



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GRETCHEN WHITMER
GOVERNOR

GARLIN GILCHRIST II
LT. GOVERNOR

September 30, 2019

Michigan State Senate
State Capitol
Lansing, MI 48909-7536

Senators,

I have signed Enrolled Senate Bill 138, which makes appropriations for the Legislature; the Executive; the Department of the Attorney General; the Department of State; the Department of Treasury; the Department of Technology, Management, and Budget; the Department of Civil Rights; the Department of Labor and Economic Opportunity; and for certain other state purposes for the fiscal year ending September 30, 2020; and which also supplements appropriations for certain state departments and other state purposes for the fiscal year ending September 30, 2019. I have, however, disapproved 14 items appropriating funds for the fiscal year ending September 30, 2020, and one item supplementing appropriations for the fiscal year ending September 30, 2019, pursuant to article 5, section 19 of the Michigan Constitution of 1963. The specific item vetoes are detailed in the attached copy of the bill that has been filed with the secretary of state.

To provide direction regarding the implementation of this appropriations act, I note the following:

- Section 219, which purports to grant the chairpersons of the house and senate subcommittees on general government the authority to reduce appropriations for an entire executive department by five percent if they are not satisfied with the speed with which the department responds to a request for information, amounts to an attempt to condition departments' expenditure of appropriated funds on further legislative approval and to circumvent the constitutionally specified process for reducing the expenditure of appropriated funds. It therefore violates the separation of powers required by article 3, section 2, among other provisions of the Michigan Constitution of 1963, and is unenforceable.
- Sections 222, 229, 321, 625, and 983 violate article 4, section 25 of the Michigan Constitution of 1963, and are therefore unenforceable. Nevertheless, the attorney general has informed me that she would be pleased to appear before the house or senate appropriations subcommittees on general government to explain the basis for entering into a lawsuit against the federal government.

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- Sections 218 and 816 violate article 4, section 24 of the Michigan Constitution of 1963, and are therefore unenforceable.
- Sections 218, 229, 320 (with the exception of the notification requirement), and 947, as well as subsection (6) of section 822b, violate the separation of powers required by article 3, section 2, among other provisions of the Michigan Constitution of 1963, and are therefore unenforceable. Nevertheless, the Department of Treasury will make a good-faith effort to comply with section 947.
- Sections 229 and 626 are unenforceable to the extent that they assign the auditor general powers and duties other than those specified in article 4, section 53 of the Michigan Constitution of 1963.
- Subsection (6) of section 822b violates article 5, section 18 of the Michigan Constitution of 1963, and is therefore unenforceable.
- Finally, those provisions of this bill that express merely the intent, advice, preferences, or wishes of the legislature do not impose conditions upon appropriations and are non-binding.

Thank you for your attention to these matters.

Sincerely,



Gretchen Whitmer
Governor

cc: Michigan House of Representatives
The Honorable Jocelyn Benson