8516), as added by 1995 PA 60.

With the recommendation that the substitute (H-1) be adopted and that the bill then pass.

The bill and substitute were referred to the order of Second Reading of Bills.

Favorable Roll Call

To Report Out:

Yeas: Reps. Nitz, Ball, Newell, Casperson, Stahl, Proos, Hune, Mayes, Spade, Kathleen Law and Sheltrown

Navs: None

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Nitz, Chair, of the Committee on Agriculture, was received and read:

Meeting held on: Tuesday, May 10, 2005

Present: Reps. Nitz, Ball, Newell, Casperson, Stahl, Proos, Hune, Mayes, Spade, Kathleen Law and Sheltrown

The Committee on Judiciary, by Rep. Van Regenmorter, Chair, reported

House Bill No. 4727, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 16x of chapter XVII (MCL 777.16x), as amended by 2003 PA 313.

Without amendment and with the recommendation that the bill pass.

The bill was referred to the order of Second Reading of Bills.

Favorable Roll Call

To Report Out:

Yeas: Reps. Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey,

Condino, Adamini, Bieda and Virgil Smith

Nays: None

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Van Regenmorter, Chair, of the Committee on Judiciary, was received and read:

Meeting held on: Wednesday, May 11, 2005

Present: Reps. Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca,

Lipsey, Condino, Adamini, Bieda and Virgil Smith

Absent: Rep. McConico Excused: Rep. McConico

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Palmer, Chair, of the Committee on Education, was received and read: Meeting held on: Wednesday, May 11, 2005

Present: Reps. Palmer, Mortimer, Gosselin, Meyer, Hoogendyk, Wenke, Ball, Elsenheimer, Hildenbrand, Pearce, Proos, Hopgood, Miller, Angerer, Lemmons, III, Virgil Smith, Kehrl and Clack

Absent: Rep. Vander Veen

Excused: Rep. Vander Veen

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Nofs, Chair, of the Committee on Energy and Technology, was received and read:

Meeting held on: Wednesday, May 11, 2005

Present: Reps. Nofs, Proos, Drolet, Emmons, Garfield, LaJoy, Palsrok, Stahl, Baxter, Moore, Schuitmaker, Accavitti, Dillon, Murphy, Mayes, Hopgood and Clemente

Absent: Reps. Huizenga and Hunter Excused: Reps. Huizenga and Hunter

Announcement by the Clerk of Printing and Enrollment

The Clerk announced that the following bills and joint resolution had been printed and placed upon the files of the members on Wednesday, May 11:

House Bill Nos. 4745 4746 4747 4748 4749 4750 4751 4752 4753 4754 4755 4756 4757 4758 4759 4760 4761 4762 4763 4764 4765 4766 4767 4768

House Joint Resolution

The Clerk announced that the following Senate bill had been received on Wednesday, May 11:

Senate Bill No. 339

By unanimous consent the House returned to the order of

Messages from the Senate

Senate Bill No. 339, entitled

A bill to amend 1972 PA 230, entitled "Stille-DeRossett-Hale single state construction code act," (MCL 125.1501 to 125.1531) by adding section 13e.

The Senate has passed the bill.

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

Introduction of Bills

Rep. Acciavatti introduced

House Bill No. 4769, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 303, 307, 310, and 314 (MCL 257.303, 257.307, 257.310, and 257.314), sections 303 and 314 as amended by 2004 PA 362, section 307 as amended by 2004 PA 502, and section 310 as amended by 2003 PA 152, and by adding sections 310f and 310g.

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

Reps. Virgil Smith, Lipsey, Clack, Murphy, Hunter, Alma Smith, McConico, Gillard, Waters, Miller and Cheeks introduced

House Bill No. 4770, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 479c. The bill was read a first time by its title and referred to the Committee on Judiciary.

Reps. Virgil Smith, Lipsey, Clack, Murphy, Hunter, Alma Smith, McConico, Gillard, Waters, Miller and Cheeks introduced

House Bill No. 4771, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 16x of chapter XVII (MCL 777.16x), as amended by 2003 PA 313.

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

Reps. McDowell, Mayes, Alma Smith, Dillon, Clemente, Gleason, Espinoza, Condino, Gillard, Brown, Adamini, Meisner, Sheltrown, Byrum, Kathleen Law and Miller introduced

House Bill No. 4772, entitled

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 642 and 644g (MCL 168.642 and 168.644g), section 642 as amended by 2004 PA 292 and section 644g as amended by 2004 PA 293, and by adding section 642c.

The bill was read a first time by its title and referred to the Committee on House Oversight, Elections, and Ethics.

Reps. Byrum, Whitmer, Angerer, Meisner, Miller, Hunter, Sak, Gillard, Dillon, Waters, Accavitti, Gleason, McConico, Clack, Plakas, Anderson, Vagnozzi, Leland, Phillips, Kathleen Law, Bieda, Alma Smith, Spade, Hopgood, Williams, Zelenko, Mayes, Espinoza, Kehrl, Polidori, Bennett, Lemmons, Jr., Gonzales, Donigan, Byrnes, Condino, Brown and Murphy introduced

House Bill No. 4773, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2946 (MCL 600.2946), as amended by 1995 PA 249.

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

Reps. Kolb, Lipsey, Alma Smith, Brown, Whitmer and Cushingberry introduced

House Bill No. 4774, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 20129a (MCL 324.20129a), as amended by 2004 PA 114.

The bill was read a first time by its title and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

Reps. Gleason, Hummel and Gaffney introduced

House Bill No. 4775, entitled

A bill to allow certain health facilities to object to providing or participating in certain procedures under certain circumstances; and to provide for protection from certain liability.

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

Reps. Cushingberry, Tobocman and Cheeks introduced

House Bill No. 4776, entitled

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending section 65 (MCL 791.265), as amended by 1998 PA 512.

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

Rep. Van Regenmorter introduced

House Bill No. 4777, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 2922 and 2922a (MCL 600.2922 and 600.2922a), section 2922 as amended by 2000 PA 56 and section 2922a as amended by 2002 PA 164. The bill was read a first time by its title and referred to the Committee on Judiciary.

Reps. Hildenbrand, Farhat, Palsrok, Vander Veen, Taub, Booher, Hansen, Walker, Elsenheimer, Drolet, Ball, Caswell, Green, Pearce, Jones, Gosselin, Hune, Nitz, Rocca, Huizenga, Caul, Garfield, Hummel, Casperson, Baxter, Pastor, Moore, Moolenaar, Marleau, Proos, Kahn, Hoogendyk, Shaffer and LaJoy introduced

House Joint Resolution J, entitled

A joint resolution proposing an amendment to the state constitution of 1963, by adding section 25 to article I, to recognize a right to hunt or fish for, and to harvest, game or fish.

The joint resolution was read a first time by its title and referred to the Committee on Conservation, Forestry, and Outdoor Recreation.

Rep. Murphy moved that the House adjourn.

The motion prevailed, the time being 2:50 p.m.

The Associate Speaker Pro Tempore Elsenheimer declared the House adjourned until Thursday, May 12, at 10:30 a.m.

GARY L. RANDALL Clerk of the House of Representatives