

No. 91  
STATE OF MICHIGAN  
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House of Representatives  
100th Legislature  
REGULAR SESSION OF 2020

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House Chamber, Lansing, Wednesday, November 18, 2020.

10:00 a.m.

The House was called to order by the Assistant Clerk.

The roll was called by the Assistant Clerk of the House of Representatives, who announced that a quorum was not present.

**Motions and Resolutions**

THIS RESOLUTION IS OFFERED TO COMPLY WITH ARTICLE XI, SECTION 7 OF THE *CONSTITUTION OF THE STATE OF MICHIGAN OF 1963*.

Reps. LaFave, Maddock and Rendon offered the following resolution:

**House Resolution No. 324.**

A resolution directing the impeachment of Gretchen E. Whitmer, Governor of the state of Michigan, for corrupt conduct in office and crimes and misdemeanors.

Whereas, Article XI, Section 7 of the *Constitution of the State of Michigan of 1963* states, in part:

The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected thereto and serving therein shall be necessary to direct an impeachment.

; and

Whereas, In responding to the COVID-19 Pandemic, Gretchen E. Whitmer has acted in conflict with her constitutional duties as Governor. She has exceeded her constitutional authority, violated the constitutional rights of the people of Michigan, issued orders that are not in the best interests of the people of this state, and used the Pandemic as an opportunity to reward political allies. These actions are a matter of public record, primarily in the form of executive orders and the enforcement thereof; now, therefore, be it

Resolved by the House of Representatives, That Gretchen E. Whitmer, Governor of the state of Michigan, is impeached for corrupt conduct in office and for crimes and misdemeanors. The following Articles of Impeachment are adopted by the House of Representatives and shall be exhibited to the Senate:

ARTICLES OF IMPEACHMENT EXHIBITED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MICHIGAN IN THE NAME OF ITSELF AND OF THE PEOPLE OF THE STATE OF MICHIGAN AGAINST GRETCHEN E. WHITMER, GOVERNOR OF THE STATE OF MICHIGAN, IN MAINTENANCE AND SUPPORT OF ITS IMPEACHMENT AGAINST HER FOR CORRUPT CONDUCT IN OFFICE AND FOR CRIMES AND MISDEMEANORS.

## ARTICLE I

Gretchen E. Whitmer, Governor of the state of Michigan, has violated her constitutional oath of office by failing to respect the separation of powers and by exercising powers expressly granted to the legislative branch in the *Constitution of the State of Michigan of 1963*. Governor Whitmer, through numerous executive orders, has bypassed the legislative process, refusing to work with the Legislature even when the Legislature has been in session, opting to effectively enact, amend, and repeal laws on her own.

Article III, Section 2 of the *Constitution of the State of Michigan of 1963* provides, “The powers of government are divided into three branches: legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.”

Article IV, Section 1 of the *Constitution of the State of Michigan of 1963* provides, in part, “... the legislative power of the State of Michigan is vested in a senate and a house of representatives.”

Article V, Section 1 of the *Constitution of the State of Michigan of 1963* provides, in part, “... the executive power is vested in the governor.”

Article IV, Section 51 of the *Constitution of the State of Michigan of 1963* provides, in part, “The legislature shall pass suitable laws for the protection and promotion of the public health.”

Article XI, Section 1 of the *Constitution of the State of Michigan of 1963* provides, in part, “All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability.”

Governor Whitmer’s actions during the COVID-19 Pandemic have exceeded the executive powers granted to the Governor in the state constitution, and she has exercised powers properly belonging to the legislative branch. Governor Whitmer has issued dozens of executive orders which have been expansive in scope and have reordered life for every person in the state. The orders include, but are not limited, to: prohibiting evictions (Executive Order No. 2020-19 and Executive Order No. 2020-54); banning non-essential medical procedures (Executive Order No. 2020-17); permitting public bodies to meet electronically (Executive Order No. 2020-15, Executive Order No. 2020-48, and Executive Order No. 2020-75); permitting public bodies to delay fulfilment of public records requests (Executive Order No. 2020-38); closing businesses (Executive Order No. 2020-09, Executive Order No. 2020-20, Executive Order No. 2020-43, and Executive Order No. 2020-69); and requiring residents to stay in their homes with limited exceptions (Executive Order No. 2020-21, Executive Order No. 2020-42, Executive Order No. 2020-59, Executive Order No. 2020-70, Executive Order No. 2020-77, Executive Order No. 2020-92, and Executive Order No. 2020-96). Through these orders, Governor Whitmer has unilaterally overridden legislatively enacted laws — including, but not limited, to the Revised Judicature Act, the Open Meetings Act, and the Freedom of Information Act — and created new laws in violation of the separation of powers guaranteed in the state constitution.

State law grants emergency powers to the Governor for the purpose of responding to immediate crises, but the Governor may only act in a manner that is consistent with the constitutionally mandated separation of powers. The state constitution does not permit the Governor to bypass the legislative process nor does it empower her to unilaterally make or amend laws for the protection of public health.

Governor Whitmer has repeatedly stated that she does not need further legislative authorization for any of her actions and continues to violate the separation of powers even when the Legislature has been in session passing bills in the response to the Pandemic. Her efforts to circumvent the Legislature and the state constitution are violations of her constitutional oath of office.

Wherefore, Gretchen E. Whitmer, by such conduct, warrants impeachment and trial, and removal from office.

## ARTICLE II

Gretchen E. Whitmer, Governor of the state of Michigan, has failed to uphold her constitutional oath of office by violating rights guaranteed in the *Constitution of the United States* and the *Constitution of the State of Michigan of 1963*. Governor Whitmer, through executive orders, has restricted and effectively banned the free exercise of religion in the state of Michigan in violation of the First Amendment of the U.S. Constitution and Article I, Section 4 of the *Constitution of the State of Michigan of 1963*.

The First Amendment to the *Constitution of the United States* provides, in part, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...”

Article I, Section 4 of the *Constitution of the State of Michigan of 1963* provides, in part, “Every person shall be at liberty to worship God according to the dictates of his own conscience.”

Article XI, Section 1 of the *Constitution of the State of Michigan of 1963* provides, in part, “All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability.”

During the course of the COVID-19 Pandemic, Governor Whitmer has issued the following executive orders which have restricted the free exercise of religion in the state of Michigan: Executive Order No. 2020-05, Executive Order No. 2020-11, Executive Order No. 2020-21, Executive Order No. 2020-42, Executive Order No. 2020-59, Executive Order No. 2020-70, Executive Order No. 2020-77, Executive Order No. 2020-92, and Executive Order No. 2020-96. These orders have limited the number of people who may gather in one place and restricted individuals’ ability to leave their homes to participate in religious worship and events.

While the Governor’s later orders have included language indicating that places of worship and individuals participating in religious practices would not be subject to criminal penalties for violating the orders, the restriction itself – even if not enforced via criminal process in all circumstances – is a direct violation of the constitutional rights of the people of Michigan.

Governor Whitmer swore an oath to uphold the *Constitution of the United States* and the *Constitution of the State of Michigan of 1963* and her executive orders banning gatherings and requiring people to stay at home have infringed upon rights guaranteed in both.

Wherefore, Gretchen E. Whitmer, by such conduct, warrants impeachment and trial, and removal from office.

## ARTICLE III

In responding to the COVID-19 Pandemic, Gretchen E. Whitmer, Governor of the state of Michigan, has taken a number of extreme actions that have not been necessary for the protection of public and have had significant adverse effects on the people of Michigan. While the Pandemic is a serious public health crisis requiring substantial mitigation efforts, Governor Whitmer’s aggressive and poorly justified actions — such as banning nearly all non-emergency medicine and the use of motorized boats — are evidence of the Governor’s failure to properly manage this crisis.

Governor Whitmer banned all non-essential medical, dental, and veterinary procedures under Executive Order No. 2020-17, Executive Order No. 2020-32, and Executive Order No. 2020-34. Similarly, Governor Whitmer’s stay-at-home orders — Executive Order No. 2020-21, Executive Order No. 2020-42, Executive Order No. 2020-59, Executive Order No. 2020-70, and Executive Order No. 2020-77 — have only granted exceptions for people leaving their residences to seek medical or dental care to treat a medical emergency or when necessary to preserve a person’s health or safety.

This universal, state-wide prohibition on medical, dental, and veterinary care that the Governor has deemed “non-essential” has had significant consequences for the people of Michigan and for health care providers across our state. While postponing some elective procedures may not pose an immediate health risk to patients, many procedures have been banned even though they are still needed to preserve patients’ quality of life and long-term well-being.

Closing down significant portions of the health care system has had destructive effects on hospitals, clinics, and other providers. Health care providers rely on revenue from procedures and treatment of all kinds to remain in business and banning them from providing a full range of services to their patients has led to layoffs and furloughs. Providers in areas of the state with fewer cases have faced particularly negative consequences, as their facilities sit empty, unable to treat patients in need despite the capacity to do so.

Health and hospital organizations, such as the American Hospital Association, have issued standards to guide the safe resumption of elective surgeries and other procedures. Numerous other states have determined it is safe and appropriate to ease their restrictions on elective medical treatments as the stress on their healthcare systems from COVID-19 abated, but Governor Whitmer continued to impose onerous limitations on important health care on a state-wide basis with no considerations made for regional differences in the spread of COVID-19 or the enormous economic impact the health care prohibitions have caused.

Governor Whitmer further acted against the interest of the people of Michigan with no connection to public safety in temporarily banning the use of motorized boats under Executive Order No. 2020-42. Under the order, as interpreted by the Department of Natural Resources, the use of a motorboat, jet ski, or similar watercraft was prohibited even though non-motorized boating, such as canoeing, kayaking, and sailing were permitted under the order.

While Governor Whitmer ultimately eliminated the prohibition on the use of motorized boats through Executive Order No. 2020-59 after a massive public outcry, the lack of consistency and clear justification for certain prohibitions was arbitrary and not necessary for the protection of public health. Utilizing the emergency powers of the Governor to take arbitrary and needless actions is a direct violation of the constitutional oath of office which requires Governor Whitmer to “faithfully discharge the duties of the office of Governor...” The inability or unwillingness of Governor Whitmer to apply the law in a fair and reasonable manner has caused needless confusion and hardship for the people of this state.

Governor Whitmer’s arbitrary actions have caused avoidable harm, do not protect the public health, and demonstrate her failure to uphold the duties of her office.

Wherefore, Gretchen E. Whitmer, by such conduct, warrants impeachment and trial, and removal from office.

#### ARTICLE IV

Gretchen E. Whitmer, Governor of the state of Michigan, sought to direct a no-bid contract for COVID-19 contact tracing to a partisan political firm, utilizing state resources to reward political allies.

The state announced in April 2020 that it had approved a contract to use the platform EveryAction VAN to help track information and contacts and to help organize phone banking for the purposes of contact tracing. EveryAction VAN has direct ties to people and organizations that perform political work for political parties, organizations, and candidates in Michigan.

While the Governor and members of the administration disputed the extent to which political considerations were part of the decision to choose this platform, there is no dispute that EveryAction VAN’s leadership also does political work through its other companies.

The contract was cancelled after it became public and faced backlash, but the attempt to award a no-bid contract to a partisan firm that would have granted access to extremely personal and sensitive information of Michigan’s citizens is a clear abuse of power. Using the urgency of a public health crisis to attempt to reward partisan allies is a violation of the public trust.

Wherefore, Gretchen E. Whitmer, by such conduct, warrants impeachment and trial, and removal from office.

; and be it further

Resolved, That in accordance with Article XI, Section 7 of the *Constitution of the State of Michigan of 1963*, the House of Representatives will proceed with the election of three members from its own body whose duty it shall be to prosecute such impeachment and that these members are authorized and empowered to prepare and present the Articles of Impeachment adopted by this resolution.

The resolution was referred to the Committee on Government Operations.

**Announcement by the Clerk of Printing and Enrollment**

The Clerk announced that the following bills had been reproduced and made available electronically on Thursday, November 12:

<b>House Bill Nos.</b>	<b>6329</b>	<b>6330</b>	<b>6331</b>	<b>6332</b>	<b>6333</b>	<b>6334</b>	<b>6335</b>	<b>6336</b>	<b>6337</b>	<b>6338</b>	<b>6339</b>	<b>6340</b>	<b>6341</b>
	<b>6342</b>	<b>6343</b>	<b>6344</b>	<b>6345</b>	<b>6346</b>	<b>6347</b>	<b>6348</b>	<b>6349</b>	<b>6350</b>	<b>6351</b>	<b>6352</b>	<b>6353</b>	<b>6354</b>
	<b>6355</b>	<b>6356</b>	<b>6357</b>	<b>6358</b>	<b>6359</b>	<b>6360</b>	<b>6361</b>	<b>6362</b>	<b>6363</b>	<b>6364</b>	<b>6365</b>	<b>6366</b>	<b>6367</b>
	<b>6368</b>	<b>6369</b>	<b>6370</b>	<b>6371</b>	<b>6372</b>	<b>6373</b>	<b>6374</b>	<b>6375</b>	<b>6376</b>	<b>6377</b>	<b>6378</b>	<b>6379</b>	<b>6380</b>
	<b>6381</b>	<b>6382</b>	<b>6383</b>	<b>6384</b>	<b>6385</b>	<b>6386</b>	<b>6387</b>	<b>6388</b>	<b>6389</b>	<b>6390</b>	<b>6391</b>	<b>6392</b>	<b>6393</b>
	<b>6394</b>	<b>6395</b>	<b>6396</b>	<b>6397</b>	<b>6398</b>	<b>6399</b>	<b>6400</b>	<b>6401</b>	<b>6402</b>	<b>6403</b>	<b>6404</b>	<b>6405</b>	<b>6406</b>
	<b>6407</b>	<b>6408</b>	<b>6409</b>	<b>6410</b>	<b>6411</b>	<b>6412</b>	<b>6413</b>	<b>6414</b>	<b>6415</b>	<b>6416</b>	<b>6417</b>	<b>6418</b>	<b>6419</b>
	<b>6420</b>	<b>6421</b>	<b>6422</b>	<b>6423</b>	<b>6424</b>	<b>6425</b>	<b>6426</b>	<b>6427</b>	<b>6428</b>	<b>6429</b>	<b>6430</b>	<b>6431</b>	<b>6432</b>
	<b>6433</b>	<b>6434</b>	<b>6435</b>	<b>6436</b>	<b>6437</b>	<b>6438</b>	<b>6439</b>	<b>6440</b>	<b>6441</b>	<b>6442</b>	<b>6443</b>	<b>6444</b>	<b>6445</b>
<b>Senate Bill Nos.</b>	<b>1215</b>	<b>1216</b>	<b>1217</b>	<b>1218</b>	<b>1219</b>	<b>1220</b>	<b>1221</b>	<b>1222</b>	<b>1223</b>	<b>1224</b>			

**Communications from State Officers**

The following communication from the Michigan State Police was received and read:

November 13, 2020

Please find attached a draft version of the 2020 Michigan Truck Safety Commission Annual Report, as required under Public Act 348 of 1988. Please note that financial figures have not yet been finalized for the fiscal year and a final version of the report will be sent to you once the year-end closeout has been completed.

Thank you,  
Kara Rueckert  
Senior Executive Management Assistant to  
Mr. Michael Prince  
and Occupant Protection Program Coordinator  
Michigan Office of Highway Safety Planning  
Michigan State Police  
7150 Harris Drive  
Dimondale, Michigan 48821  
Phone: 517-284-3066  
Fax: 517-284-3338

The communication was referred to the Clerk.

**Introduction of Bills**

Rep. Koleszar introduced  
**House Bill No. 6446, entitled**

A bill to require disclosure of the basis for representing food to be gluten-free; to prohibit the sale and distribution of food represented to be gluten-free that does not conform to the required disclosure; to prescribe fines and penalties and allow remedies; to require the promulgation of rules; and to provide for the powers and duties of certain state governmental officers and entities.

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

Rep. Koleszar introduced

**House Bill No. 6447, entitled**

A bill to amend 1931 PA 328, entitled “The Michigan penal code,” (MCL 750.1 to 750.568) by adding section 297g.

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

Rep. Calley introduced

**House Bill No. 6448, entitled**

A bill to amend 2020 PA 238, entitled “An act to prohibit an employer from taking certain actions against an employee who does not report to work under certain circumstances related to COVID-19; to prohibit an employee from reporting to work under certain circumstances related to COVID-19; to prohibit discrimination and retaliation for engaging in certain activities; and to provide remedies,” by amending sections 1 and 5 (MCL 419.401 and 419.405).

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

Rep. LaFave introduced

**House Bill No. 6449, entitled**

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” (MCL 760.1 to 777.69) by adding section 2a to chapter X.

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

Rep. LaFave introduced

**House Bill No. 6450, entitled**

A bill to amend 1921 PA 2, entitled “An act to promote the efficiency of the government of the state, to create a state administrative board, to define the powers and duties thereof, to provide for the transfer to said board of powers and duties now vested by law in other boards, commissions, departments and officers of the state, and for the abolishing of certain of the boards, commissions, departments and offices, whose powers and duties are hereby transferred,” by amending section 3 (MCL 17.3).

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

Rep. LaFave introduced

**House Bill No. 6451, entitled**

A bill to amend 1846 RS 15, entitled “Of resignations, vacancies, and removals, and of supplying vacancies,” (MCL 201.1 to 201.17) by adding section 4a.

The bill was read a first time by its title and referred to the Committee on Local Government and Municipal Finance.

Rep. LaFave introduced

**House Bill No. 6452, entitled**

A bill to amend 1974 PA 258, entitled “Mental health code,” by amending sections 100d, 281c, 282, 408, 409, 426, 427a, 427b, 429, 436, 438, 469a, 498k, 498t, 516, 519, and 537 (MCL 330.1100d, 330.1281c, 330.1282, 330.1408, 330.1409, 330.1426, 330.1427a, 330.1427b, 330.1429, 330.1436, 330.1438, 330.1469a, 330.1498k, 330.1498t, 330.1516, 330.1519, and 330.1537), section 100d as amended by 2020 PA 99, section 281c as added by 2014 PA 200, section 282 as amended by 2014 PA 200, sections 408, 427a, and 498k as amended by 1995 PA 290, sections 409, 436, 438, and 469a as amended by 2018 PA 593, sections 426 and 429 as amended by 2016 PA 320, section 498t as added by 1988 PA 155, and sections 516, 519, and 537 as amended by 2018 PA 596, and by adding sections 170 and 172.

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

Rep. LaFave introduced

**House Bill No. 6453, 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 1c (MCL 780.621c), as added by 2020 PA 187.

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

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The Assistant Clerk declared the House adjourned until Tuesday, December 1, at 1:30 p.m.

GARY L. RANDALL  
Clerk of the House of Representatives

