

No. 99
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House of Representatives
94th Legislature
REGULAR SESSION OF 2007

House Chamber, Lansing, Friday, September 28, 2007.

12:01 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.

| | | | |
|----------------------|-----------------------|-----------------------|-----------------------|
| Accavitti—present | Dillon—present | Lahti—present | Pearce—present |
| Acciavatti—present | Donigan—present | LaJoy—present | Polidori—present |
| Agema—excused | Ebli—present | Law, David—present | Proos—present |
| Amos—present | Elsenheimer—present | Law, Kathleen—present | Robertson—present |
| Angerer—present | Emmons—present | LeBlanc—present | Rocca—present |
| Ball—present | Espinoza—present | Leland—present | Sak—present |
| Bauer—present | Farrah—present | Lemmons—present | Schuitmaker—present |
| Bennett—present | Gaffney—present | Lindberg—present | Scott—present |
| Bieda—present | Garfield—present | Marleau—present | Shaffer—present |
| Booher—present | Gillard—present | Mayes—present | Sheen—present |
| Brandenburg—present | Gonzales—present | McDowell—present | Sheltrown—present |
| Brown—present | Green—present | Meadows—present | Simpson—present |
| Byrnes—present | Griffin—present | Meekhof—present | Smith, Alma—present |
| Byrum—present | Hammel—present | Meisner—present | Smith, Virgil—present |
| Calley—present | Hammon—present | Melton—present | Spade—present |
| Casperson—present | Hansen—present | Meltzer—present | Stahl—present |
| Caswell—present | Hildenbrand—present | Miller—present | Stakoe—present |
| Caul—present | Hood—present | Moolenaar—present | Steil—present |
| Cheeks—present | Hoogendyk—present | Moore—present | Tobocman—present |
| Clack—present | Hopgood—present | Moss—present | Vagnozzi—present |
| Clemente—present | Horn—present | Nitz—present | Valentine—present |
| Condino—present | Huizenga—present | Nofs—present | Walker—present |
| Constan—present | Hune—present | Opsommer—present | Ward—present |
| Corriveau—present | Jackson—present | Palmer—present | Warren—present |
| Coulouris—present | Johnson—present | Palsrok—present | Wenke—present |
| Cushingberry—present | Jones, Rick—present | Pastor—present | Wojno—present |
| Dean—present | Jones, Robert—present | Pavlov—present | Young—present |
| DeRoche—present | Knollenberg—present | | |

e/d/s = entered during session

Rep. Shanelle Jackson, from the 9th District, offered the following invocation:

“Father in the name of Jesus we come before Your throne giving You the glory honor and praise. Father Your word says the steps of the righteous man are ordered by God, You have called all of us to be here in this room, at this moment in history. Your word also says that You have not given us the spirit of fear, but of power of love, and of a sound mind. Father, I ask You to speak to the spirits of the legislators in this place, cause their sound- reasonable logic to prevail.

Cause the eyes of our understanding to be enlightened as we enter into the midnight hour both literally and figuratively in this process. Lord millions of people are depending on us to do the right thing: to solve the state’s fiscal crisis by reaching an intelligent and fair compromise.

And so Right now in the name of Jesus, I cast down the spirit of selfish partisan politics. I cast down the spirit of inflexibility. We are better than that and we will not allow partisan politics to destroy the livelihood of this state. I thank You Lord that in this body we recognize who we are in Christ –and that You have anointed us to do this job. So we will not be consumed with fear or worry about recalls, because we know Your word is true – when You are for us who can be against us.

Lastly Father we ask You to bless every person in this great state. Remind them of our history and ability to overcome. Comfort their spirits. Remind them that We are victorious people: strong in our spirit and resolve. Michigan will be everything You have called it to be.

These things we ask in Jesus holy, matchless name: Amen.”

Rep. Booher moved that Rep. Agema be excused from today’s session.
The motion prevailed.

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

Motions and Resolutions

Reps. McDowell, Bieda, Brown, Byrnes, Casperson, Dean, Farrah, Gonzales, Hopgood, Kathleen Law, Leland, Meadows, Proos, Scott, Shaffer, Stahl, Tobocman, Vagnozzi, Warren and Constan offered the following resolution:

House Resolution No. 193.

A resolution proclaiming Friday, September 28, 2007 as Michigan Indian Day.

Whereas, In 1984, Governor William Milliken, during his administration, proclaimed the fourth Friday of the month of September as Michigan Indian Day; and

Whereas, Michigan Indian Day is an excellent opportunity for Michigan citizens to better understand and appreciate the many contributions that people of Native American descent have made to our state; and

Whereas, The state of Michigan has the 9th largest population of American Indians in the country - more than 125,000; and

Whereas, Native American people have made vast contributions to the landscape, culture, history, politics, and economy of Michigan; and

Whereas, Today, Native American people significantly contribute to environmental protection by setting an example of good stewardship, intergovernmental cooperation in police and fire protection, as well as leadership in securing an international accord to oppose diversion of Great Lakes Basin waters. It should be noted that Michigan is a French adaptation of the Ojibwe term *mishigami*, meaning “large water” or “large lake”; and

Whereas, Michigan should designate a day to focus attention on the many cultural and historical contributions of Michigan’s Native American community; now, therefore, be it

Resolved by the House of Representatives, That the members of this legislative body proclaim this fourth Friday of September 2007 as Michigan Indian Day. We encourage all citizens to recognize the unique culture and vast contributions Native Americans have brought to our Great Lakes State.

Pending the reference of the resolution to a committee,
Rep. Tobocman moved that Rule 71 be suspended and the resolution be considered at this time.
The motion prevailed, 3/5 of the members present voting therefor.
The question being on the adoption of the resolution,
The resolution was adopted.

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 Friday, September 28:

House Bill Nos. 5268 5269 5270

House Joint Resolution AA

Messages from the Senate

House Bill No. 4668, entitled

A bill to amend 1935 PA 120, entitled "An act to prescribe a method for the fingerprinting of residents of the state, and to provide for the recording and filing thereof by the central records division of the department of state police," by amending section 3 (MCL 28.273), as amended by 2004 PA 359.

The Senate has passed the bill and ordered that it be given immediate effect.

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

House Bill No. 4842, entitled

A bill to amend 1979 PA 152, entitled "State license fee act," by amending sections 3, 13, 15, 17, 21, 23, 25, 27, 28, 29, 31, 37, 38, 39, 43, and 62 (MCL 338.2203, 338.2213, 338.2215, 338.2217, 338.2221, 338.2223, 338.2225, 338.2227, 338.2228, 338.2229, 338.2231, 338.2237, 338.2238, 338.2239, 338.2243, and 338.2262), sections 3 and 37 as amended by 2006 PA 645, sections 13, 15, 17, 21, 23, 25, 27, 29, 31, 38, 39, 43, and 62 as amended by 2003 PA 87, and section 28 as added by 2006 PA 490.

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

The House agreed to the full title.

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

House Bill No. 4865, entitled

A bill to amend 1964 PA 265, entitled "Uniform securities act," by amending section 202 (MCL 451.602), as amended by 2003 PA 150.

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

The House agreed to the full title.

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

House Bill No. 4866, entitled

A bill to amend 1972 PA 284, entitled "Business corporation act," by amending section 1060 (MCL 450.2060), as amended by 2003 PA 106.

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

The House agreed to the full title.

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

House Bill No. 5242, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3122, 5522, 11135, 11153, 11525a, 12103, 12109, and 12112 (MCL 324.3122, 324.5522, 324.11135, 324.11153, 324.11525a,

324.12103, 324.12109, and 324.12112), section 3122 as added by 2004 PA 90, section 5522 as amended by 2005 PA 169, sections 11135, 12103, 12109, and 12112 as amended and section 11153 as added by 2001 PA 165, and section 11525a as amended by 2003 PA 153.

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

The House agreed to the full title.

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

Notices

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Agriculture from further consideration of **House Bill No. 4025**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Insurance from further consideration of **House Bill No. 4412**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Oversight and Investigations from further consideration of **House Bill No. 4542**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Government Operations from further consideration of **House Bill No. 4600**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Government Operations from further consideration of **House Bill No. 4601**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Education from further consideration of **House Bill No. 4797**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Education from further consideration of **House Bill No. 4798**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Oversight and Investigations from further consideration of **House Bill No. 4975**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Oversight and Investigations from further consideration of **House Bill No. 4976**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Military and Veterans Affairs and Homeland Security from further consideration of **House Bill No. 4977**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Government Operations from further consideration of **House Bill No. 5005**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Government Operations from further consideration of **House Bill No. 5006**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Education from further consideration of **House Bill No. 5167**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Conference Committee on House Bill No. 5194 from further consideration of **House Bill No. 5194**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Health Policy from further consideration of **Senate Bill No. 1**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Government Operations from further consideration of **Senate Bill No. 395**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Government Operations from further consideration of **Senate Bill No. 396**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Government Operations from further consideration of **Senate Bill No. 397**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Government Operations from further consideration of **Senate Bill No. 398**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Education from further consideration of **Senate Bill No. 546**.

Rep. Tobocman

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Education from further consideration of **Senate Bill No. 547**.

Rep. Tobocman

Messages from the Governor

The following message from the Governor was received September 28, 2007 and read:

EXECUTIVE ORDER No. 2007 – 41

AMENDMENT OF EXECUTIVE ORDER No. 2003 – 6

WHEREAS, under Article V, Section 1 of the Michigan Constitution of 1963, the executive power is vested in the Governor;

WHEREAS, on April 15, 2003, the Homeland Protection Board was established within the Department of State Police by Executive Order 2003-6;

WHEREAS, at the time of the establishment of the Homeland Protection Board, the Department of State Police included a Fire Marshal Division;

WHEREAS, in 2006, the Bureau of Fire Services, headed by a State Fire Marshal appointed by the Governor, was established within the Department of Labor and Economic Growth and the functions previously performed by the Department of State Police relating to fire safety and the fire service in Michigan are now performed by the Bureau of Fire Services;

WHEREAS, because state government has a continuing obligation to reassure Michigan residents that state government is taking appropriate steps to address their safety and security, it is appropriate that the role of Michigan's fire service in the state's emergency management and homeland security efforts be enhanced;

WHEREAS, because Michigan's firefighters, fire chiefs, and other members of the fire service in this state play a vital role in protecting the health, safety, and welfare of the People of the State of Michigan, it is appropriate that Executive Order 2003-6 be amended to assure that the State Fire Marshal, or his or her designee, serves as a member of the Michigan Homeland Protection Board created by Executive Order 2003-6;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and the laws of the State of Michigan, order:

A. Section III.C of Executive Order 2003-6 is amended to read as follows:

“The members of the Michigan Homeland Protection Board shall include all of the following:

1. The Director of the Department of State Police, or his or her designee from within the Department of State Police.
2. The Adjutant General, or his or her designee from within the Department of Military and Veterans Affairs.
3. The State Fire Marshal, or his or her designee from within the Bureau of Fire Services of the Department of Labor and Economic Growth.
4. The Director of the Department of Agriculture, or his or her designee from within the Department of Agriculture.
5. The Director of the Department of Civil Rights, or his or her designee from within the Department of Civil Rights.
6. The Director of the Department of Community Health, or his or her designee from within the Department of Community Health.
7. The Director of the Department of Environmental Quality, or his or her designee from within the Department of Environmental Quality.
8. The Director of the Department of Information Technology, or his or her designee from within the Department of Information Technology.
9. The Director of the Department of Transportation, or his or her designee from within the Department of Transportation.”

B. Section III.I of Executive Order 2003-6 is amended to read as follows:

“The Homeland Security Advisory Council is created to advise the Board and to provide input, advice, and recommendations to the Board on any issues deemed necessary by the Board. The Homeland Security Advisory Council shall consist of the Deputy State Director of Emergency Management and Homeland Security, the Assistant Adjutant General, the State Fire Marshal, and other members as directed by the Board. The Deputy State Director of Emergency Management and Homeland Security shall serve as the Chairperson of the Homeland Security Advisory Council.”

This Order is effective upon filing.

[SEAL]

Given under my hand this 28th day of September in the year of our Lord, two thousand and seven.

Jennifer M. Granholm

Governor

By the Governor:

Terri L. Land

Secretary of State

The message was referred to the Clerk.

Date: September 28, 2007

Time: 2:45 p.m.

To the Speaker of the House of Representatives:

Sir—I have this day approved and signed

Enrolled House Bill No. 4861 (Public Act No. 64, I.E.), being

An act to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending section 321 (MCL 600.321), as amended by 2005 PA 326.

(Filed with the Secretary of State September 28, 2007, at 3:10 p.m.)

Date: September 28, 2007
Time: 2:47 p.m.

To the Speaker of the House of Representatives:

Sir—I have this day approved and signed

Enrolled House Bill No. 4673 (Public Act No. 65, I.E.), being

An act to amend 1961 PA 39, entitled “An act to regulate insurance, bankruptcy, mortgage, insolvent, assignee’s, executor’s, administrator’s, receiver’s, trustee’s removal and closing out sales, and sales of goods, wares and merchandise damaged by fire, smoke, water or otherwise; to provide penalties for the violation hereof; and to repeal certain acts and parts of acts,” by amending section 6 (MCL 442.216).

(Filed with the Secretary of State September 28, 2007, at 3:12 p.m.)

Introduction of Bills

Rep. Wenke introduced

House Bill No. 5271, entitled

A bill to amend 1967 PA 281, entitled “Income tax act of 1967,” by amending section 51 (MCL 206.51), as amended by 1999 PA 6; and to repeal acts and parts of acts.

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

Reps. Jackson, Scott, Tobocman, Johnson and Cheeks introduced

House Bill No. 5272, entitled

A bill to amend 2002 PA 660, entitled “Consumer mortgage protection act,” by repealing sections 14 and 15 (MCL 445.1644 and 445.1645).

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

Reps. Jackson, Johnson, Virgil Smith, Cushingberry, Tobocman, Alma Smith, Young, Farrah, Dean and Cheeks introduced

House Bill No. 5273, entitled

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” (MCL 760.1 to 777.69) by adding section 1m to chapter IX.

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

Rep. Tobocman moved that Reps. Johnson and Virgil Smith be excused temporarily from today’s session.
The motion prevailed.

Rep. Booher moved that Rep. Hoogendyk be excused temporarily from today’s session.
The motion prevailed.

By unanimous consent the House returned to the order of

Messages from the Senate

House Bill No. 5198, entitled

A bill to amend 1937 PA 94, entitled “Use tax act,” by amending the title and sections 3a and 5 (MCL 205.93a and 205.95), sections 3a and 5 as amended by 2004 PA 172, and by adding section 4z.

The Senate has substituted (S-5) the bill.

The Senate has passed the bill as substituted (S-5) and pursuant to Joint Rule 20, inserted the full title.

The Speaker announced that pursuant to Rule 42, the bill was laid over one day.

Rep. Tobocman moved that Rule 42 be suspended.

The motion prevailed, 3/5 of the members present voting therefor.

The question being on concurring in the (S-5) made to the bill by the Senate,

The substitute (S-5) was not concurred in, a majority of the members serving not voting therefor, by yeas and nays, as follows:

Roll Call No. 422**Yeas—0****Nays—106**

| | | | |
|--------------|---------------|---------------|-------------|
| Accavitti | Dillon | LaJoy | Pearce |
| Acciavatti | Donigan | Law, David | Polidori |
| Amos | Ebli | Law, Kathleen | Proos |
| Angerer | Elsenheimer | LeBlanc | Robertson |
| Ball | Emmons | Leland | Rocca |
| Bauer | Espinoza | Lemmons | Sak |
| Bennett | Farrah | Lindberg | Schuitmaker |
| Bieda | Gaffney | Marleau | Scott |
| Booher | Garfield | Mayes | Shaffer |
| Brandenburg | Gillard | McDowell | Sheen |
| Brown | Gonzales | Meadows | Sheltrown |
| Byrnes | Green | Meekhof | Simpson |
| Byrum | Griffin | Meisner | Smith, Alma |
| Calley | Hammel | Melton | Spade |
| Casperson | Hammon | Meltzer | Stahl |
| Caswell | Hansen | Miller | Stakoe |
| Caul | Hildenbrand | Moolenaar | Steil |
| Cheeks | Hood | Moore | Tobocman |
| Clack | Hopgood | Moss | Vagnozzi |
| Clemente | Horn | Nitz | Valentine |
| Condino | Huizenga | Nofs | Walker |
| Constan | Hune | Opsommer | Ward |
| Corriveau | Jackson | Palmer | Warren |
| Coulouris | Jones, Rick | Palsrok | Wenke |
| Cushingberry | Jones, Robert | Pastor | Wojno |
| Dean | Knollenberg | Pavlov | Young |
| DeRoche | Lahti | | |

In The Chair: Sak

By unanimous consent the House returned to the order of

Motions and Resolutions

Rep. Tobocman moved that when the House adjourns today it stand adjourned until Saturday, September 29, at 2:00 p.m. The motion prevailed.

Messages from the Senate

House Bill No. 5104, entitled

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 201 (MCL 208.1201).

The Senate has amended the bill as follows:

1. Amend page 5, following line 25, by striking out all of enacting section 2.

The Senate has passed the bill as amended and pursuant to Joint Rule 20, inserted the full title.

The Speaker announced that pursuant to Rule 42, the bill was laid over one day.

Senate Bill No. 418, entitled

A bill to prescribe the conditions upon which public employers may provide certain benefits; to require the compilation and release of certain information and data; to provide certain powers and duties to certain state officials, departments, agencies, and authorities; and to provide for appropriations.

The Senate has appointed Senator Gleason to replace Senator Thomas as conferee.
The message was referred to the Clerk for record.

Notices

The Speaker appointed as conferees, on the part of the House of Representatives for **House Bill No. 5198**, Reps. Bieda, Condino and Palsrok.

Rep. Casperson moved that the House adjourn.
The motion prevailed, the time being 11:50 p.m.

The Speaker Pro Tempore declared the House adjourned until Saturday, September 29, at 2:00 p.m.

RICHARD J. BROWN
Clerk of the House of Representatives

