

No. 66
STATE OF MICHIGAN
JOURNAL
OF THE
House of Representatives
100th Legislature
REGULAR SESSION OF 2020

House Chamber, Lansing, Tuesday, September 1, 2020.

1:30 p.m.

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

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

Afendoulis—present	Filler—present	Jones—present	Rabhi—present
Albert—present	Frederick—present	Kahle—present	Reilly—present
Alexander—present	Garrett—present	Kennedy—present	Rendon—present
Allor—present	Garza—present	Koleszar—present	Sabo—present
Anthony—present	Gay-Dagnogo—present	Kuppa—present	Schroeder—present
Bellino—present	Glenn—present	LaFave—present	Shannon—present
Berman—present	Green—present	LaGrand—present	Sheppard—present
Bolden—present	Greig—present	Lasinski—present	Slagh—present
Bollin—present	Griffin—present	Leutheuser—present	Sneller—present
Brann—present	Guerra—present	Liberati—present	Sowerby—present
Brixie—present	Haadsma—present	Lightner—present	Stone—present
Byrd—present	Hall—present	Lilly—present	Tate—present
Calley—present	Hammoud—present	Love—present	VanSingel—present
Cambensy—present	Hauck—present	Lower—present	VanWoerkom—present
Camilleri—present	Hernandez—present	Maddock—present	Vaupel—present
Carter, B.—present	Hertel—present	Manoogian—present	Wakeman—present
Carter, T.—present	Hoadley—present	Marino—present	Warren—present
Chatfield—present	Hoitenga—present	Markkanen—present	Webber—present
Cherry—present	Hood—present	Meerman—present	Wendzel—present
Chirkun—present	Hope—present	Miller—present	Wentworth—present
Clemente—present	Hornberger—present	Mueller—present	Whiteford—present
Cole—present	Howell—present	Neeley, C.—present	Whitsett—present
Coleman—present	Huizenga—present	O'Malley—present	Wittenberg—present
Crawford—present	Iden—present	Pagan—present	Witwer—present
Eisen—present	Inman—present	Paquette—present	Wozniak—present
Elder—present	Johnson, C.—present	Peterson—present	Yancey—present
Ellison—present	Johnson, S.—present	Pohutsky—present	Yaroch—present
Farrington—present			

e/d/s = entered during session

Rep. Pamela Hornberger, from the 32nd District, offered the following invocation:

“God of justice and mercy, thank You for Your presence in our lives. Thank You for the opportunity You have given us, both staff and elected, to serve the people of Michigan.

Help us to understand that leadership requires two simple virtues, honesty, and courage.

Help us to remember that while we have earned the right to be here, none of us are here by coincidence or luck, but by Your grace.

Help us to act with character and conviction; to listen with understanding and good will; to speak with charity and restraint.

Remind us that we are stewards of Your authority.

Guide us to be the leaders Your people need.

Help us see the humanity and dignity of those who disagree with us, and to treat all persons, no matter how weak or poor, with the reverence Your creation deserves.

Finally, Father, renew us with the strength of Your presence and the joy of helping to build a Michigan worthy of the human person.

We ask this as Your daughters and sons, confident in Your goodness and love. Amen.”

Motions and Resolutions

Reps. Tyrone Carter, Tate, Love, Peterson, Garrett, Brenda Carter, Cynthia Johnson, Chirkun, Stone, Haadsma, Brixie, Hope, Kuppa, Shannon, Sowerby and Wittenberg offered the following resolution:

House Resolution No. 304.

A resolution to oppose to the U.S. Census Bureau’s decision to end field data collection by September 30, 2020.

Whereas, The U.S. census, which is a decennial count of the population of the U.S., is used to determine the amount of federal funds, grants, and support apportioned to states, counties, and communities. Accurate census counts ensure that communities receive a fair share of the more than \$675 billion per year in federal funds spent on schools, hospitals, roads, public works, and other vital programs. The data is also used to decide the boundaries of legislative districts and is essential to maintaining equal representation; and

Whereas, Under normal circumstances, the census usually requires some level of in-person interaction with Census Bureau employees. Those who do not respond by mail receive a visit from employees in their homes, libraries, community centers, or other gathering places to help boost the response rate; and

Whereas, Due to the COVID-19 Pandemic, in-person data collection was halted in March 2020. In April 2020, the Trump Administration asked Congress to extend the deadlines for data collection to compensate for the time lost due to the Pandemic. Under the revised plan for the extended deadlines, the Census Bureau reopened field offices in June and extended the window of data collection to October 31, 2020; and

Whereas, In August 2020, the President abruptly changed his views on the deadline extension and announced that door-knocking and other field activities for data collection would end September 30, 2020 – a month earlier than the original plan; and

Whereas, Critics of this decision, which include the American Civil Liberties Union (ACLU) and other civil rights groups, argue that this will result in inaccurate reporting of minorities and immigrants. Communities of color, people living in rural areas, high-poverty neighborhoods, immigrant communities, and places where distrust of the government is high are less likely to be counted in the census. In-person visits help to get a more accurate count, which is important for maintaining adequate funding and services for these communities; and

Whereas, Some Michigan communities are particularly vulnerable to being undercounted. According to the W.K. Kellogg Foundation, it is estimated that two million children under five were not counted in the 2010 census, resulting in limited resources and programs for children and families. In addition, the Michigan League for Public Policy estimates that the state would lose \$1,800 per year in federal funding for each person who goes uncounted in 2020; now, therefore, be it

Resolved by the House of Representatives, That we oppose the U.S. Census Bureau’s decision to end field data collection by September 30, 2020; and be it further

Resolved, That copies of this resolution be transmitted to the Director of the U.S. Census Bureau, the U.S. Secretary of Commerce, and the President of the United States.

The resolution was referred to the Committee on Government Operations.

Reps. Brenda Carter, Cynthia Johnson, Tyrone Carter, Chirkun, Peterson, Garrett, Hammoud, Witwer, Clemente, Cherry, Sneller, Rabhi, Camilleri, Bolden, Manoogian, Ellison, Stone, Hoadley, Warren, Wittenberg, Tate, Guerra, Kuppa, Hope, Pagan and Sowerby offered the following resolution:

House Resolution No. 305.

A resolution to urge the U.S. Congress, the President of the United States, and the U.S. Postal Service Board of Governors to take swift action to ensure that the United States Postal Service remains an independent, fully funded agency of the federal government that is accessible and equipped to deliver all mail and provide all other services in a timely manner.

Whereas, The United States Postal Service is essential to the flow of information and goods in our country. This independent agency serves as a national communication network for people and communities across the country. It is foundational to the functioning of the economy and our system of commerce; and

Whereas, The United States Postal Service maintains a universal network that connects all rural, suburban, and urban communities across the country, encompassing nearly 159 million addresses. It carries necessary correspondence and goods to each community, including prescriptions and critical medications. Close to 120 million prescriptions are filled annually by the federal Veterans Administration and delivered daily to nearly 330,000 veterans across the country. Moreover, small businesses stay connected with their customers no matter where they live through the Postal Service; and

Whereas, The United States Postal Service is at the center of the nation's mailing industry, which generates \$1.6 trillion annually and employs approximately 7.3 million individuals. The Postal Service directly employs 630,000 people, including 97,000 military veterans; and

Whereas, Recent Postal Service operational changes implemented by the Trump administration have resulted in the disruption, delay, and slowdown of mail delivery; the removal of some curbside mail collection boxes; a ban on overtime work for employees; and a ban on employees making extra trips to deliver mail when necessary. Even more troubling is the reduction in mail processing facilities and the removal of time-saving sorting machines, which has resulted in close to 400,000 pieces of mail going unsorted in the United States Postal Service Metroplex in Pontiac alone, one of the busiest in the country; and

Whereas, In the midst of the COVID-19 Pandemic, more people than ever are voting by mail to protect the health of themselves and their families. However, in light of the operational changes implemented under the Trump administration, the United States Postal Service has recently warned 46 states, including the state of Michigan, that it cannot guarantee that ballots cast by mail for the November 2020 general election will be delivered in time to be counted, even if mailed by state deadlines, potentially resulting in the suppression of millions of votes and undermining democracy; and

Whereas, Under federal statute, the United States Postal Service must "be operated as a basic and fundamental service provided to the people by the Government of the United States, authorized by the Constitution, created by Act of Congress, and supported by the people." Further, it is obligated to "provide prompt, reliable, and efficient services to patrons in all areas" and "render services to all communities," in such a way so that "the costs of establishing and maintaining the Postal Service shall not be apportioned to impair the overall value of such service to the people"; and

Whereas, Postmaster General Louis DeJoy's status as a mega-donor of President Trump, coupled with owning more than \$75 million in companies competing with the Postal Service, has the appearance of a conflict of interest. This potential conflict, plus Mr. DeJoy's administrative actions as stated above, call into question his ability to run the agency as an independent, non-partisan entity entrusted with delivering the mailed votes of millions of Americans this fall; now, therefore, be it

Resolved by the House of Representatives, That we urge the U.S. Congress, the President of the United States, and the U.S. Postal Service Board of Governors to take swift action to ensure that the United States Postal Service remains an independent, fully funded agency of the federal government that is accessible and equipped to deliver all mail and provide all other services in a timely manner; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, and the U.S. Postal Service Board of Governors.

The resolution was referred to the Committee on Government Operations.

Rep. LaFave offered the following concurrent resolution:

House Concurrent Resolution No. 29.

A concurrent resolution opposing the enactment and enforcement of a state law, under a federal mandate, that requires the suspension or revocation or the delay of issuance or reinstatement, of a driver's license to an individual convicted of a drug offense.

Whereas, Under 23 USC 159, the United States Secretary of Transportation is directed to withhold a percentage of a state's highway-related funds unless the state enacts and enforces a law that requires the suspension or revocation or the delay of issuance or reinstatement, of a driver's license to an individual convicted of a violation of the federal Controlled Substances Act or another drug offense; and

Whereas, A state may still receive funding if the state legislature and governor formally oppose the enactment or enforcement of a state law mandated under 23 USC 159. The governor must submit to the U.S. Secretary of Transportation a written certification stating her opposition and that the legislature has adopted a resolution expressing its opposition; and

Whereas, After considering the mandates under 23 USC 159, the Michigan Legislature determines that the enactment and enforcement of a state law under 23 USC 159 may not be consistent with the policy goals of this state; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we oppose the enactment and enforcement of a state law, under a federal mandate, that requires the suspension or revocation or the delay of issuance or reinstatement, of a driver's license to an individual convicted of a violation of the federal Controlled Substances Act or another drug offense; and be it further

Resolved, That we urge the Governor to submit a written certification to the United States Secretary of Transportation stating the Governor's opposition to such a state law along with this resolution; and be it further

Resolved, That copies of this resolution be transmitted to the Governor.

The concurrent resolution was referred to the Committee on Judiciary.

Second Reading of Bills

Senate Bill No. 745, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2020; and to provide for the expenditure of the appropriations.

The bill was read a second time.

Rep. Glenn moved to substitute (H-1) the bill.

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

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

The motion prevailed.

Rep. Cole 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

Senate Bill No. 745, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2020; and to provide for the expenditure of the appropriations.

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

Roll Call No. 347

Yeas—106

Afendoulis	Farrington	Kahle	Reilly
Albert	Filler	Kennedy	Rendon
Alexander	Frederick	Koleszar	Sabo
Allor	Garrett	Kuppa	Schroeder
Anthony	Garza	LaFave	Shannon
Bellino	Gay-Dagnogo	LaGrand	Sheppard
Berman	Glenn	Lasinski	Slagh
Bolden	Green	Leutheuser	Sneller

Bollin	Greig	Liberati	Sowerby
Brann	Griffin	Lightner	Stone
Brixie	Guerra	Lilly	Tate
Byrd	Haadsma	Love	VanSingel
Calley	Hall	Lower	VanWoerkom
Cambensy	Hammoud	Maddock	Vaupel
Camilleri	Hauck	Manoogian	Wakeman
Carter, B.	Hertel	Marino	Warren
Carter, T.	Hoadley	Markkanen	Webber
Chatfield	Hoitenga	Miller	Wendzel
Cherry	Hood	Mueller	Wentworth
Chirkun	Hope	Neeley, C.	Whiteford
Clemente	Hornberger	O'Malley	Whitsett
Cole	Howell	Pagan	Wittenberg
Coleman	Huizenga	Paquette	Witwer
Crawford	Iden	Peterson	Wozniak
Eisen	Inman	Pohutsky	Yancey
Elder	Johnson, C.	Rabhi	Yaroch
Ellison	Jones		

Nays—3

Hernandez Johnson, S. Meerman

In The Chair: Hornberger

The House agreed to the title of the bill.
Rep. Cole moved that the bill be given immediate effect.
The motion prevailed, 2/3 of the members serving voting therefor.

Second Reading of Bills

House Bill No. 4186, entitled

A bill to amend 2004 PA 452, entitled "Identity theft protection act," by amending section 4 (MCL 445.64), as added by 2018 PA 649.

The bill was read a second time.

Rep. Farrington moved to substitute (H-2) the bill.

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

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

The motion prevailed.

House Bill No. 4187, entitled

A bill to require certain entities to provide notice to certain persons in the event of a breach of security that results in the unauthorized acquisition of sensitive personally identifying information; to provide for the powers and duties of certain state governmental officers and entities; and to prescribe penalties and provide remedies.

The bill was read a second time.

Rep. Warren moved to substitute (H-5) the bill.

The motion did not prevail and the substitute (H-5) was not adopted, a majority of the members serving not voting therefor.

Rep. Farrington moved to substitute (H-7) the bill.

The motion prevailed and the substitute (H-7) was adopted, a majority of the members serving voting therefor.

Rep. Warren moved to amend the bill as follows:

1. Amend page 10, following line 10, by inserting:

“Sec. 11. (1) If the number of state residents who a covered entity is required to notify under section 9 exceeds 100, the covered entity shall provide written notice of the breach to the department of the attorney general as expeditiously as possible and without unreasonable delay. Except as provided in section 9(3), the covered entity shall provide any notice required under this subsection no later than 45 days after the covered entity completes the measures necessary to determine the scope of the security breach and restore the reasonable integrity of the database.

(2) Written notice to the department of the attorney general under subsection (1) must include all of the following:

- (a) A synopsis of the events surrounding the breach at the time that notice is provided.
- (b) The approximate number of state residents the covered entity is required to notify.
- (c) Any services related to the breach the covered entity is offering or is scheduled to offer without charge to state residents, and instructions on how to use the services.
- (d) How a state resident may obtain additional information about the breach from the covered entity.
- (e) A copy of the notice provided under section 9 to state residents.”

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

Rep. Anthony moved to amend the bill as follows:

1. Amend page 11, line 14, after “(1)” by inserting “Subject to subsection (2) and except as otherwise provided in this subsection, a person that knowingly violates or has violated this act may be ordered to pay a civil fine of not more than \$250.00 for each violation.”

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

Rep. Koleszar moved to amend the bill as follows:

1. Amend page 12, following line 10, by inserting:

“Sec. 18. (1) If the attorney general has reason to believe that a person has information or is in possession, custody, or control of any document or other tangible object relevant to an investigation for violation of this act, the attorney general may serve upon the person, before bringing any action in court, a written demand to appear and be examined under oath, and to produce the document or object for inspection and copying. The demand must satisfy all of the following:

- (a) Be served upon the person in the manner required for service of process in this state.
- (b) Describe the nature of the conduct constituting the violation under investigation.
- (c) Describe the document or object with sufficient definiteness to permit it to be fairly identified.
- (d) If demanded, contain a copy of the written interrogatories.
- (e) Prescribe a reasonable time at which the person must appear to testify, within which to answer the written interrogatories, and within which the document or object must be produced, and advise the person that objections to or reasons for not complying with the demand may be filed with the attorney general on or before that time.
- (f) Specify a place for the taking of testimony or for production and designate the person who shall be custodian of the document or object.
- (g) Contain a notice of the right to petition the court to extend the return date for a reasonable time or modify or set aside the demand as provided in subsection (2).

(2) Before the return date specified in the demand for information under subsection (1), or within 10 days following notice of the demand, whichever is shorter, any person from whom information has been requested may petition a court of competent jurisdiction in this state, stating good cause, for a protective order to extend the return date for a reasonable time, or to modify or set aside the demand. The attorney general shall receive at least 10 days’ notice of the petition and shall be given an opportunity to respond.

(3) If a protective order from a court is not secured and the demand is not complied with by its return date, the attorney general, upon notice to the person requested to provide information, may apply to a court of competent jurisdiction in this state for an order compelling compliance with the demand for information under subsection (1).

(4) Any court of competent jurisdiction in this state, upon a showing by the attorney general that there are reasonable grounds to believe that the provisions of this act are being, have been, or are about to be violated;

that the persons who are committing, have committed, or are about to commit such acts or practices or who possess the relevant documentary material have left the state or are about to leave the state; and that such an order is necessary for the enforcement of this act, may order such persons to comply with the provisions of subsection (1) whether the attorney general has made a prior demand for information or not. The court may also, notwithstanding any provision to the contrary, immediately and without notice, forbid the removal from any place, concealment, withholding, destruction, mutilation, falsification, or alteration by any other means of any documentary material in the possession, custody, or control of any person believed to be connected with acts or practices that violate this act.

(5) Any person who has received notice of a demand for information under subsection (1), or of an order under subsection (3) or (4), and with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation or order under this act, removes from any place, conceals, withholds, destroys, mutilates, falsifies, or by any other means alters any documentary material in the possession, custody, or control of any person subject to such notice, shall be subject to a civil fine of not more than \$10,000.00 per violation, recoverable by the state in addition to any other appropriate sanction.

(6) Any procedure, testimony taken, or material produced shall be kept confidential by the attorney general before bringing an action against a person under this act for the violation under investigation, unless confidentiality is waived by the person being investigated and the person who has testified, answered interrogatories, or produced material.”.

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

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

The motion prevailed.

House Bill No. 5470, entitled

A bill to amend 1976 PA 451, entitled “The revised school code,” by amending section 1220 (MCL 380.1220), as added by 2015 PA 111.

The bill was read a second time.

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

The motion prevailed.



Rep. Cole 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

Announcement by the Clerk of Printing and Enrollment

The Clerk announced that the following bills had been reproduced and made available electronically on Monday, August 17:

**House Bill Nos. 6105 6106 6107 6108 6109 6110 6111 6112 6113 6114 6115 6116 6117
6118 6119 6120 6121 6122 6123 6124 6125 6126 6127 6128 6129 6130
6131 6132 6133 6134**

The Clerk announced the enrollment printing and presentation to the Governor on Wednesday, August 19, for her approval of the following bills:

Enrolled House Bill No. 5911 at 10:37 a.m.

Enrolled House Bill No. 5912 at 10:39 a.m.

Enrolled House Bill No. 5913 at 10:41 a.m.

The Clerk announced that the following bills had been reproduced and made available electronically on Tuesday, September 1:

Senate Bill Nos. 1072 1073

The Clerk announced that the following Senate bill had been received on Tuesday, September 1:

Senate Bill No. 820

Reports of Select Committees

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Hall, Chair, of the Joint Select Committee on the COVID-19 Pandemic, was received and read:

Meeting held on: Wednesday, August 19, 2020

Present: Reps. Hall, Calley and Guerra
Sens. Nesbitt, LaSata, Schmidt and Hollier

Absent: Reps. O'Malley and Tyrone Carter.
Sen. Hertel.

Excused: Reps. O'Malley and Tyrone Carter.
Sen. Hertel.

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Hall, Chair, of the Joint Select Committee on the COVID-19 Pandemic, was received and read:

Meeting held on: Wednesday, August 26, 2020

Present: Reps. Hall, Calley, O'Malley, and Tyrone Carter
Sens. LaSata, Schmidt, and Hertel

Absent: Rep. Guerra
Sens. Nesbitt and Hollier

Excused: Rep. Guerra
Sens. Nesbitt and Hollier

Reports of Standing Committees

The Committee on Transportation, by Rep. O'Malley, Chair, referred

House Bill No. 5553, entitled

A bill to amend 2001 PA 142, entitled "Michigan memorial highway act," (MCL 250.1001 to 250.2091) by adding section 102.

to the Committee on Ways and Means.

Favorable Roll Call

To Refer:

Yeas: Reps. O'Malley, Eisen, Cole, Sheppard, Alexander, Bellino, Howell, Afendoulis, Sneller, Clemente, Haadisma and Shannon

Nays: None

The bill was referred to the Committee on Ways and Means.

The Committee on Transportation, by Rep. O'Malley, Chair, referred

Senate Bill No. 435, entitled

A bill to amend 2001 PA 142, entitled "Michigan memorial highway act," (MCL 250.1001 to 250.2081) by adding section 1075a.

to the Committee on Ways and Means.

Favorable Roll Call

To Refer:

Yeas: Reps. O'Malley, Eisen, Cole, Sheppard, Alexander, Bellino, Howell, Afendoulis, Sneller, Clemente, Haadisma and Shannon

Nays: None

The bill was referred to the Committee on Ways and Means.

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. O'Malley, Chair, of the Committee on Transportation, was received and read:

Meeting held on: Tuesday, September 1, 2020

Present: Reps. O'Malley, Eisen, Cole, Sheppard, Alexander, Bellino, Howell, Afendoulis, Sneller, Clemente, Yancey, Haadsma and Shannon

The Committee on Judiciary, by Rep. Filler, Chair, reported

House Bill No. 5699, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 311 and 907 (MCL 257.311 and 257.907), section 311 as amended by 1983 PA 63 and section 907 as amended by 2015 PA 126.

With the recommendation that the substitute (H-2) 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. Filler, LaFave, Farrington, Howell, Steven Johnson, Rendon, Berman, Wozniak, LaGrand, Guerra, Elder, Yancey and Bolden

Nays: None

COMMITTEE ATTENDANCE REPORT

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

Meeting held on: Tuesday, September 1, 2020

Present: Reps. Filler, LaFave, Farrington, Howell, Steven Johnson, Rendon, Berman, Wozniak, LaGrand, Guerra, Elder, Yancey and Bolden

COMMITTEE ATTENDANCE REPORT

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

Meeting held on: Tuesday, September 1, 2020

Present: Reps. Hornberger, Paquette, Crawford, Vaupel, Reilly, Hall, Markkanen, Wakeman, Camilleri, Sowerby, Brenda Carter, Tyrone Carter, Koleszar and Stone

Absent: Rep. O'Malley

Excused: Rep. O'Malley

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Webber, Chair, of the Committee on Regulatory Reform, was received and read:

Meeting held on: Tuesday, September 1, 2020

Present: Reps. Webber, Berman, Crawford, Farrington, Frederick, Hoitenga, Filler, Hall, Wendzel, Chirkun, Liberati, Cambensy, Jones, Garza and Cynthia Neeley

COMMITTEE ATTENDANCE REPORT

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

Meeting held on: Tuesday, September 1, 2020

Present: Reps. Vaupel, Frederick, Alexander, Calley, Hornberger, Lower, Whiteford, Afendoulis, Filler, Mueller, Wozniak, Liberati, Garrett, Ellison, Koleszar, Pohutsky, Stone and Witwer

Absent: Rep. Clemente

Excused: Rep. Clemente

Messages from the Senate

House Bill No. 5488, entitled

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 1k of chapter IX (MCL 769.1k), as amended by 2017 PA 64.

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.

Senate Bill No. 820, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 517a (MCL 436.1517a), as amended by 2018 PA 472.

The Senate has passed the bill.

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

Messages from the Governor

Date: August 20, 2020

Time: 11:47 a.m.

To the Speaker of the House of Representatives:

Sir—I have this day approved and signed

Enrolled House Bill No. 5911 (Public Act No. 147, I.E.), being

An act to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools, the intermediate school districts, community colleges, and public universities of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts," by amending section 21f (MCL 388.1621f), as amended by 2018 PA 265.

(Filed with the Secretary of State on August 20, 2020, at 2:52 p.m.)

Date: August 20, 2020

Time: 11:49 a.m.

To the Speaker of the House of Representatives:

Sir—I have this day approved and signed

Enrolled House Bill No. 5912 (Public Act No. 148, I.E.), being

An act to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools, the intermediate school districts, community colleges, and public universities of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts," by amending section 101 (MCL 388.1701), as amended by 2019 PA 58.

(Filed with the Secretary of State on August 20, 2020, at 2:54 p.m.)

Date: August 20, 2020

Time: 11:51 a.m.

To the Speaker of the House of Representatives:

Sir—I have this day approved and signed

Enrolled House Bill No. 5913 (Public Act No. 149, I.E.), being

An act to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools, the intermediate school districts, community colleges, and public universities of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the

appropriations; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts,” by amending sections 6, 6a, 11p, 104, 201c, and 236g (MCL 388.1606, 388.1606a, 388.1611p, 388.1704, 388.1801c, and 388.1836g), sections 6 and 104 as amended by 2020 PA 146, section 6a as amended by 2007 PA 137, and sections 11p, 201c, and 236g as added by 2020 PA 146, and by adding section 98a.

(Filed with the Secretary of State on August 20, 2020, at 2:56 p.m.)

The following message from the Governor was received August 26, 2020 and read:

EXECUTIVE ORDER

No. 2020-171

**Michigan Women’s Commission
Department of Civil Rights
Department of Labor and Economic Opportunity
Department of Education**

Executive Reorganization

During a series of conversations facilitated by the Michigan Women’s Commission across this state, the women of Michigan expressed directly to Governor Whitmer that economic security is the biggest barrier to achieving gender equity.

To achieve economic security, Michigan women overwhelmingly cite pay equity, available and affordable childcare, paid parental leave, and the need for more women—and a more diverse group of women—in leadership roles in government, business, academia, and nonprofits as priorities. They also highlight the need for more equitable and affordable access to the types of training and education that lead to better paying jobs. Across all conversations, Michigan women expressed the importance of centering the most marginalized communities and the most affected populations in every policy decision.

Achieving these priorities can best be addressed by collaboration between the Department of Labor and Economic Opportunity and the Michigan Women’s Commission. This partnership will broaden, strengthen, coordinate, and streamline efforts to achieve gender equity in the state, while at the same time building greater economic security for women.

The functions, duties, and responsibilities assigned to the Michigan Women’s Commission can be more effectively organized and carried out within the Department of Labor and Economic Opportunity.

It is necessary in the interests of efficient administration and effectiveness of government to change the organization of the executive branch of state government by transferring the Michigan Women’s Commission from the Department of Civil Rights to the Department of Labor and Economic Opportunity.

Section 1 of article 5 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the governor.

Section 2 of article 5 of the Michigan Constitution of 1963 empowers the governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the governor considers necessary for efficient administration.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Transfer of the Michigan Women’s Commission to the Department of Labor and Economic Opportunity

- (a) The positions of chairman and vice-chairman of the Michigan Women’s Commission (the “Commission”) are abolished.
- (b) The executive director of the Commission shall be its chief executive officer, and shall provide executive direction and supervision of the Commission’s activities. The executive director shall serve as an ex officio member of the Commission.
- (c) The governor shall designate a chairperson and a vice-chairperson of the Commission from among its members.
- (d) The heads of the following departments and commissions, or their designees, shall serve as ex officio members of the Commission: Department of Civil Rights, Department of Education, Department of Labor and Economic Opportunity, Department of Health and Human Services, and Michigan Civil Service Commission.

- (e) The Commission is transferred by Type I transfer to the Department of Labor and Economic Opportunity, including but not limited to its two full-time staff.
- (f) The director of the Department of Civil Rights shall provide executive direction and supervision for the implementation of the transfer.

2. Definitions.

As used in this order:

- (a) "Department of Civil Rights" means the principal department of state government created by section 475 of the Executive Organization Act of 1965, 1965 PA 380, as amended, MCL 16.575.
- (b) "Department of Education" means the principal department of state government created by section 300 of the Executive Organization Act of 1965, 1965 PA 380, as amended, MCL 16.400.
- (c) "Department of Health and Human Services" means the principal department of state government created by Executive Order 2015-4, MCL 400.227.
- (d) "Department of Labor and Economic Opportunity" means the principal department of state government created by Executive Order 2019-13, MCL 125.1998.
- (e) "Michigan Civil Service Commission" means the commission created by Section 5 of Article XI of the Michigan Constitution of 1963.
- (f) "Michigan Council on Educational Opportunity for Military Children" means the council required by article 8 of section 1 of 2008 PA 160, MCL 3.1041.
- (g) "Michigan Women's Commission" means the independent unit created by 1968 PA 1, as amended, MCL 10.71 et seq.
- (h) "Type I transfer" means that term as defined in section 3(a) of the Executive Organization Act of 1965, 1965 PA 380, as amended, MCL 16.103(a).
- (i) "Type II transfer" means that term as defined in section 3(b) of the Executive Organization Act of 1965, MCL 16.103(b).

3. Implementation and other matters.

- (a) This order is not intended to abate a proceeding commenced by, against, or before an officer or entity affected by this order. A proceeding may be maintained by, against, or before the successor of any officer or entity affected by this order.
- (b) If any portion of this order is found to be unenforceable, the unenforceable provision should be disregarded, and the rest of the order should remain in effect as issued.
- (c) The Michigan Council on Educational Opportunity for Military Children is transferred by Type II transfer from the Department of Labor and Economic Opportunity to the Department of Education. The director of the Department of Labor and Economic Opportunity shall provide executive direction and supervision for the implementation of the transfer.
- (d) Consistent with section 2 of article 5 of the Michigan Constitution of 1963, this order is effective November 1, 2020 at 12:01 a.m.

Given under my hand and the Great Seal of the State of Michigan.

Date: August 26, 2020

Time: 10:45 pm

[SEAL]

GRETCHEN WHITMER

GOVERNOR

By the Governor:

JOCELYN BENSON

SECRETARY OF STATE

The message was referred to the Clerk.

The following message from the Governor was received August 27, 2020 and read:

EXECUTIVE ORDER

No. 2020-172

**Protecting workers who stay home, stay safe
when they or their close contacts are sick**

Rescission of Executive Order 2020-166

The lapsing of the federal supplement to unemployment benefits at the end of July means that more Michiganders feel pressure to go to work even when they are sick with COVID-19. Doing so, however, risks

spreading infection at the workplace, which frustrates efforts to reopen the economy and get our kids back to school. Individuals who have COVID-19, or who may have COVID-19, must be encouraged to isolate themselves from others.

This executive order therefore prohibits employers from discharging, disciplining, or retaliating against employees who make the responsible choice to stay home when they or their close contacts are sick. The order has again been revised to clarify the definition of the principal symptoms of COVID-19.

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine for this disease.

On March 10, 2020, the Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended (EMA), MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended (EPGA), MCL 10.31 et seq.

Since then, the virus spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. And on April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the EPA, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the EMA.

Those executive orders have been challenged in Michigan House of Representatives and Michigan Senate v. Whitmer. On August 21, 2020, the Court of Appeals ruled that the Governor's declaration of a state of emergency, her extensions of the state of emergency, and her issuance of related EOs clearly fell within the scope of the Governor's authority under the EPGA.

On August 7, 2020, I issued Executive Order 2020-165, again finding that the COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan. That order constituted a state of emergency declaration under the Emergency Powers of the Governor Act of 1945. And, to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature had declined to grant an extension request, that order also constituted a state of emergency and state of disaster declaration under that act.

The Emergency Powers of the Governor Act provides a sufficient legal basis for issuing this executive order. In relevant part, it provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

Nevertheless, subject to the ongoing litigation and the possibility that current rulings may be overturned or otherwise altered on appeal, I also invoke the Emergency Management Act as a basis for executive action to combat the spread of COVID-19 and mitigate the effects of this emergency on the people of Michigan, with the intent to preserve the rights and protections provided by the EMA. The EMA vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). This executive order falls within the scope of those powers and duties, and to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has not granted an extension request, they too provide a sufficient legal basis for this order.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. It is the public policy of this state that an employer shall not discharge, discipline, or otherwise retaliate against an employee for staying home when he or she is at particular risk of infecting others with COVID-19. To effectuate that policy:
 - (a) Employers are prohibited from discharging, disciplining, or otherwise retaliating against an employee described in sections 2 or 3 of this order for staying home from work for the periods described in those sections.
 - (b) Employers must treat such an employee as if he or she were taking medical leave under the Paid Medical Leave Act, 2018 PA 338, as amended, MCL 408.961 et seq.
 - (1) To the extent that the employee has no paid leave, the leave may be unpaid. Employers are permitted, but not required, to debit any hours that an employee described in sections 2 or 3 of this order stays home from work from the employee's accrued leave.

- (2) The length of such leave is not limited by the amount of leave that an employee has accrued under MCL 408.963 and must extend, whether paid or unpaid, as long as the employee remains away from work within the time periods described in sections 2 or 3 of this order.
 - (c) Nothing in this section shall be taken to prevent an employer from discharging or disciplining an employee:
 - (1) Who is allowed to return to work under sections 2 or 3 of this order but declines to do so;
 - (2) With the employee's consent (e.g., if the employee asks to be discharged); or
 - (3) For any other reason that is not unlawful.
 - (d) The director of the Department of Labor and Economic Opportunity shall have authority to enforce this order in the same manner and to the same extent as the director enforces the Paid Medical Leave Act under section 7 of that act, MCL 408.967. In addition, the director shall refer all credible complaints of violations to the relevant licensing authority.
2. Subject to the exceptions in section 5 of this order, it is the public policy of this state that any and all individuals who test positive for COVID-19 or who display the principal symptoms of COVID-19 should (apart from seeking medical care) remain in their home or place of residence until:
 - (a) 24 hours have passed since the resolution of fever without the use of fever-reducing medications;
 - (b) 10 days have passed since their symptoms first appeared or since they were swabbed for the test that yielded the positive result; and
 - (c) other symptoms have improved.
3. Subject to the exceptions in section 5 of this order, it is the public policy of this state that any and all people who have had close contact with an individual who tests positive for COVID-19 or with an individual who displays the principal symptoms of COVID-19 should remain in their home or place of residence (apart from seeking medical care) until either:
 - (a) 14 days have passed since the last close contact with the sick or symptomatic individual; or
 - (b) The individual displaying COVID-19 symptoms receives a negative COVID-19 test.
4. Section 3 does not apply to the following classes of workers, provided that their employers' rules governing occupational health allow them to go to work:
 - (a) Health care professionals.
 - (b) Workers at a health care facility, as defined in section 7(d) of this order.
 - (c) First responders (e.g., police officers, fire fighters, paramedics, emergency medical technicians).
 - (d) Child protective service employees.
 - (e) Workers at child caring institutions, as defined in section 1 of Public Act 116 of 1973, MCL 722.111.
 - (f) Workers at adult foster care facilities, as defined in the Adult Foster Care Facility Licensing Act, MCL 400.703(4).
 - (g) Workers at correctional facilities.
5. An individual described in sections 2 or 3 of this order who voluntarily returns to work (i.e. without threat of discharge, discipline, or retaliation from their employer) prior to the periods specified in sections 2 or 3, respectively, shall not be entitled to the protections against discharge, discipline, or retaliation provided under section 1 of this order.
6. It is the public policy of this state that individuals with a suspected or confirmed COVID-19 infection or who have had close contact with such an individual (i.e. individuals described in sections 2 and 3 of this order) should leave the home or place of residence only:
 - (a) To the extent absolutely necessary to obtain food, medicine, medical care, or supplies that are needed to sustain or protect life, where such food, medicine, medical care, or supplies cannot be obtained via delivery. All food, medicine, and supplies should be picked up at the curbside to the fullest extent possible.
 - (b) To engage in outdoor activity, including walking, hiking, running, cycling, or any other recreational activity consistent with remaining at least six feet from people from outside their household.
7. For purposes of this order:
 - (a) "The principal symptoms of COVID-19" are (i) any one of the following not explained by a known medical or physical condition: fever, an uncontrolled cough, shortness of breath; or (ii) at least two of the following not explained by a known medical or physical condition: loss of taste or smell, muscle aches ("myalgia"), sore throat, severe headache, diarrhea, vomiting, abdominal pain.
 - (b) "Employer" means the same as it does in section 2(f) of the Paid Medical Leave Act, MCL 408.962(f), except that it shall also include employers with fewer than 50 employees.

- (c) “Close contact” means being within six feet of an individual for fifteen minutes.
- (d) “Health care facility” means the following facilities, including those which may operate under shared or joint ownership:
 - (1) The entities listed in section 20106(1) of the Public Health Code, 1978 PA 368, as amended MCL 333.20106(1).
 - (2) State-owned hospitals and surgical centers.
 - (3) State-operated outpatient facilities.
 - (4) State-operated veterans facilities.
 - (5) Entities used as surge capacity by any of the entities listed in subdivisions (1)-(4) of this subsection.
- 8. Nothing in this order shall be taken to create a private right of action against an employer for failing to comply with section 1 of this order or against an individual for acting contrary to the public policies of sections 2, 3, 5, or 6 of this order.
- 9. Executive Order 2020-166 is rescinded, except that the protections it afforded to workers during the time it was in effect remain effective.
- 10. This order is effective immediately.

Given under my hand and the Great Seal of the State of Michigan.

Date: August 27, 2020

Time: 1:45 pm

[SEAL]

GRETCHEN WHITMER

GOVERNOR

By the Governor:

JOCELYN BENSON

SECRETARY OF STATE

The message was referred to the Clerk.

The following message from the Governor was received August 28, 2020 and read:

EXECUTIVE ORDER

No. 2020-173

Encouraging the use of electronic signatures and remote notarization, witnessing, and visitation during the COVID-19 pandemic

Rescission of Executive Order 2020-158

In order to reduce in-person interactions that may lead to the spread of COVID-19, this order continues until September 30 the suspension of certain requirements related to notarizations, witnessing of signatures, and in-person visitation previously permitted by Executive Order 2020-158.

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. Older adults and those with chronic health conditions are at particular risk, and there is an increased risk of rapid spread of COVID-19 among persons in close proximity to one another. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended (EMA), MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended (EPGA), MCL 10.31 et seq.

Since then, the virus spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state’s economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. And on April 30, 2020, finding that COVID-19 had created

emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the EPGA, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the EMA.

Those executive orders have been challenged in Michigan House of Representatives and Michigan Senate v. Whitmer. On August 21, 2020, the Court of Appeals ruled that the Governor's declaration of a state of emergency, her extensions of the state of emergency, and her issuance of related EOs clearly fell within the scope of the Governor's authority under the EPGA.

On August 7, 2020, I issued Executive Order 2020-165, again finding that the COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan. That order constituted a state of emergency declaration under the Emergency Powers of the Governor Act of 1945. And, to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature had declined to grant an extension request, that order also constituted a state of emergency and state of disaster declaration under that act.

The Emergency Powers of the Governor Act provides a sufficient legal basis for issuing this executive order. In relevant part, it provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

Nevertheless, subject to the ongoing litigation and the possibility that current rulings may be overturned or otherwise altered on appeal, I also invoke the Emergency Management Act as a basis for executive action to combat the spread of COVID-19 and mitigate the effects of this emergency on the people of Michigan, with the intent to preserve the rights and protections provided by the EMA. The EMA vests the governor with broad powers and duties to "cop[er] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). This executive order falls within the scope of those powers and duties, and to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has not granted an extension request, they too provide a sufficient legal basis for this order.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Strict compliance with rules and procedures under the Uniform Electronic Transactions Act ("UETA"), 2000 PA 305, as amended, MCL 450.831 et seq., and the Uniform Real Property Electronic Recording Act ("URPERA"), 2010 PA 123, as amended, MCL 565.841 et seq., is temporarily suspended to the extent necessary to permit the use of an electronic signature for a transaction whenever a signature is required under Michigan law, unless the law specifically mandates a physical signature. As provided in section 7 of the UETA, MCL 450.837, a signature will not be denied legal effect or enforceability solely because it is in electronic form and if a law requires a signature, an electronic signature satisfies the law.
2. Strict compliance with rules and procedures under section 18 of the UETA, MCL 450.848, is temporarily suspended so as to permit each state department to send and accept electronic records and electronic signatures to and from other persons without a determination from or approval by the Department of Technology, Management and Budget.
3. Strict compliance the Michigan Law on Notarial Acts, 2003 PA 238, as amended, MCL 55.261 et seq., is temporarily suspended, to the extent it requires a notary to be in the physical presence of an individual seeking the notary's services or of any required witnesses.
4. To minimize in-person interaction and facilitate remote work during the declared states of emergency and disaster:
 - (a) Governmental agencies and officials of this state are encouraged to use or permit the use of electronic records and electronic signatures for transaction of business, processing of applications, and recognition of the validity of legal instruments, and, when a notarized signature is mandated by law, to use a remote electronic notary pursuant to the Michigan Law on Notarial Acts, MCL 55.261 et seq.
 - (b) Persons and entities engaged in transactions are encouraged to use electronic records and electronic signatures and, when a notarized signature is mandated by law, to use a remote electronic notary pursuant to the Michigan Law on Notarial Acts, MCL 55.261 et seq.
5. In addition to other means available by law, any notarial act that is required under Michigan law may be performed by a notary who currently holds a valid notarial commission in this state ("notary") utilizing two-way real-time audiovisual technology, provided that all of the following conditions are met:
 - (a) The two-way real-time audiovisual technology must allow direct interaction between the individual seeking the notary's services, any witnesses, and the notary, wherein each can communicate simultaneously by sight and sound through an electronic device or process at the time of the notarization.

- (b) The two-way real-time audiovisual technology must be capable of creating an audio and visual recording of the complete notarial act and such recording must be made and retained as a notarial record in accordance with sections 26b(7) to 26b(9) of the Michigan Law on Notarial Acts, MCL 55.286b(7) to 55.286b(9).
 - (c) The individual seeking the notary's services and any required witnesses, if not personally known to the notary, must present satisfactory evidence of identity (e.g., a valid state-issued photo identification) to the notary during the video conference, not merely transmit it prior to or after the transaction, to satisfy the requirements of the Michigan Law on Notarial Acts, MCL 55.261 et seq., and any other applicable law.
 - (d) The individual seeking the notary's services must affirmatively represent either that the individual is physically situated in this state, or that the individual is physically located outside the geographic boundaries of this state and that either:
 - (1) The document is intended for filing with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of this state; or
 - (2) The document involves property located in the territorial jurisdiction of this state or a transaction substantially connected to this state.

If an individual is physically located outside of the geographic boundaries of this state, the notary must have no actual knowledge that the individual's act of making the statement or signing the document is prohibited by the laws of the jurisdiction in which the individual is physically located.
 - (e) The individual seeking the notary's services, any required witnesses, and the notary must be able to affix their signatures to the document in a manner that renders any subsequent change or modification of the remote online notarial act to be tamper evident.
 - (f) The individual seeking the notary's services or the individual's designee must transmit by fax, mail, or electronic means a legible copy of the entire signed document directly to the notary on the same date it was signed. This requirement shall apply regardless of the manner in which the document is signed.
 - (g) Once the notary has received a legible copy of the document with all necessary signatures, the notary may notarize the document and transmit the notarized document back to the individual seeking the notary's services.
 - (h) The official date and time of the notarization shall be the date and time when the notary witnesses the signature via two-way real-time audiovisual technology as required under this section.
6. Any requirement under Michigan law that an in-person witness attest to or acknowledge an instrument, document, or deed may be satisfied by the use of two-way real-time audiovisual technology, provided that all of the following conditions are met:
- (a) The two-way real-time audiovisual technology must allow direct, contemporaneous interaction by sight and sound between the individual signing the document (the "signatory") and the witness(es).
 - (b) The interaction between the signatory and the witness(es) must be recorded and preserved by the signatory or the signatory's designee for a period of at least three years, unless a law of this state requires a different period of retention.
 - (c) The signatory must affirmatively represent either that the signatory is physically situated in this state, or that the signatory is physically located outside the geographic boundaries of this state and that either of the following apply:
 - (1) The document is intended for filing with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of this state; or
 - (2) The document involves property located in the territorial jurisdiction of this state or a transaction substantially connected to this state.
 - (d) The signatory must affirmatively state during their interaction with the witness(es) on the two-way real-time audiovisual technology what document they are executing.
 - (e) Each title page and signature page of the document being witnessed must be shown to the witness(es) on the two-way real-time audiovisual technology in a manner clearly legible to the witness(es), and every page of the document must be numbered to reflect both the page number of the document and the total number of pages of the document.
 - (f) Each act of signing the document must be captured sufficiently up close on the two-way real-time audiovisual technology for the witness(es) to observe.
 - (g) The signatory or the signatory's designee must transmit by fax, mail, or electronic means a legible copy of the entire signed document directly to the witness(es) within 72 hours of when it is executed.

- (h) Within 72 hours of receipt, the witness(es) must sign the transmitted copy of the document as a witness and return the signed copy of the document to the signatory or the signatory’s designee by fax, mail, or electronic means.
- 7. Notwithstanding any law or regulation of this state to the contrary, absent an express prohibition in the document against signing in counterparts, any document signed under this order may be signed in counterparts.
- 8. A guardian, guardian ad litem, or visitor may satisfy any requirement concerning a visit with a person, including but not limited to a visit in the physical presence of a person under the Estates and Protected Individuals Code, 1998 PA 386, as amended, MCL 700.1101 et seq., by instead conferring with that person via two-way real-time audiovisual technology that allows direct, contemporaneous interaction by sight and sound between the person being visited and the guardian, guardian ad litem, or visitor.
- 9. Any law of this state requiring an individual to appear personally before or be in the presence of either a notary at the time of a notarization or a witness at the time of attestation or acknowledgment shall be satisfied if the individual, the witness(es), and/or the notary are not in the physical presence of each other but can communicate simultaneously by sight and sound via two-way real-time audiovisual technology at the time of the notarization, attestation, or acknowledgment.
- 10. For the duration of this order and any order that may follow from it, financial institutions and registers of deeds must not refuse to record a tangible copy of an electronic record on the ground that it does not bear the original signature of a person, witness, or notary, if the notary before whom it was executed certifies that the tangible copy is an accurate copy of the electronic record.
- 11. Strict compliance with section 9(2) of the Michigan Law on Notarial Acts, as amended, MCL 55.269(2), is temporarily suspended to the extent necessary to extend until September 30, 2020 the validity of a notarial commission that expired or is set to expire between March 1, 2020 and September 30, 2020.
- 12. For purposes of the “verified user agreement” requirement of section 4 of the URPERA, MCL 565.844(4), a county recording office must deem all financial institutions and all licensed title insurers or their employed or contracted settlement agents as covered by a verified user agreement for the duration of this order and any order that may follow from it. The recorder may ask the financial institution or title insurance company for verification of a notary’s employment or contractual association.
- 13. As used in this order:
 - (a) “Electronic,” “electronic record,” “electronic signature,” “governmental agency,” “person,” and “transaction” mean those terms as defined under section 2 of the UETA, MCL 450.832.
 - (b) “Financial institution” means that term as defined in section 4(c) of the Michigan Strategic Fund Act, 1984 PA 270, as amended, MCL 125.2004(c).
- 14. Executive Order 2020-158 is rescinded.
- 15. This order is effective immediately and continues through September 30, 2020 at 11:59 pm.

Given under my hand and the Great Seal of the State of Michigan.

Date: August 28, 2020

Time: 3:13 pm

[SEAL]

GRETCHEN WHITMER
 GOVERNOR
 By the Governor:
 JOCELYN BENSON
 SECRETARY OF STATE

The message was referred to the clerk.

The following message from the Governor was received August 28, 2020 and read:

EXECUTIVE ORDER

No. 2020-174

Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities

Rescission of Executive Order 2020-156

This executive order continues until September 30 the visitation restrictions of Executive Order 2020-156 in order to protect Michigan’s most vulnerable populations living in congregate settings. The Michigan

Department of Health and Human Services remains empowered to specify exceptions to these restrictions, and should carefully consider the recommendations of the upcoming Nursing Home Task Force report in doing so.

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. Older adults and those with chronic health conditions are at particular risk, and there is an increased risk of rapid spread of COVID-19 among persons in close proximity to one another. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended (EMA), MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended (EPGA), MCL 10.31 et seq.

Since then, the virus spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. And on April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the EPGA, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the EMA.

Those executive orders have been challenged in Michigan House of Representatives and Michigan Senate v. Whitmer. On August 21, 2020, the Court of Appeals ruled that the Governor's declaration of a state of emergency, her extensions of the state of emergency, and her issuance of related EOs clearly fell within the scope of the Governor's authority under the EPGA.

On August 7, 2020, I issued Executive Order 2020-165, again finding that the COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan. That order constituted a state of emergency declaration under the Emergency Powers of the Governor Act of 1945. And, to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature had declined to grant an extension request, that order also constituted a state of emergency and state of disaster declaration under that act.

The Emergency Powers of the Governor Act provides a sufficient legal basis for issuing this executive order. In relevant part, it provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

Nevertheless, subject to the ongoing litigation and the possibility that current rulings may be overturned or otherwise altered on appeal, I also invoke the Emergency Management Act as a basis for executive action to combat the spread of COVID-19 and mitigate the effects of this emergency on the people of Michigan, with the intent to preserve the rights and protections provided by the EMA. The EMA vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). This executive order falls within the scope of those powers and duties, and to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has not granted an extension request, they too provide a sufficient legal basis for this order.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Except as otherwise provided by the order of the Director of the Department of Health and Human Services (DHHS), all health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities must prohibit from entering their facilities any visitors that: are not necessary for the provision of medical care, the support of activities of daily living, or the exercise of power of attorney or court-appointed guardianship for an individual under the facility's care; are not a parent, foster parent, prospective adoptive parent, or guardian of an individual who is 21 years of age or under and who is under the facility's care; are not visiting an individual under the facility's care that is in serious or critical condition or in hospice care; and are not visiting under exigent circumstances or for the purpose of performing official governmental functions.

2. All health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities must perform a health evaluation of all individuals that are not under the care of the facility each time the individual seeks to enter the facility, and must deny entry to those individuals who do not meet the evaluation criteria. The evaluation criteria must include, at a minimum, symptoms of a respiratory infection, such as fever, cough, or shortness of breath; contact in the last 14 days with someone with a confirmed diagnosis of COVID-19; and other criteria specified by the Director of DHHS.
3. Any staff member or visitor of a residential care facility, congregate care facility, or juvenile justice facility must wear a covering over his or her nose and mouth when indoors or within six feet of another person.
4. While the restrictions of this order are in place, all health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities must make best efforts to facilitate visitations with individuals under their care by phone or other electronic communication platforms to the fullest extent possible, consistent with normal visitation policies.
5. For purposes of this order, "residential care facilities" includes, but is not limited to, homes for the aged, nursing homes, adult foster care facilities, hospice facilities, substance abuse disorder residential facilities, independent living facilities, and assisted living facilities.
6. The Director of DHHS may issue orders and directives to implement this order, including to specify exceptions to section 1 of this order, and to specify additional evaluation criteria under section 2 of this order.
7. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order shall constitute a misdemeanor.
8. Executive Order 2020-156 is rescinded.
9. This order is effective immediately and continues through September 30, 2020 at 11:59 pm.

Given under my hand and the Great Seal of the State of Michigan.

Date: August 28, 2020

Time: 3:15 pm

[SEAL]

GRETCHEN WHITMER

GOVERNOR

By the Governor:

JOCELYN BENSON

SECRETARY OF STATE

The message was referred to the Clerk.

Introduction of Bills

Rep. Eisen introduced

House Bill No. 6135, entitled

A bill to amend 1927 PA 372, entitled "An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices; to prohibit the buying, selling, or carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices without a license or other authorization; to provide for the forfeiture of firearms and electro-muscular disruption devices under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act," by amending section 5j (MCL 28.425j), as amended by 2017 PA 95.

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

Rep. Hall introduced

House Bill No. 6136, entitled

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 44 (MCL 421.44), as amended by 2015 PA 240.

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

Reps. Love, Cynthia Neeley, Bolden, Cynthia Johnson, Kuppa, Coleman, Vaupel, Pohutsky, Stone, Hoitenga, Brixie, Hood, Sabo, Hertel, Sowerby, Tate, Clemente, Haadsma, Gay-Dagnogo, Yancey, Rabhi, Brenda Carter, Tyrone Carter, Peterson, Crawford, Witwer, Koleszar, Chirkun, Lasinski and Garrett introduced

House Bill No. 6137, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending section 21717 (MCL 333.21717), as amended by 2014 PA 66, and by adding sections 21317 and 21717a.

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

Reps. Love, Cynthia Neeley, Bolden, Cynthia Johnson, Kuppa, Coleman, Witwer, Pohutsky, Stone, Hood, Koleszar, Ellison, Sabo, Hertel, Sowerby, Tate, Clemente, Haadsma, Gay-Dagnogo, Yancey, Garrett, Rabhi, Brenda Carter, Tyrone Carter, Peterson and Inman introduced

House Bill No. 6138, entitled

A bill to require long-term care facilities to report certain data; to prescribe civil sanctions; to provide for the powers and duties of certain state officers and entities; and to allow for the promulgation of rules.

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

Reps. Stone, Love, Cynthia Neeley, Bolden, Cynthia Johnson, Kuppa, Coleman, Witwer, Pohutsky, Hood, Ellison, Sabo, Hertel, Sowerby, Yaroch, Tate, Clemente, Haadsma, Gay-Dagnogo, Yancey, Garrett, Rabhi, Brenda Carter, Tyrone Carter, Peterson, Koleszar, Chirkun and Lasinski introduced

House Bill No. 6139, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” (MCL 333.1101 to 333.25211) by adding section 20210.

The bill was read a first time by its title and referred to the Committee on Families, Children, and Seniors.

Reps. Hoitenga, Love, Cynthia Neeley, Bolden, Cynthia Johnson, Kuppa, Coleman, Pohutsky, Stone, Hood, Koleszar, Ellison, Sabo, Hertel, Sowerby, Yaroch, Tate, Haadsma, Gay-Dagnogo, Yancey, Garrett, Rabhi, Brenda Carter, Tyrone Carter, Peterson, Witwer and Inman introduced

House Bill No. 6140, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” (MCL 333.1101 to 333.25211) by adding sections 21334 and 21737.

The bill was read a first time by its title and referred to the Committee on Families, Children, and Seniors.

Reps. Pohutsky, Love, Cynthia Neeley, Bolden, Cynthia Johnson, Kuppa, Coleman, Witwer, Stone, Brixie, Koleszar, Hood, Ellison, Sabo, Hertel, Sowerby, Tate, Clemente, Haadsma, Gay-Dagnogo, Yancey, Garrett, Rabhi, Brenda Carter, Tyrone Carter, Peterson and Inman introduced

House Bill No. 6141, entitled

A bill to amend 2018 PA 337, entitled “Improved workforce opportunity wage act,” (MCL 408.931 to 408.945) by adding section 4e.

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

Reps. Coleman, Love, Cynthia Neeley, Bolden, Cynthia Johnson, Peterson, Witwer, Pohutsky, Stone, Hood, Koleszar, Ellison, Sabo, Hertel, Sowerby, Yaroch, Tate, Clemente, Haadsma, Gay-Dagnogo, Yancey, Garrett, Rabhi, Brenda Carter, Tyrone Carter and Inman introduced

House Bill No. 6142, entitled

A bill to amend 1979 PA 218, entitled “Adult foster care facility licensing act,” by amending section 27 (MCL 400.727).

The bill was read a first time by its title and referred to the Committee on Families, Children, and Seniors.

Reps. Cynthia Neeley, Love, Kennedy, Kuppa, Byrd, Cynthia Johnson, Coleman, Pohutsky, Stone, Hood, Sabo, Hertel, Sowerby, Tate, Clemente, Haadsma, Gay-Dagnogo, Yancey, Garrett, Whitsett, Rabhi, Brenda Carter, Tyrone Carter, Peterson, Witwer, Koleszar, Chirkun and Lasinski introduced

House Bill No. 6143, entitled

A bill to amend 1973 PA 116, entitled “An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care

organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts.” (MCL 722.111 to 722.128) by adding section 3i.

The bill was read a first time by its title and referred to the Committee on Families, Children, and Seniors.

Reps. Bolden, Love, Cynthia Neeley, Cynthia Johnson, Kuppa, Coleman, Pohutsky, Stone, Hood, Sabo, Hertel, Sowerby, Yaroch, Tate, Clemente, Haadsma, Gay-Dagnogo, Yancey, Garrett, Rabhi, Brenda Carter, Tyrone Carter, Peterson, Witwer, Koleszar, Chirkun and Lasinski introduced

House Bill No. 6144, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” (MCL 333.1101 to 333.25211) by adding section 21315.

The bill was read a first time by its title and referred to the Committee on Families, Children, and Seniors.

Reps. Cynthia Johnson, Love, Cynthia Neeley, Bolden, Kuppa, Coleman, Peterson, Witwer, Pohutsky, Stone, Hood, Koleszar, Ellison, Sabo, Hertel, Sowerby, Tate, Clemente, Haadsma, Gay-Dagnogo, Yancey, Rabhi, Brenda Carter, Tyrone Carter, Garrett and Inman introduced

House Bill No. 6145, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” (MCL 333.1101 to 333.25211) by adding sections 21327 and 21727.

The bill was read a first time by its title and referred to the Committee on Families, Children, and Seniors.

Reps. Kuppa, Love, Cynthia Neeley, Bolden, Cynthia Johnson, Coleman, Pohutsky, Stone, Hood, Sabo, Hertel, Sowerby, Tate, Clemente, Haadsma, Gay-Dagnogo, Yancey, Rabhi, Brenda Carter, Tyrone Carter, Peterson, Witwer, Koleszar, Chirkun, Lasinski and Garrett introduced

House Bill No. 6146, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” (MCL 333.1101 to 333.25211) by adding sections 21317 and 21717a.

The bill was read a first time by its title and referred to the Committee on Families, Children, and Seniors.

Reps. Stone, Kuppa, Sabo, Pohutsky, Ellison, Yaroch, Brenda Carter, Hood, Tyrone Carter and Love introduced

House Bill No. 6147, entitled

A bill to amend 1936 (Ex Sess) PA 1, entitled “Michigan employment security act,” by amending sections 2 and 32b (MCL 421.2 and 421.32b), section 2 as amended by 2011 PA 268 and section 32b as amended by 2011 PA 269, and by adding section 32c.

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

Announcements by the Clerk

August 26, 2020

Received from the Auditor General a copy of the:

Released – July 28, 2020

- Performance audit report on the Kalamazoo Psychiatric Hospital, Michigan Department of Health and Human Services (391-0220-19), July 2020.

Released – July 31, 2020

- Performance audit report on the Flint Emergency Expenditures, State of Michigan (000-2020-20), July 2020.

Released – August 13, 2020

- Performance audit report on Virtual Learning in Traditional Public Schools, Michigan Department of Education (313-0224-16), August 2020.

Gary L. Randall
Clerk of the House

Rep. Schroeder moved that the House adjourn.
The motion prevailed, the time being 3:20 p.m.

Associate Speaker Pro Tempore Hornberger declared the House adjourned until Wednesday, September 2, at 1:30 p.m.

GARY L. RANDALL
Clerk of the House of Representatives

