

**No. 38**  
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**OF THE**  
**House of Representatives**  
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**REGULAR SESSION OF 2005**

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House Chamber, Lansing, Thursday, May 5, 2005.

10:30 a.m.

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

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

Accavitti—present	Emmons—present	Leland—present	Robertson—present
Acciavatti—present	Espinoza—present	Lemmons, III—present	Rocca—present
Adamini—present	Farhat—present	Lemmons, Jr.—present	Sak—present
Amos—present	Farrah—present	Lipsey—present	Schuitmaker—present
Anderson—present	Gaffney—present	Marleau—present	Shaffer—present
Angerer—present	Garfield—present	Mayes—present	Sheen—present
Ball—present	Gillard—present	McConico—present	Sheltrown—present
Baxter—present	Gleason—present	McDowell—present	Smith, Alma—present
Bennett—present	Gonzales—present	Meisner—present	Smith, Virgil—present
Bieda—present	Gosselin—present	Meyer—present	Spade—present
Booher—present	Green—present	Miller—present	Stahl—present
Brandenburg—present	Hansen—present	Moolenaar—present	Stakoe—present
Brown—present	Hildenbrand—present	Moore—present	Steil—present
Byrnes—present	Hood—present	Mortimer—present	Stewart—present
Byrum—present	Hoogendyk—present	Murphy—present	Taub—present
Casperson—present	Hopgood—present	Newell—present	Tobocman—present
Caswell—present	Huizenga—present	Nitz—present	Vagnozzi—present
Caul—present	Hummel—present	Nofs—present	Van Regenmorter—present
Cheeks—present	Hune—present	Palmer—present	Vander Veen—present
Clack—present	Hunter—present	Palsrok—present	Walker—present
Clemente—present	Jones—present	Pastor—present	Ward—present
Condino—present	Kahn—present	Pavlov—present	Waters—present
Cushingberry—present	Kehrl—present	Pearce—present	Wenke—present
DeRoche—present	Kolb—present	Phillips—present	Whitmer—present
Dillon—present	Kooiman—present	Plakas—present	Williams—present
Donigan—present	LaJoy—present	Polidori—excused	Wojno—present
Drolet—present	Law, David—present	Proos—present	Zelenko—present
Elsenheimer—present	Law, Kathleen—present		

Rep. Lee Gonzales, from the 49th District, offered the following invocation:

“**O God**...What a humbling honor to offer this invocation on the Fifth Day of May—El Cinco de Mayo. The following I have adapted from internationally known Benedictine Sr. Joan Chittister’s beautiful ‘Prayer for Leadership.’ **Give us** insight enough ourselves to discover the deeper meaning of how complex decisions are made in the face of tremendous challenges. Please guide us, Lord, as servants who can tell strength from power, growth from greed, leadership from dominance, and real greatness from the trappings of grandiosity. Give us the vision as a people to know where leadership for our state truly lies, to pursue it diligently, to require it to protect the rights for everyone everywhere in Michigan. And simply put, Lord, let us take advantage of any opportunity to ‘love thy neighbor’ and make a difference to all people. **This we pray, and please join me in saying...Amen.**”

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Rep. Sak moved that Rep. Polidori be excused from today’s session.  
The motion prevailed.

The Speaker Pro Tempore assumed the Chair.

### Second Reading of Bills

#### House Bill No. 4602, entitled

A bill to amend 1951 PA 51, entitled “An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, local bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts,” by amending section 10c (MCL 247.660c), as amended by 2002 PA 498.

The bill was read a second time.

Rep. LaJoy moved to amend the bill as follows:

1. Amend page 5, following line 8, by inserting:

“(xii) **INSTALLING TRAFFIC SIGNS AND SIGNAL DEVICES.**”

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

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

The motion prevailed.

**House Bill No. 4544, entitled**

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 508 (MCL 750.508), as amended by 2002 PA 672.

Was read a second time, and the question being on the adoption of the proposed substitute (H-2) previously recommended by the Committee on Judiciary,

The substitute (H-2) was adopted, a majority of the members serving voting therefor.

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

The motion prevailed.

By unanimous consent the House returned to the order of

**Motions and Resolutions**

Rep. Hopgood moved that the Committee on Education be discharged from further consideration of **House Bill No. 4402**.

(For first notice see House Journal No. 37, p. 572.)

The question being on the motion made by Rep. Hopgood,

Rep. Ward moved that consideration of the motion be postponed for the day.

The motion prevailed.

**Second Reading of Bills**

Pending the Second Reading of

**House Bill No. 4327, entitled**

A bill to amend 1965 PA 213, entitled "An act to provide for setting aside the conviction in certain criminal cases; to provide for the effect of such action; to provide for the retention of certain nonpublic records and their use; to prescribe the powers and duties of certain public agencies and officers; and to prescribe penalties," by amending section 1 (MCL 780.621), as amended by 2002 PA 472; and to repeal acts and parts of acts.

Rep. Ward moved that the bill be re-referred to the Committee on Judiciary.

The motion prevailed.

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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 Insurance, by Rep. Hune, Chair, reported

**House Bill No. 4421, entitled**

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 1204c (MCL 500.1204c), as amended by 2001 PA 228.

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. Hune, Robertson, Emmons, Gaffney, Sheen, Ball, Hildenbrand, David Law, Marleau, Mortimer, Hood, Adamini, Leland, Anderson, Wojno, Condino and Farrah

Nays: None

### COMMITTEE ATTENDANCE REPORT

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

Meeting held on: Thursday, May 5, 2005

Present: Reps. Hune, Robertson, Emmons, Gaffney, Sheen, Ball, Hildenbrand, David Law, Marleau, Mortimer, Hood, Adamini, Leland, Anderson, Wojno, Condino and Farrah

### COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Casperson, Chair, of the Committee on Conservation, Forestry, and Outdoor Recreation, was received and read:

Meeting held on: Thursday, May 5, 2005

Present: Reps. Casperson, Hildenbrand, Garfield, Nitz, Baxter, Rocca, McDowell, Sheltroun and Gillard

Absent: Reps. Stakoe and Espinoza

Excused: Reps. Stakoe and Espinoza

### 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 Thursday, May 5:

**House Bill Nos. 4727 4728 4729 4730 4731 4732 4733 4734**

### Messages from the Governor

The following message from the Governor was received May 4, 2005 and read:

#### EXECUTIVE ORDER

**No. 2005 – 10**

#### ADVISORY COUNCIL ON ASIAN PACIFIC AMERICAN AFFAIRS

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, under Section 8 of Article V of the Michigan Constitution of 1963, the Governor is responsible for taking care that the law be faithfully executed;

WHEREAS, under Section 8 of Article V of the Michigan Constitution of 1963, each principal department of state government is under the supervision of the Governor unless otherwise provided by the Constitution;

WHEREAS, the religious, ethnic, racial, and cultural diversity of the State of Michigan is one of our state's greatest strengths;

WHEREAS, by working to build "One Michigan" the State of Michigan can help ensure that all of our people have an equal opportunity to pursue their dreams and are welcomed into our inclusive community;

WHEREAS, Michigan's Asian Pacific American community has contributed significantly to Michigan's culture and economy;

WHEREAS, the creation of an advisory council focused on issues of concern to Michigan's Asian Pacific American community will advance the building of "One Michigan" and help ensure that Asian Pacific Americans are equal participants in our community and our economy;

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 Michigan law, order the following:

#### I. DEFINITIONS

As used in this Order:

A. "Council" means the Advisory Council on Asian Pacific American Affairs created by this Order.

B. "Department" means the Department of Civil Rights, a principal department of state government created under Section 475 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.575.

## **II. CREATION OF THE ADVISORY COUNCIL ON ASIAN PACIFIC AMERICAN AFFAIRS**

A. The Advisory Council on Asian Pacific American Affairs is created within the Department of Civil Rights as an advisory body to the Governor and the Director of the Department.

B. The Council shall consist of 29 members appointed by the Governor. Of the members initially appointed, 8 members shall be appointed for terms expiring on April 30, 2006; 7 members shall be appointed for terms expiring on April 30, 2007; 7 members shall be appointed for terms expiring on April 30, 2008; and 7 members shall be appointed for terms expiring on April 30, 2009. After the initial appointments, members of the Council shall be appointed to 4-year terms.

C. In addition to the members appointed under Section II.B, the Director of the Department and the Director of the Department of Labor and Economic Growth, or their designees, shall serve as non-voting ex officio members of the Council.

D. A vacancy on the Council occurring other than by expiration of a term shall be filled in the same manner as the original appointment for the balance of the unexpired term.

E. The Governor shall designate a member of the Council to serve as its Chairperson at the pleasure of the Governor. The Governor may designate a member of the Council to serve as its Vice-Chairperson at the pleasure of the Governor.

## **III. CHARGE TO THE COUNCIL**

A. The Council shall act in an advisory capacity to the Governor and the Director and shall do all of the following:

1. Review and advise the Governor and the Director on the state's policies concerning the Asian Pacific American community.

2. Review and advise the Governor and the Director of the nature, magnitude, and priorities of the issues facing the Asian Pacific American community.

3. Monitor, evaluate, investigate, and recommend programs for the betterment of Asian Pacific Americans in Michigan.

4. Analyze and recommend policies and programs to advance economic development within the Asian Pacific American community and related policies and programs to increase exports by Michigan companies to Asia and the Pacific.

5. Make recommendations to the Governor and the Director regarding changes in state programs, statutes, regulations, and policies, including, but not limited to, the coordination of state programs serving Asian Pacific Americans.

6. Recommend policy and action plans to serve the needs of Asian Pacific Americans in Michigan.

7. Recognize the history, accomplishments, and contributions of Michigan's Asian Pacific American community.

8. Make recommendations to the Governor and the Director regarding methods of overcoming discrimination against Asian Pacific Americans.

9. Promote public awareness of Asian Pacific American culture.

10. Promote equal access to state services.

11. Promote the involvement of Asian Pacific Americans in government at all levels.

B. The Council shall also provide other information or advice regarding Asian Pacific American Affairs as requested by the Governor or the Director.

C. In addition, the Council shall issue reports that address issues described in this Section III and provide recommendations at times designated by the Governor or the Director.

## **IV. OPERATIONS OF THE COUNCIL**

A. The Council shall be staffed and assisted by personnel from the Department as directed by the Governor. Any budgeting, procurement, and related management functions of the Council shall be performed under the direction and supervision of the Director.

B. The Council shall select a Secretary from among its members. The Department shall assist the Secretary with recordkeeping responsibilities.

C. The Council shall adopt procedures consistent with Michigan law and this Order governing its organization and operations.

D. The Council may establish committees and request public participation on advisory panels as it deems necessary. The Council may also adopt, reject, or modify any recommendations proposed by committees or advisory panels.

E. The Council may designate members of the legislative branch or judicial branch of state government as non-voting honorary members of the Council.

F. The Council shall meet at the call of the Chairperson and as may be provided in procedures adopted by the Council.

G. A majority of the members serving on the Council constitutes a quorum for the transaction of the Council's business. The Council shall act by a majority vote of its serving members.

H. The Council may, as appropriate, make inquiries, studies, investigations, hold hearings, and receive comments from the public. The Council may also consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, organized labor, government agencies, and at institutions of higher education.

I. Members of the Council shall serve without compensation. Members of the Council may receive reimbursement for necessary travel and expenses according to relevant statutes and the rules and procedures of the Department of Management and Budget and the Civil Service Commission, subject to available funding.

J. The Council may hire or retain contractors, sub-contractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the Council and the performance of its duties as the Director deems advisable and necessary, in accordance with this Order, and the relevant statutes, rules, and procedures of the Department of Management and Budget and the Civil Service Commission.

K. The Council may accept donations of labor, services, or other things of value from any public or private agency or person. Any donations shall be expended in accordance with applicable laws, rules, and procedures.

L. Members of the Council shall refer all legal, legislative, and media contacts to the Department.

#### V. MISCELLANEOUS

A. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order.

B. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order.

This Order is effective upon filing.

[SEAL]

Given under my hand and the Great Seal of the State of Michigan this 4th day of May, in the year of our Lord, two thousand and five.

Jennifer M. Granholm

Governor

By the Governor:

Terri L. Land

Secretary of State

The message was referred to the Clerk.

#### Introduction of Bills

Rep. Green introduced

##### **House Bill No. 4735, entitled**

A bill to amend 1986 PA 182, entitled "State police retirement act of 1986," (MCL 38.1601 to 38.1648) by adding section 41a.

The bill was read a first time by its title and referred to the Committee on Senior Health, Security, and Retirement.

Reps. Hoogendyk, Stakoe, Huizenga, Robertson, Gosselin, Sheen and Vander Veen introduced

##### **House Bill No. 4736, entitled**

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 267 (MCL 206.267), as added by 2000 PA 394; 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. Cushingberry, Lemmons, III, Lemmons, Jr., Murphy, Sheltroun, Sak, McConico, Clack, Vagnozzi and Cheeks introduced

##### **House Bill No. 4737, entitled**

A bill to amend 1990 PA 100, entitled "City utility users tax act," by amending section 2 (MCL 141.1152), as amended by 1998 PA 548.

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

Reps. Van Regenmorter, Baxter, Byrnes, Jones, Taub, Lipsey, Shaffer, Vander Veen, Gosselin, Palmer, Moore, Wenke, Sak and Steil introduced

##### **House Bill No. 4738, entitled**

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 136b (MCL 750.136b), as amended by 1999 PA 273.

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

Reps. Lipsey, Tobocman, Gaffney, Condino, Alma Smith, Gillard, Adamini, Whitmer, Stewart, Byrnes, Bieda, Dillon and McConico introduced

##### **House Bill No. 4739, entitled**

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 3135 (MCL 500.3135), as amended by 2002 PA 697.

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

Reps. Nitz, Byrnes, LaJoy, Adamini and Mayes introduced

**House Bill No. 4740, entitled**

A bill to amend 2001 PA 142, entitled "Michigan memorial highway act," (MCL 250.1001 to 250.2080) by adding section 76.

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

Reps. Palmer, Gosselin, Casperson, Emmons, Robertson, Shaffer, Brandenburg, Walker, Steil, Jones, Drolet, Caswell, Hildenbrand, Pavlov, Proos, Moolenaar, Stahl, Vander Veen, Newell, Garfield, Hoogendyk, Rocca, Pastor, Palsrok and Van Regenmorter introduced

**House Bill No. 4741, entitled**

A bill to provide standards for personnel policies to protect and accommodate the right of conscience of health care providers who conscientiously object to providing or participating in certain health care services under certain circumstances; to provide for protection from certain liability; and to provide for penalties and remedies.

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

Reps. Hune, Gaffney, Hildenbrand, Sheen, Hummel, Emmons and Marleau introduced

**House Bill No. 4742, entitled**

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding chapter 21A.

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

Reps. Stahl, Palmer, Garfield, Gosselin, Stakoe, Vander Veen, Sheen, Taub, Hummel, Pastor and Moolenaar introduced

**House Bill No. 4743, entitled**

A bill to amend 1978 PA 368, entitled "Public health code," (MCL 333.1101 to 333.25211) by adding part 56B.

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

Reps. McConico and Phillips introduced

**House Bill No. 4744, entitled**

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 170 (MCL 750.170).

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

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Rep. Nitz moved that the House adjourn.

The motion prevailed, the time being 11:25 a.m.

The Speaker Pro Tempore declared the House adjourned until Tuesday, May 10, at 1:00 p.m.

GARY L. RANDALL  
Clerk of the House of Representatives

