

No. 84
STATE OF MICHIGAN
JOURNAL
OF THE
House of Representatives
95th Legislature
REGULAR SESSION OF 2009

House Chamber, Lansing, Tuesday, October 6, 2009.

10:00 a.m.

The House was called to order by the Speaker Pro Tempore.

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

Agema—present	Durhal—present	Lahti—present	Proos—present
Amash—present	Ebli—present	LeBlanc—present	Roberts—present
Angerer—present	Elsenheimer—present	Leland—present	Rocca—present
Ball—present	Espinoza—present	Lemmons—present	Rogers—present
Barnett—present	Geiss—present	Lindberg—present	Schmidt, R.—present
Bauer—present	Genetski—present	Lipton—present	Schmidt, W.—present
Bennett—present	Gonzales—present	Liss—present	Schuitmaker—present
Bledsoe—present	Green—present	Lori—present	Scott, B.—present
Bolger—present	Gregory—present	Lund—present	Scott, P.—present
Booher—present	Griffin—present	Marleau—present	Scripps—present
Brown, L.—present	Haase—present	Mayes—present	Segal—present
Brown, T.—present	Haines—present	McDowell—present	Sheltrown—present
Byrnes—present	Hammel—present	McMillin—present	Simpson—present
Byrum—present	Hansen—present	Meadows—present	Slavens—present
Calley—present	Haugh—present	Meekhof—present	Slezak—present
Caul—present	Haveman—present	Melton—present	Smith—present
Clemente—present	Hildenbrand—present	Meltzer—present	Spade—present
Constan—present	Horn—present	Miller—present	Stamas—present
Corriveau—present	Huckleberry—present	Moore—present	Stanley—present
Coulouris—present	Jackson—present	Moss—present	Switalski—present
Crawford—present	Johnson—present	Nathan—present	Tlaib—present
Cushingberry—present	Jones, Rick—present	Nerat—excused	Tyler—present
Daley—present	Jones, Robert—present	Neumann—present	Valentine—present
Dean—present	Kandrevas—present	Opsommer—present	Walsh—present
Denby—present	Kennedy—present	Pavlov—present	Warren—present
DeShazor—present	Knollenberg—present	Pearce—present	Womack—present
Dillon—present	Kowall—present	Polidori—present	Young—present
Donigan—present	Kurtz—present		

e/d/s = entered during session

Rep. Dave Agema, from the 74th District, offered the following invocation:

“Father in Heaven, we praise and honor You, the Creator and Giver of all good things. May Your name be praised in this institution.

I ask that truth and righteousness may once again reign in this body, free from selfish ambition, so that what we do, may be good and right in Your sight and serve the people who have elected us.

May we not swerve to the left or the right of the path Your word has given us, so that we may please You and obtain Your blessings.

Forgive us for calling evil good and good evil. Forgive us Lord, for we often don't know what we're doing, but with Your help all things are possible.

We ask this in Jesus our Savior's name.

Amen.”

Rep. Angerer moved that Rep. Nerat be excused from today's session.
The motion prevailed.

Motions and Resolutions

Rep. Angerer moved that there be a Call of the House.
The motion prevailed, a majority of the members present voting therefor.

Proceedings Under the Call

The roll of the House was called by the Clerk and Reps. Nathan, Nerat and Polidori were reported absent.

Rep. Angerer moved that the Sergeant at Arms be dispatched after the absentees.
The motion prevailed.

Rep. Angerer moved that the House proceed with the business under the Call.
The motion prevailed.

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

Reports of Standing Committees

The Committee on Tax Policy, by Rep. Ebli, Chair, reported

House Bill No. 5352, entitled

A bill to amend 1967 PA 281, entitled “Income tax act of 1967,” by amending sections 30, 51, and 272 (MCL 206.30, 206.51, and 206.272), section 30 as amended by 2007 PA 154, section 51 as amended by 2007 PA 94, and section 272 as added by 2006 PA 372.

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. Ebli, Melton, Barnett, Coulouris, Robert Jones, Kandrevas, Lipton, Mayes, Slezak and Warren
Nays: Reps. Calley, Kowall, Lund, Meekhof, Meltzer, Stamas and Walsh

The Committee on Tax Policy, by Rep. Ebli, Chair, reported

House Bill No. 5355, entitled

A bill to amend 1993 PA 327, entitled "Tobacco products tax act," by amending sections 2 and 7 (MCL 205.422 and 205.427), section 2 as amended by 2005 PA 238 and section 7 as amended by 2008 PA 458.

With the recommendation that the following amendments be adopted and that the bill then pass.

1. Amend page 3, line 17, after "**WEIGHS**" by striking out "**4-1/2**" and inserting "**3**".
2. Amend page 3, line 20, by striking out all of subdivision (**N**) and relettering the remaining subdivisions.
3. Amend page 3, line 26, after "tobacco" by striking out "**AND MOIST SNUFF**".
4. Amend page 8, line 22, after "2002" by inserting "**AND THROUGH SEPTEMBER 30, 2009**".
5. Amend page 8, following line 23, by inserting:

"**(D) BEGINNING OCTOBER 1, 2009, 1.7% OF THE TOTAL AMOUNT OF THE TAX DUE ON CIGARETTES SOLD.**".

6. Amend page 12, following line 5, by inserting:

"**(13) THE SALE OF LITTLE CIGARS SHALL BE LIMITED TO PACKAGES OF 5 OR MORE.**".

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

Favorable Roll Call

To Report Out:

Yeas: Reps. Ebli, Melton, Barnett, Coulouris, Robert Jones, Kandrevas, Lipton, Mayes, Slezak and Warren
Nays: Reps. Calley, Kowall, Lund, Meekhof, Meltzer, Stamas and Walsh

The Committee on Tax Policy, by Rep. Ebli, Chair, reported

House Bill No. 5384, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending sections 201, 203, 235, 263, 281, 403, and 405 (MCL 208.1201, 208.1203, 208.1235, 208.1263, 208.1281, 208.1403, and 208.1405), sections 201 and 203 as amended by 2008 PA 168, section 235 as amended by 2008 PA 30, section 281 as added and section 405 as amended by 2007 PA 145, and section 403 as amended by 2008 PA 434.

With the recommendation that the following amendments be adopted and that the bill then pass.

1. Amend page 22, following line 8, by inserting:

"Enacting section 1. This amendatory act does not take effect unless House Bill No. 4080 of the 95th Legislature is enacted into law.".

2. Amend page 22, following line 8, by inserting:

"Enacting section 1. This amendatory act does not take effect unless the following bills of the 95th Legislature are enacted into law:

- (a) House Bill No. 4043.
- (b) House Bill No. 4121.
- (c) House Bill No. 4150.".

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

Favorable Roll Call

To Report Out:

Yeas: Reps. Ebli, Melton, Barnett, Coulouris, Robert Jones, Kandrevas, Lipton, Mayes, Slezak and Warren
Nays: Reps. Calley, Kowall, Lund, Meekhof, Meltzer, Stamas and Walsh

The Committee on Tax Policy, by Rep. Ebli, Chair, reported

House Bill No. 5386, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by amending the title and by adding section 16302.

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. Ebli, Melton, Coulouris, Robert Jones, Kandrevas, Lipton, Mayes, Slezak and Warren

Nays: Reps. Calley, Kowall, Lund, Meekhof, Meltzer, Stamas and Walsh

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Ebli, Chair, of the Committee on Tax Policy, was received and read:

Meeting held on: Tuesday, October 6, 2009

Present: Reps. Ebli, Melton, Barnett, Coulouris, Robert Jones, Kandrevas, Lipton, Mayes, Slezak, Warren, Calley, Kowall, Lund, Meekhof, Meltzer, Stamas and Walsh

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Sheltroun, Chair, of the Committee on Tourism, Outdoor Recreation and Natural Resources, was received and read:

Meeting held on: Tuesday, October 6, 2009

Present: Reps. Sheltroun, Slezak, Huckleberry, Lindberg, Simpson, Stanley, Stamas, Bolger, Hansen and Horn

Absent: Rep. Ebli

Excused: Rep. Ebli

Second Reading of Bills

House Bill No. 5352, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending sections 30, 51, and 272 (MCL 206.30, 206.51, and 206.272), section 30 as amended by 2007 PA 154, section 51 as amended by 2007 PA 94, and section 272 as added by 2006 PA 372.

The bill was read a second time.

Rep. Cushingberry moved to substitute (H-11) the bill.

The motion prevailed and the substitute (H-11) was adopted, a majority of the members serving voting therefor.

Rep. Pavlov moved to amend the bill as follows:

1. Amend page 27, following line 25, by inserting:

"Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

(a) House Bill No. 4090.

(b) House Bill No. 4151.

(c) House Bill No. 4979.

(d) House Bill No. 4980.".

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Haveman moved to amend the bill as follows:

1. Amend page 27, following line 25, by inserting:

"Enacting section 1. This amendatory act does not take effect unless House Bill No. 5208 of the 95th Legislature is enacted into law.".

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Haines moved to amend the bill as follows:

1. Amend page 27, following line 25, by inserting:

“Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

- (a) House Bill No. 4898.
- (b) House Bill No. 4902.
- (c) House Bill No. 4908.
- (d) House Bill No. 4909.
- (e) House Bill No. 4988.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Meltzer moved to amend the bill as follows:

1. Amend page 27, following line 25, by inserting:

“Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

- (a) House Bill No. 4043.
- (b) House Bill No. 4121.
- (c) House Bill No. 4150.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Knollenberg moved to amend the bill as follows:

1. Amend page 27, following line 25, by inserting:

“Enacting section 1. This amendatory act does not take effect unless House Bill No. 4080 of the 95th Legislature is enacted into law.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Haveman moved to amend the bill as follows:

1. Amend page 27, following line 25, by inserting:

“Enacting section 1. This amendatory act does not take effect unless House Bill No. 5480 of the 95th Legislature is enacted into law.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

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

The motion prevailed.

Rep. Angerer moved that the bill be placed on its immediate passage.

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

By unanimous consent the House returned to the order of

Third Reading of Bills

House Bill No. 5352, entitled

A bill to amend 1967 PA 281, entitled “Income tax act of 1967,” by amending sections 30, 51, and 272 (MCL 206.30, 206.51, and 206.272), section 30 as amended by 2007 PA 154, section 51 as amended by 2007 PA 94, and section 272 as added by 2006 PA 372.

Was read a third time and passed, a majority of the members serving voting therefor, by yeas and nays, as follows:

Roll Call No. 488

Yeas—58

Angerer
Barnett
Bauer
Bennett
Brown, T.

Durhal
Ebli
Espinoza
Geiss
Gonzales

LeBlanc
Leland
Lemmons
Lindberg
Lipton

Schmidt, R.
Scott, B.
Sheltrown
Simpson
Slezak

Byrnes	Gregory	Liss	Smith
Byrum	Griffin	Mayes	Spade
Clemente	Hammel	McDowell	Stanley
Constan	Haugh	Meadows	Switalski
Corriveau	Jackson	Melton	Tlaib
Coulouris	Johnson	Miller	Valentine
Cushingberry	Jones, Robert	Nathan	Warren
Dean	Kandrevas	Neumann	Womack
Dillon	Kennedy	Polidori	Young
Donigan	Lahti		

Nays—51

Agema	Elsenheimer	Kurtz	Roberts
Amash	Genetski	Lori	Rocca
Ball	Green	Lund	Rogers
Bledsoe	Haase	Marleau	Schmidt, W.
Bolger	Haines	McMillin	Schuitmaker
Booher	Hansen	Meekhof	Scott, P.
Brown, L.	Haveman	Meltzer	Scripps
Calley	Hildenbrand	Moore	Segal
Caul	Horn	Moss	Slavens
Crawford	Huckleberry	Opsommer	Stamas
Daley	Jones, Rick	Pavlov	Tyler
Denby	Knollenberg	Pearce	Walsh
DeShazor	Kowall	Proos	

In The Chair: Byrnes

The House agreed to the title of the bill.

Rep. Opsommer, having reserved the right to explain his protest against the passage of the bill, made the following statement:

“Mr. Speaker and members of the House:

For two sessions in a row, and in a bipartisan fashion, first with the late Rep. Vagnozzi and now with Rep. Barnett, we have tried to address high property taxes in Michigan by increasing the amount of the Homestead Property Tax Credit, a credit that has not been increased since 1976 and now causes far too many homeowners to pay more than their fair share and contributes to the housing crisis that was at the root of the financial market meltdown. While we have not been able to get these bills passed, I was told to take solace in the fact that at least the personal tax exemption was still being increased, and that my attempts to lower property taxes could jeopardize that. But now, I see that this money has been targeted regardless with the passage of HB5352, and property taxes will still not be lowered, and taxpayer reform will not be enacted in any way and will instead go to feed other programs. If we want to limit the amount of cuts we bring to programs like Revenue Sharing, it would be best to consider true reforms like the Urban Cooperation Act as we discuss the merits of these issues. Such discussions have continued to be pushed aside. I vote no on this bill’s passage.”

Rep. Hildenbrand, having reserved the right to explain his protest against the passage of the bill, made the following statement:

“Mr. Speaker and members of the House:

Thank you Madam Speaker. I rise in opposition to these bills that raise taxes on the residents of Michigan.

The message from Michigan businesses and families is loud and clear, people across Michigan are calling on us to pass a balanced budget without raising taxes; to adopt meaningful reforms to avoid future annual budget crisis; and to reform and reduce Michigan’s business tax to jump-start our struggling economy.

With 15% unemployment it is obvious that our tax rates are not too low or that we don't have enough taxes in place: The problem is we don't have enough people paying taxes. People are moving out of state, are out of work, have lost wages and are not participating in our economy. The result: our tax revenues are down over 20%.

The last thing we need to do is raise taxes in this time of economic crisis. We can not tax ourselves into prosperity. This Legislature and the Governor should have learned their lesson 2 years ago when they raised \$1.4 billion in new tax revenue. The result - today we have \$2.8 billion in less revenue for state government - almost twice the loss of revenue in just 2 short years.

Let's not punish our businesses and families while they are down. But let's implement the agreement between the House and Senate to balance this budget with no new revenue and get serious about the reforms needed to make state government work.

Let's focus on creating a strong and robust economy to put Michigan back to work instead of nickeling and diming the people of this state in order to feed state government."

Second Reading of Bills

House Bill No. 5384, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending sections 201, 203, 235, 263, 281, 403, and 405 (MCL 208.1201, 208.1203, 208.1235, 208.1263, 208.1281, 208.1403, and 208.1405), sections 201 and 203 as amended by 2008 PA 168, section 235 as amended by 2008 PA 30, section 281 as added and section 405 as amended by 2007 PA 145, and section 403 as amended by 2008 PA 434.

Was read a second time, and the question being on the adoption of the proposed amendments previously recommended by the Committee on Tax Policy (for amendments, see today's Journal, p. 1987),

The amendments were not adopted, a majority of the members serving not voting therefor.

Rep. Calley moved to amend the bill as follows:

1. Amend page 22, following line 8, by inserting:

"Sec. 417. (1) The credit provided in this section shall be taken after the credits under sections 403 and 405 and before any other credit under this act and is available to any taxpayer with gross receipts that do not exceed \$20,000,000.00 and with adjusted business income minus the loss adjustment that does not exceed \$1,300,000.00 as adjusted annually for inflation using the Detroit consumer price index, and subject to the following:

—(a) An individual, a partnership, a limited liability company, or a subchapter S corporation is disqualified if the individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives more than \$180,000.00 as a distributive share of the adjusted business income minus the loss adjustment of the individual, the partnership, the limited liability company, or the subchapter S corporation.

—(b) A corporation other than a subchapter S corporation is disqualified if either of the following occur for the respective tax year:

—(i) Compensation and directors' fees of a shareholder or officer exceed \$180,000.00:

—(ii) The sum of the following amounts exceeds \$180,000.00:

—(A) Compensation and directors' fees of a shareholder:

—(B) The product of the percentage of outstanding ownership or of outstanding stock owned by that shareholder multiplied by the difference between the sum of business income and, to the extent deducted in determining federal taxable income, a carryback or a carryover of a net operating loss or capital loss, minus the loss adjustment.

—(c) Subject to the reduction percentage determined under subsection (3), the credit determined under this subsection shall be reduced by the following percentages in the following circumstances:

—(i) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is more than \$160,000.00 but less than \$165,000.00, the credit is reduced by 20%.

—(ii) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is \$165,000.00 or more but less than \$170,000.00, the credit is reduced by 40%.

—(iii) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors' fees of a shareholder or

officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is \$170,000.00 or more but less than \$175,000.00, the credit is reduced by 60%.

—(iv) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B) is \$175,000.00 or more but not in excess of \$180,000.00, the credit is reduced by 80%.

—(2) For the purposes of determining disqualification under subsection (1), an active shareholder's share of business income shall not be attributed to another active shareholder.

—(3) To determine the reduction percentage under subsection (1)(c), the following apply:

—(a) The reduction percentage for a partnership, limited liability company, or subchapter S corporation is based on the distributive share of adjusted business income minus loss adjustment of the partner, member, or shareholder with the greatest distributive share of adjusted business income minus loss adjustment.

—(b) The reduction percentage for a corporation other than a subchapter S corporation is the greater of the following:

—(i) The reduction percentage based on the compensation and directors' fees of the shareholder or officer with the greatest amount of compensation and directors' fees.

—(ii) The reduction percentage based on the sum of the amounts in subsection (1)(b)(ii)(A) and (B) for the shareholder or officer with the greatest sum of the amounts in subsection (1)(b)(ii)(A) and (B).

(2) (4) A taxpayer that qualifies under subsection (1) is allowed a credit against the tax imposed under this act. The credit under this subsection is the amount by which the tax imposed under this act exceeds 1.8% of adjusted business income.

(3) (5) If gross receipts exceed \$19,000,000.00, the credit shall be reduced by a fraction, the numerator of which is the amount of gross receipts over \$19,000,000.00 and the denominator of which is \$1,000,000.00. The credit shall not exceed 100% of the tax liability imposed under this act.

(4) (6) For a taxpayer that reports for a tax year less than 12 months, the amounts specified in this section for gross receipts, adjusted business income, and share of business income shall be multiplied by a fraction, the numerator of which is the number of months in the tax year and the denominator of which is 12.

(5) (7) The department shall permit a taxpayer that elects to claim the credit allowed under this section based on the amount by which the tax imposed under this act exceeds the percentage of adjusted business income for the tax year as determined under subsection (4)(2), and that is not required to reduce the credit pursuant to subsection (1) or (5)(3), to file and pay the tax imposed by this act without computing the tax imposed under sections 201 and 203.

(6) (8) Compensation paid by the professional employer organization to the officers of the client and to employees of the professional employer organization who are assigned or leased to and perform services for the client shall be included in determining eligibility of the client under this section.

(7) (9) As used in this section:

(a) "Active shareholder" means a shareholder who receives at least \$10,000.00 in compensation, directors' fees, or dividends from the business, and who owns at least 5% of the outstanding stock or other ownership interest.

(b) "Adjusted business income" means business income as defined in section 105 with all of the following adjustments:

(i) Add compensation and directors' fees of active shareholders of a corporation.

(ii) Add, to the extent deducted in determining federal taxable income, a carryback or a carryover of a net operating loss.

(iii) Add, to the extent deducted in determining federal taxable income, a capital loss.

(iv) Add compensation and directors' fees of officers of a corporation.

(c) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States department of labor, bureau of labor statistics.

(d) "Loss adjustment" means the amount by which adjusted business income was less than zero in any of the 5 tax years immediately preceding the tax year for which eligibility for the credit under this section is being determined. In determining the loss adjustment for a tax year, a taxpayer is not required to use more of the taxpayer's total negative adjusted business income than the amount needed to qualify the taxpayer for the credit under this section. A taxpayer shall not be considered to have used any portion of the taxpayer's negative adjusted business income amount unless the portion used is necessary to qualify for the credit under this section. A taxpayer shall not reuse a negative adjusted business income amount used as a loss adjustment in a previous tax year or use a negative adjusted business income amount from a year in which the taxpayer did not receive the credit under this section."

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Pavlov moved to amend the bill as follows:

1. Amend page 22, following line 8, by inserting:

"Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

(a) House Bill No. 4151.

- (b) House Bill No. 4090.
- (c) House Bill No. 4979.
- (d) House Bill No. 4980.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Haveman moved to amend the bill as follows:

1. Amend page 22, following line 8, by inserting:

“Enacting section 1. This amendatory act does not take effect unless House Bill No. 5208 of the 95th Legislature is enacted into law.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Haines moved to amend the bill as follows:

1. Amend page 22, following line 8, by inserting:

“Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

- (a) House Bill No. 4898.
- (b) House Bill No. 4902.
- (c) House Bill No. 4908.
- (d) House Bill No. 4909.
- (e) House Bill No. 4988.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Haveman moved to amend the bill as follows:

1. Amend page 22, following line 8, by inserting:

“Enacting section 1. This amendatory act does not take effect unless House Bill No. 5480 of the 95th Legislature is enacted into law.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Paul Scott moved to amend the bill as follows:

1. Amend page 22, following line 8, by inserting:

“Enacting section 1. This amendatory act does not take effect unless House Bill No. 4165 of the 95th Legislature is enacted into law.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Agema moved to amend the bill as follows:

1. Amend page 22, following line 8, by inserting:

“Enacting section 1. This amendatory act does not take effect unless House Bill No. 4355 of the 95th Legislature is enacted into law.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Ebli moved to amend the bill as follows:

1. Amend page 22, following line 8, by inserting:

“SEC. 462. FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2009, A TAXPAYER THAT IS A PHYSICIAN OR PHYSICIAN ENTITY THAT PAYS A QUALITY ASSURANCE ASSESSMENT LEVIED UNDER SECTION 16302 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16302, MAY CLAIM A CREDIT AGAINST THE TAX LEVIED UNDER THIS ACT FOR THE INCREASE IN TAXES ATTRIBUTABLE TO INCLUDING THE COST OF MEDICATIONS ADMINISTERED EITHER BY INJECTION OR INTRAVENOUSLY AND PURCHASED FROM OTHER PERSONS IN CALCULATING THE TAX BASE FOR THE TAX IMPOSED UNDER SECTION 203. THE AMOUNT OF THE CREDIT SHALL NOT EXCEED THE AMOUNT OF THE QUALITY ASSURANCE ASSESSMENT PAID BY THE TAXPAYER DURING THE TAX YEAR.”.

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

Rep. McMillin moved to amend the bill as follows:

1. Amend page 22, following line 8, by inserting:

“Enacting section 1. Before this amendatory act may take effect an analysis shall be made by the department of energy, labor, and economic growth, and posted on their website, on the effect it will have on jobs in the state of Michigan.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. McMillin moved to amend the bill as follows:

1. Amend page 22, following line 8, by inserting:

“Enacting section 1. This amendatory act does not take effect unless the state of Michigan’s unemployment rate is less than the state of Mississippi’s unemployment rate.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

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

The motion prevailed.

Rep. Angerer moved that the bill be placed on its immediate passage.

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

By unanimous consent the House returned to the order of

Third Reading of Bills

House Bill No. 5384, entitled

A bill to amend 2007 PA 36, entitled “Michigan business tax act,” by amending sections 201, 203, 235, 263, 281, 403, and 405 (MCL 208.1201, 208.1203, 208.1235, 208.1263, 208.1281, 208.1403, and 208.1405), sections 201 and 203 as amended by 2008 PA 168, section 235 as amended by 2008 PA 30, section 281 as added and section 405 as amended by 2007 PA 145, and section 403 as amended by 2008 PA 434.

Was read a third time and passed, a majority of the members serving voting therefor, by yeas and nays, as follows:

Roll Call No. 489

Yeas—57

Angerer	Donigan	Lahti	Polidori
Barnett	Durhal	LeBlanc	Schmidt, R.
Bauer	Ebli	Leland	Scott, B.
Bennett	Espinoza	Lemmons	Sheltrown
Bledsoe	Geiss	Lindberg	Slezak
Brown, T.	Gonzales	Lipton	Smith
Byrnes	Gregory	Liss	Spade
Byrum	Hammel	Mayes	Stanley
Clemente	Haugh	McDowell	Switalski
Constan	Jackson	Meadows	Tlaib
Corriveau	Johnson	Melton	Valentine
Coulouris	Jones, Robert	Miller	Warren
Cushingberry	Kandreas	Nathan	Womack
Dean	Kennedy	Neumann	Young
Dillon			

Nays—52

Agema	Genetski	Kurtz	Roberts
Amash	Green	Lori	Rocca
Ball	Griffin	Lund	Rogers
Bolger	Haase	Marleau	Schmidt, W.

Booher	Haines	McMillin	Schuitmaker
Brown, L.	Hansen	Meekhof	Scott, P.
Calley	Haveman	Meltzer	Scripps
Caul	Hildenbrand	Moore	Segal
Crawford	Horn	Moss	Simpson
Daley	Huckleberry	Opsommer	Slavens
Denby	Jones, Rick	Pavlov	Stamas
DeShazor	Knollenberg	Pearce	Tyler
Elsenheimer	Kowall	Proos	Walsh

In The Chair: Byrnes

The question being on agreeing to the title of the bill,

Rep. Angerer moved to amend the title to read as follows:

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending sections 201, 203, 235, 263, 281, 403, and 405 (MCL 208.1201, 208.1203, 208.1235, 208.1263, 208.1281, 208.1403, and 208.1405), sections 201 and 203 as amended by 2008 PA 168, section 235 as amended by 2008 PA 30, section 281 as added and section 405 as amended by 2007 PA 145, and section 403 as amended by 2008 PA 434, and by adding section 462.

The motion prevailed.

The House agreed to the title as amended.

Second Reading of Bills

House Bill No. 5386, entitled

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by amending the title and by adding section 16302.

The bill was read a second time.

Rep. Cushingberry moved to substitute (H-3) the bill.

The motion prevailed and the substitute (H-3) was adopted, a majority of the members serving voting therefor.

Rep. Pavlov moved to amend the bill as follows:

1. Amend page 8, following line 23, by inserting:

"Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

- (a) House Bill No. 4151.
- (b) House Bill No. 4090.
- (c) House Bill No. 4979.
- (d) House Bill No. 4980."

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Haveman moved to amend the bill as follows:

1. Amend page 8, following line 23, by inserting:

"Enacting section 1. This amendatory act does not take effect unless House Bill No. 5208 of the 95th Legislature is enacted into law."

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Haines moved to amend the bill as follows:

1. Amend page 8, following line 23, by inserting:

"Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

- (a) House Bill No. 4898.
- (b) House Bill No. 4902.

- (c) House Bill No. 4908.
- (d) House Bill No. 4909.
- (e) House Bill No. 4988.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Meltzer moved to amend the bill as follows:

- 1. Amend page 8, following line 23, by inserting:

“Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

- (a) House Bill No. 4043.
- (b) House Bill No. 4121.
- (c) House Bill No. 4150.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Knollenberg moved to amend the bill as follows:

- 1. Amend page 8, following line 23, by inserting:

“Enacting section 1. This amendatory act does not take effect unless House Bill No. 4080 of the 95th Legislature is enacted into law.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

Rep. Haveman moved to amend the bill as follows:

- 1. Amend page 8, following line 23, by inserting:

“Enacting section 1. This amendatory act does not take effect unless House Bill No. 5480 of the 95th Legislature is enacted into law.”.

The motion did not prevail and the amendment was not adopted, a majority of the members serving not voting therefor.

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

The motion prevailed.

Rep. Angerer moved that the bill be placed on its immediate passage.

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

By unanimous consent the House returned to the order of

Third Reading of Bills

House Bill No. 5386, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” (MCL 333.1101 to 333.25211) by amending the title and by adding section 16302.

Was read a third time and passed, a majority of the members serving voting therefor, by yeas and nays, as follows:

Roll Call No. 490

Yeas—56

Angerer	Donigan	Lahti	Scott, B.
Barnett	Durhal	Leland	Scripps
Bauer	Ebli	Lemmons	Sheltrown
Bennett	Espinoza	Lindberg	Simpson
Brown, T.	Geiss	Lipton	Slezak
Byrnes	Gonzales	Mayes	Smith
Byrum	Gregory	McDowell	Spade
Clemente	Hammel	Meadows	Stanley
Constan	Haugh	Melton	Switalski
Corriveau	Jackson	Miller	Tlaib
Coulouris	Johnson	Nathan	Valentine
Cushingberry	Jones, Robert	Neumann	Warren

Dean Dillon	Kandrevas Kennedy	Polidori Schmidt, R.	Womack Young
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Nays—52

Agema	Elsenheimer	Kurtz	Pearce
Amash	Genetski	LeBlanc	Proos
Ball	Green	Liss	Roberts
Bledsoe	Griffin	Lori	Rocca
Bolger	Haase	Lund	Rogers
Booher	Hansen	Marleau	Schmidt, W.
Brown, L.	Haveman	McMillin	Schuitmaker
Calley	Hildenbrand	Meekhof	Scott, P.
Caul	Horn	Meltzer	Segal
Crawford	Huckleberry	Moore	Slavens
Daley	Jones, Rick	Moss	Stamas
Denby	Knollenberg	Opsommer	Tyler
DeShazor	Kowall	Pavlov	Walsh

In The Chair: Byrnes

The House agreed to the title of the bill.

Rep. Haines, under Rule 31, made the following statement:

“Mr. Speaker and members of the House:

I did not vote on Roll Call No. 490 because of a possible conflict of interest.”

Rep. Hildenbrand, having reserved the right to explain his protest against the passage of the bill, made the following statement:

“Mr. Speaker and members of the House:

Thank you Madam Speaker. I rise in opposition to these bills that raise taxes on the residents of Michigan.

The message from Michigan businesses and families is loud and clear, people across Michigan are calling on us to pass a balanced budget without raising taxes; to adopt meaningful reforms to avoid future annual budget crisis; and to reform and reduce Michigan’s business tax to jump-start our struggling economy.

With 15% unemployment it is obvious that our tax rates are not too low or that we don’t have enough taxes in place: The problem is we don’t have enough people paying taxes. People are moving out of state, are out of work, have lost wages and are not participating in our economy. The result: our tax revenues are down over 20%.

The last thing we need to do is raise taxes in this time of economic crisis. We can not tax ourselves into prosperity. This Legislature and the Governor should have learned their lesson 2 years ago when they raised \$1.4 billion in new tax revenue. The result - today we have \$2.8 billion in less revenue for state government - almost twice the loss of revenue in just 2 short years.

Let’s not punish our businesses and families while they are down. But let’s implement the agreement between the House and Senate to balance this budget with no new revenue and get serious about the reforms needed to make state government work.

Let’s focus on creating a strong and robust economy to put Michigan back to work instead of nickeling and diming the people of this state in order to feed state government.”

Rep. Opsommer, having reserved the right to explain his protest against the passage of the bill, made the following statement:

“As I have mentioned, if we are to consider revenue we must consider reforms. Where are the program reforms? Where are the reforms on junk lawsuits? Programs need to be justified on their own merits, and simply passing a tax increase to be in a better position to attract federal dollars is not enough to warrant the passage of this bill. As you are aware, Michigan received more revenue from the federal government this year than from any other funding source, despite the fact that we are a ‘donor’ state in most categories. In our rush to get our ‘fair share’ I do not think we reflect to consider whether this race to the bottom for federal dollars and big government is what the founding fathers had in mind for this United States of America that was to be so very different from the other failed political structures of that day. Instead we worry about not getting enough money from the federal government so we pass virtually any law that they attach funding to, never debating whether this fiscal control and coercion is positive for Michigan or if we have simply forgotten our role and have reduced ourselves to blindly carrying out the wishes of bureaucrats in Washington. The ‘carrot’ of federal dollars has instead become a stick, and when the carrot is pulled away as it invariably will be when the money runs out we will be left with an unsustainable system that is dependent on a Washington that can no longer provide for us and was assuming a role it was never intended to have in the first place. This bill needs more justification than this pursuit, and is but one option that should be on the table as we try to advance meaningful reforms.”

Rep. Angerer moved that the Call of the House be lifted.
The motion prevailed.

By unanimous consent the House returned to the order of

Announcement by the Clerk of Printing and Enrollment

The Clerk announced that the following bills had been printed and placed upon the files of the members on Friday, October 2:

House Bill Nos. 5494 5495 5496 5497 5498

The Clerk announced the enrollment printing and presentation to the Governor on Tuesday, October 6, for her approval of the following bill:

Enrolled House Bill No. 5127 at 9:32 a.m.

Messages from the Governor

Date: October 1, 2009

Time: 3:30 p.m.

To the Speaker of the House of Representatives:

Sir—I have this day approved and signed

Enrolled House Bill No. 5311 (Public Act No. 107, I.E.), being

An act to amend 1953 PA 232, entitled “An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to provide for a lifetime electronic monitoring program; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act,” (MCL 791.201 to 791.285) by adding section 34a; and to repeal acts and parts of acts.

(Filed with the Secretary of State October 1, 2009, at 3:58 p.m.)

Date: October 1, 2009
Time: 3:44 p.m.

To the Speaker of the House of Representatives:

Sir—I have this day approved and signed

Enrolled House Bill No. 4744 (Public Act No. 108, I.E.), being

An act to amend 1913 PA 380, entitled “An act to regulate gifts of real and personal property to cities, villages, townships, and counties, and the use of those gifts and other funds; and to validate all gifts made before the enactment of this act,” by amending section 2 (MCL 123.872), as amended by 2003 PA 122.

(Filed with the Secretary of State October 1, 2009, at 4:00 p.m.)

Introduction of Bills

Rep. Young introduced

House Bill No. 5499, entitled

A bill to amend 1980 PA 299, entitled “Occupational code,” by amending section 2512 (MCL 339.2512), as amended by 2008 PA 90.

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

Reps. Rogers, Bledsoe, Geiss, Kandrevas, Haugh, Gregory, Durhal, Paul Scott, Stamas, Walsh, Denby, Daley, Lori, DeShazor, Haveman, Wayne Schmidt, Kurtz, Crawford, Tyler, Scripps, Womack, Kennedy, Slezak, Lipton, Tlaib, Liss and Roy Schmidt introduced

House Joint Resolution HH, entitled

A joint resolution proposing an amendment to the state constitution of 1963, by amending section 31 of article IV and by adding section 55 to article IV, to provide that certain state budget bills be presented to the governor on or before a certain date and to reduce compensation of state legislators when certain state budget bills are not presented on or before a certain date.

The joint resolution was read a first time by its title and referred to the Committee on Government Operations.

Rep. Green moved that the House adjourn.
The motion prevailed, the time being 8:45 p.m.

The Speaker Pro Tempore declared the House adjourned until Wednesday, October 7, at 1:30 p.m.

RICHARD J. BROWN
Clerk of the House of Representatives

