

No. 39
STATE OF MICHIGAN
Journal of the Senate
100th Legislature
REGULAR SESSION OF 2020

Senate Chamber, Lansing, Thursday, May 7, 2020.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor Garlin D. Gilchrist II.

The roll was called by the Secretary of the Senate, who announced that a quorum was present.

Alexander—present
Ananich—present
Barrett—present
Bayer—present
Bizon—present
Brinks—present
Bullock—present
Bumstead—present
Chang—present
Daley—present
Geiss—present
Hertel—present
Hollier—present

Horn—present
Irwin—present
Johnson—present
LaSata—present
Lauwers—present
Lucido—present
MacDonald—present
MacGregor—present
McBroom—present
McCann—present
McMorrow—present
Moss—present
Nesbitt—present

Outman—present
Polehanki—present
Runestad—present
Santana—present
Schmidt—present
Shirkey—present
Stamas—present
Theis—present
VanderWall—present
Victory—present
Wojno—present
Zorn—present

Senator Tom Barrett of the 24th District offered the following invocation:

Grant me, O Lord, good digestion, and something to digest. Grant me a healthy body, and the necessary good humor to maintain it. Grant me a simple soul that knows to treasure all that is good and that doesn't frighten easily at the sight of evil, but rather finds the means to put things back in their place.

Give me a soul that knows not boredom, grumbles, sighs, and laments, nor excess of stress, because of that obstructing thing called 'I.' Grant me, O Lord, a sense of good humor. Allow me the grace to be able to take a joke to discover in life a bit of joy, and to be able to share it with others. Amen.

The President, Lieutenant Governor Gilchrist, led the members of the Senate in recital of the *Pledge of Allegiance*.

Motions and Communications

Senator McBroom entered the Senate Chamber.

Senator Chang moved that Senator Santana be temporarily excused from today's session. The motion prevailed.

Senator MacGregor moved that rule 3.901 be suspended to allow filming and photographs to be taken from the Senate Gallery.

The motion prevailed, a majority of the members serving voting therefor.

Messages from the Governor

The following message from the Governor was received on May 7, 2020, and read:

EXECUTIVE ORDER No. 2020-75

Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards

Rescission of Executive Order 2020-48

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 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, MCL 30.401 *et seq.*, and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, 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 Emergency Powers of the Governor Act, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the Emergency Management Act.

The Emergency Management Act 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). Similarly, the Emergency Powers of the Governor Act of 1945 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).

To mitigate the spread of COVID-19, protect the public health, and provide essential protections to vulnerable Michiganders, it is crucial that all Michiganders take steps to limit in-person contact. These critical mitigation measures include social distancing and limiting the number of people interacting at public gatherings.

To that end, it is reasonable and necessary to temporarily suspend rules and procedures relating to physical presence at meetings and hearings of public bodies and other governmental entities in Michigan. These public bodies and entities must continue to conduct public business during this emergency, including actions to respond to COVID-19, and the general public must be able to continue to participate in government decision-making without unduly compromising public health, safety, and welfare.

Executive Order 2020-15 provided this limited and temporary relief from certain rules and procedures. Executive Order 2020-48 clarified and extended the duration of that relief. This order extends the duration of that relief further, as it remains reasonable and necessary to suppress the spread of COVID-19 and protect the public health and safety of this state and its residents. With this order, Executive Order 2020-48 is rescinded.

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

1. To the extent that the Open Meetings Act (“OMA”), 1976 PA 267, as amended, MCL 15.261 to 15.272, requires that a meeting of a public body be held in a physical place available to the general public or requires the physical presence of one or more members of a public body, strict compliance with section 3 of the OMA, MCL 15.263, is temporarily suspended in order to alleviate any such physical-place or physical-presence requirements, as follows:

(a) A meeting of a public body may be held electronically, including by telephonic conferencing or video conferencing, in a manner in which both the general public and the members of the public body may participate by electronic means.

(b) A meeting of a public body held electronically must be conducted in a manner that permits two-way communication so that members of the public body can hear and be heard by other members of the public body and so that general public participants can hear members of the public body and can be heard by members of the public body and other participants during a public comment period. The public body may use technology to facilitate typed public comments that may be read to or shared with members of the public body and other participants to satisfy the requirement that members of the public can be heard by others during the meeting.

(c) Members of a public body and of the general public participating electronically will be considered present and in attendance at the meeting and may participate in the meeting as if physically present at the meeting.

(d) All persons must be permitted to participate in any meeting of a public body held electronically, except as otherwise provided in the OMA.

(e) If a public body directly or indirectly maintains an official internet presence, the public body must, consistent with and in addition to any other applicable notice requirements under the OMA, post advance notice of a meeting held electronically on a portion of the public body’s website that is fully accessible to the public. The public notice on the website must be included on either the homepage or on a separate webpage dedicated to public notices for non-regularly scheduled public meetings or electronic meetings and accessible through a prominent and conspicuous link on the website’s homepage that clearly describes its purpose for public notification of those non-regularly scheduled or electronic public meetings. Notice of a meeting of a public body that will be held electronically must include all of the following:

(i) An explanation of the reason why the public body is meeting electronically.

(ii) Detailed procedures by which the public may participate in the meeting remotely, including a telephone number, internet address, or both.

(iii) Procedures by which persons may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting.

(iv) Procedures by which persons with disabilities may participate in the meeting.

(f) The right of a person to participate in a meeting of a public body held electronically includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of the public body at a public meeting. The exercise of this right does not depend on the prior approval of the public body. However, a public body may establish reasonable rules and regulations to minimize the possibility of disrupting the meeting.

(g) A public body may not require a person as a condition of participating in a meeting of the public body held electronically to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance, other than mechanisms necessary to permit the person to participate in a public comment period of the meeting.

(h) A person must be permitted to address a meeting of a public body held electronically under rules established and recorded by the public body. A person must not be excluded from a meeting held electronically otherwise open to the public except for a breach of the peace actually committed during the meeting.

(i) During a meeting of a public body held electronically, members of the public body are urged to take all votes by roll call to avoid any questions about how each member of the public body votes.

(j) If a public body holding a meeting electronically directly or indirectly maintains an official internet presence, the public body is encouraged to make available to the general public through the public body’s website homepage an agenda and other materials relating to the meeting.

(k) Members of the general public otherwise participating in a meeting of a public body held electronically may be excluded from participation in a closed session of the public body held electronically during that meeting if the closed session is convened and held in compliance with the requirements of the OMA applicable to a closed session.

2. A public body holding a meeting electronically as provided under this order is encouraged to do so in a manner that effectuates as fully as possible the purposes of the OMA, which include promoting government accountability and fostering openness in government to enhance responsible decision-making. Discussions or deliberations at an open meeting that cannot at a minimum be heard by the general public participating in the meeting are contrary to these purposes. Accordingly, members of a public body must avoid using email, texting, instant messaging, and other such electronic forms of communication to make a decision or deliberate toward a decision, and must avoid “round-the-horn” decision-making in a manner not accessible to the public at an open meeting.

3. If a decision or other action of a public body is in compliance with the requirements of this order and the other requirements of the OMA, it is in compliance with the OMA.

4. If a statute or rule other than the OMA requires that public comments be permitted or a public hearing be held, including in conjunction with the issuance of a permit or a hearing required under the Uniform Budgeting and Accounting Act, 1968 PA 2, as amended, MCL 141.421 to 141.440a, a public body or department or agency may provide a means for remote public comment or participation through the use of any technology that would facilitate a member of the general public’s ability to participate remotely to the same extent as if the member of the general public appeared in person. If not expressly authorized by statute or rule, written comment, including by electronic means, also is permitted.

5. Strict compliance with subsection 6 of section 11a, subsection 7 of section 384, and subsection 1 of section 418a of the Revised School Code, 1976 PA 451, as amended, MCL 380.11a(6), MCL 380.384(7), and MCL 380.418a(1), is temporarily suspended so as not to require school district boards to hold meetings at least once each month.

6. Nothing in this order permits a public body to limit or restrict the rights of the press or other news media. Members of public bodies are encouraged to facilitate access by members of the press and other news media both to meetings held electronically and to members of public bodies.

7. As used in this order, the terms “decision,” “meeting,” and “public body” mean those terms as defined under section 2 of the OMA, MCL 15.262, except this order does not apply to state legislative bodies.

8. A provision of this order will prevail over any conflicting provision of a local charter, ordinance, or rule.

9. This order supersedes sections 2 and 3 of Executive Directive 2020-2.

10. This order is effective immediately and continues through June 30, 2020.

11. Executive Order 2020-48 is rescinded.

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

Date: May 6, 2020

Time: 7:25 p.m.

[SEAL]

Gretchen Whitmer
Governor

By the Governor:
Jocelyn Benson
Secretary of State

The executive order was referred to the Committee on Government Operations.

The following message from the Governor was received on May 7, 2020, and read:

EXECUTIVE ORDER
No. 2020-76

Temporary expansions in unemployment eligibility and cost-sharing

Rescission of Executive Order 2020-57

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 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, MCL 30.401 *et seq.*, and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, 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 Emergency Powers of the Governor Act, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the Emergency Management Act.

The Emergency Management Act 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). Similarly, the Emergency Powers of the Governor Act of 1945 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).

To mitigate the spread of COVID-19, protect the public health, and provide essential protections to vulnerable Michiganders, it is reasonable and necessary to temporarily suspend rules and procedures to expand eligibility for unemployment benefits and cost-sharing with employers.

Executive Order 2020-10 took such action. Executive Order 2020-24 reaffirmed that action and clarified and strengthened its expansion of eligibility for unemployment benefits and cost-sharing with employers. Executive Order 2020-57 continued those provisions and added additional provisions to make it easier for employers and workers to implement and use shared-work plans, in order to avoid layoffs, and to allow certain retired state employees to return to service without losing access to pension payments. This order continues those provisions and relaxes certain other requirements in order to allow the Unemployment Insurance Agency to more quickly process unemployment claims. With this order, Executive Order 2020-57 is rescinded.

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

1. Strict compliance with subdivision (a) of subsection (1) of section 29 of the Michigan Employment Security Act, 1936 (Ex Sess) PA 1, as amended ("Employment Security Act"), MCL 421.29(1)(a), is temporarily suspended as follows:

(a) An individual must be considered to have left work involuntarily for medical reasons if that individual leaves work for any of the following reasons:

- (1) The individual is under self-isolation or self-quarantine in response to elevated risk from COVID-19 due to being immuno-compromised.
- (2) The individual has displayed at least one of the principal symptoms of COVID-19, which are a fever, atypical cough, and atypical shortness of breath.
- (3) The individual has had contact in the last 14 days with someone with a confirmed diagnosis of COVID-19. Contact for the purposes of healthcare exposures is defined as follows: a) being within approximately 6 feet (2 meters) of a person with COVID-19 for a prolonged period of time, without appropriate personal protective equipment consistent with Department of Health and Human Services recommendations; or b) having unprotected direct contact with infectious secretions or excretions of the patient (e.g., being coughed on, touching used tissues with a bare hand).

(4) The individual is required to care for someone with a confirmed diagnosis of COVID-19.

(5) The individual has a family care responsibility as a result of a government directive.

(b) An individual may be deemed laid off if that individual became unemployed for any of the reasons identified in section 1(a)(1)-(5) of this order.

2. Strict compliance with subsection (3) of section 48 of the Employment Security Act, MCL 421.48(3), is temporarily suspended to allow an individual who is on a leave of absence for any of the reasons identified in paragraph 1(a)1-5 of this order to be considered to be unemployed unless that individual is already on sick leave or receives a disability benefit.

3. Strict compliance with subsections (4) through (7) of Rule 421.210 of the Michigan Administrative Code is temporarily suspended to allow a new or additional claim for unemployment benefits filed within 28 days of the last day the claimant worked to be considered to have been filed on time, and a continued claim filed within 28 days of the last day of the period for which the claimant is instructed to report and has continued to report in a claim series to be considered to have been filed on time.

4. Strict compliance with subsection (d) of section 27 of the Employment Security Act, MCL 421.27(d), is temporarily suspended such that each eligible individual who files a claim or has an active claim as of the effective date of this order will receive not more than 26 weeks of benefits payable in a benefit year.

5. In order to allow employers and workers more flexibility in the use of shared-work plans, strict compliance with several sections of the Employment Security Act are temporarily suspended, as follows:

(a) Strict compliance with subsections (1) and (2)(b) of section 28c, MCL 421.28c(1) and (2)(b), is temporarily suspended to the extent necessary to allow the Unemployment Insurance Agency to approve an employer's participation in a shared-work plan upon application by the employer, regardless of whether the employer has met the requirements of MCL 421.28c(1) and (2)(b).

(b) Strict compliance with subsection (2)(f) of section 28c, MCL 421.28c(2)(f), is temporarily suspended to allow an application for a shared-work plan to be approved without the employer's certification that implementation is in lieu of layoffs that would affect at least 15% of the employees in the affected unit and would result in an equivalent reduction in workers, provided that the application must contain a certification that it is in lieu of layoffs that would affect at least 10% of the employees and result in an equivalent reduction in work hours.

(c) Strict compliance with subsection (1)(b)(i) of section 28d, MCL 421.28d(1)(b)(i), is temporarily suspended to allow a shared-work plan to be approved whether or not it includes as a participating employee an employee who has been employed in the affected unit for less than three months before the date the employer applies for approval of the shared-work plan.

(d) Strict compliance with subsection (2)(a) of section 28d, MCL 421.28d(2)(a), is temporarily suspended to allow the reduction percentage of a shared-work plan to be less than 15% and more than 45%, provided that it shall be no less than 10% and no more than 60%

6. Any benefit paid to a claimant who is laid off or placed on a leave of absence must not be charged to the account of the employer or employers that otherwise would have been charged but instead must be charged to the Unemployment Insurance Agency's non-chargeable account. Effective March 25, 2020 at 11:59 p.m., the benefits conferred on employers by this section are not available to employers determined to have misclassified workers.

7. Strict compliance with subdivision (a) of subsection (1) of section 28 of the Employment Security Act, MCL 421.28(1)(a), is temporarily suspended to the extent necessary to allow an unemployed individual to be eligible to receive benefits without a finding by the Unemployment Insurance Agency that the individual is actively engaged in seeking work.

8. Strict compliance with section 68c of the State Employees' Retirement Act, 1943 PA 240, as amended, MCL 38.68c, is temporarily suspended to the extent necessary to provide that the provisions of that section do not apply to a retiree who becomes employed by the Unemployment Insurance Agency or by the Michigan Occupational Safety and Health Administration on or after the date of this order. If such retiree remains employed by either of these agencies after the expiration of this order, section 68c will again apply.

9. Strict compliance with subsection (5) of section 29 of the Employment Security Act, MCL 421.29(5), is temporarily suspended to the extent necessary to allow an individual to be considered to have met the requirements of MCL 421.29(5) regardless of whether the individual performed services for the new employer and regardless of whether the new employment was for permanent, full-time work. That individual is not disqualified from receiving unemployment benefits and any benefits payable are charged to the Unemployment Insurance Agency's non-chargeable benefits account.

10. Strict compliance with subsection (c) of section 32 of the Employment Security Act, MCL 421.32(c), is temporarily suspended as follows: in determining an individual's nonmonetary eligibility to qualify for benefits, the Unemployment Insurance Agency shall not issue a determination with respect to an individual's separation from a base period employer other than the separating employer, and the individual shall not be

required to have satisfied the requirements of subsections (2) and (3) of section 29 of the Employment Security Act, MCL 421.29, as it relates to base period employer separations other than the most recent separation from the separating employer.

11. Unless otherwise specified in this order, this order is effective retroactive to March 16, 2020. This order is effective immediately upon issuance and remains in effect during the declared states of emergency and disaster.

12. Executive Order 2020-57 is rescinded.

13. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor. Given under my hand and the Great Seal of the State of Michigan.

Date: May 6, 2020

Time: 7:26 p.m.

[SEAL]

Gretchen Whitmer
Governor

By the Governor:
Jocelyn Benson
Secretary of State

The executive order was referred to the Committee on Government Operations.

The following message from the Governor was received and read:

STATE FINANCING AND MANAGEMENT; DURATION OF
EXECUTIVE ORDERS, PROCLAMATIONS, AND DIRECTIVES

May 4, 2020

Today I am returning Enrolled Senate Bill 858 to you without my approval, for several reasons.

First, the provisions of the bill run contrary to the recommendations of public health experts. I remind you that section 51 of article 4 of the Michigan Constitution of 1963 declares that the public health and general welfare of the People of the State of Michigan are matters of primary public concern.

Second, proposed subsections (5) to (7) are inconsistent with subsection 1 of section 3 of the Emergency Management, 1976 PA 390, as amended, MCL 30.403(1), which vests responsibility in the governor for coping with dangers to this state or to the People of the State of Michigan presented by a disaster or emergency. I will not sign any bills that constrain my ability to protect the people of Michigan from a deadly pandemic in a timely manner.

Third, the bill does not comply with constitutional requirements, and even if it were constitutional, would be ineffective as it was not given immediate effect.

I will continue to execute the laws consistent with the Michigan Constitution of 1963, and in accord with the best interests of the health, safety, and welfare of the People of the State of Michigan to whom I express my gratitude for taking the difficult steps necessary to mitigate the impact of COVID-19.

In light of these considerations, I am vetoing Enrolled Senate Bill 858.

Respectfully,
Gretchen Whitmer
Governor

This bill was returned from the Governor on May 4, 2020, at 9:22 a.m.

The question being on the passage of the bill, the objections of the Governor to the contrary notwithstanding,

Senator MacGregor moved that the veto message be referred to the Committee on Government Operations. The motion prevailed.

The following message from the Governor was received and read:

APPROPRIATIONS; SUPPLEMENTAL

March 30, 2020

Today I have signed Enrolled Senate Bill 151, which provides supplemental appropriations for the fiscal year ending September 30, 2020. In the time since this supplemental budget was agreed to, Michigan has

embarked on an all-out fight against the COVID-19 pandemic, requiring an enormous commitment of resources. I have therefore reached agreement with legislative leaders to veto nearly \$80 million worth of items contained in this budget so that funding can be reprioritized for stopping the spread of COVID-19. The specific item vetoes are detailed in the attached copy of the bill that has been filed with the Secretary of State.

Thank you for your hard work on behalf of the people of Michigan.

Sincerely,
Gretchen Whitmer
Governor

This bill was signed by the Governor on March 30, 2020, at 8:20 a.m. (Filed with the Secretary of State on March 30, 2020, at 9:30 a.m.) and assigned Public Act No. 66.

The question being on the passage of the vetoed line items, the objections of the Governor to the contrary notwithstanding,

Senator MacGregor moved that the veto message be referred to the Committee on Appropriations.

The motion prevailed.

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senator Victory introduced

Senate Bill No. 910, entitled

A bill to amend 1978 PA 90, entitled "Youth employment standards act," by amending sections 5 and 6 (MCL 409.105 and 409.106).

The bill was read a first and second time by title and referred to the Committee on Economic and Small Business Development.

Senator Horn introduced

Senate Bill No. 911, entitled

A bill to amend 1943 PA 240, entitled "State employees' retirement act," by amending section 68c (MCL 38.68c), as amended by 2020 PA 18.

The bill was read a first and second time by title and referred to the Committee on Economic and Small Business Development.

By unanimous consent the Senate returned to the order of

Third Reading of Bills

Senator MacGregor moved that the Senate proceed to consideration of the following bill:

Senate Bill No. 899

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 899, entitled

A bill to amend 1976 PA 390, entitled "Emergency management act," by amending section 11 (MCL 30.411), as amended by 2005 PA 321.

The question being on the passage of the bill,

Recess

Senator MacGregor moved that the Senate recess subject to the call of the Chair.

The motion prevailed, the time being 10:09 a.m.

10:37 a.m.

The Senate was called to order by the President, Lieutenant Governor Gilchrist.

During the recess, Senator Santana entered the Senate Chamber.

The question being on the passage of the bill,
 Senator Irwin offered the following amendments:

1. Amend page 8, line 4, after “**provider**” by inserting “**that relate to the treatment, diagnosis, prevention, or mitigation of COVID-19 or the assessment or care of an individual with a confirmed case or a suspected case of COVID-19,**”.

2. Amend page 8, line 5, after “**of**” by striking out “**health care**” and inserting “**those**”.

The question being on the adoption of the amendments,

Senator Chang requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendments were not adopted, a majority of the members serving not voting therefor, as follows:

Roll Call No. 137

Yeas—16

Alexander	Bullock	Hollier	Moss
Ananich	Chang	Irwin	Polehanki
Bayer	Geiss	McCann	Santana
Brinks	Hertel	McMorrow	Wojno

Nays—22

Barrett	LaSata	Nesbitt	Stamas
Bizon	Lauwers	Outman	Theis
Bumstead	Lucido	Runestad	VanderWall
Daley	MacDonald	Schmidt	Victory
Horn	MacGregor	Shirkey	Zorn
Johnson	McBroom		

Excused—0

Not Voting—0

In The Chair: President

Senator Irwin offered the following amendment:

1. Amend page 4, line 19, after “services.” by inserting “**The immunity granted under this subsection does not apply to conduct with an intent to harm or discriminate based on race, ethnicity, national origin, religion, disability, sexual orientation, or gender identity by a health care facility or a health care provider providing health care services. A health care facility or a health care provider shall not deny health care services to any individual based on race, ethnicity, national origin, religion, disability, sexual orientation, or gender identity.**”.

The question being on the adoption of the amendment,

Senator Chang requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendment was not adopted, a majority of the members serving not voting therefor, as follows:

Roll Call No. 138

Yeas—16

Alexander	Bullock	Hollier	Moss
Ananich	Chang	Irwin	Polehanki
Bayer	Geiss	McCann	Santana
Brinks	Hertel	McMorrow	Wojno

Nays—22

Barrett	LaSata	Nesbitt	Stamas
Bizon	Lauwers	Outman	Theis
Bumstead	Lucido	Runestad	VanderWall
Daley	MacDonald	Schmidt	Victory
Horn	MacGregor	Shirkey	Zorn
Johnson	McBroom		

Excused—0**Not Voting—0**

In The Chair: President

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 139**Yeas—24**

Barrett	LaSata	McMorrow	Shirkey
Bizon	Lucido	Nesbitt	Stamas
Bumstead	MacDonald	Outman	Theis
Daley	MacGregor	Polehanki	VanderWall
Horn	McBroom	Runestad	Victory
Johnson	McCann	Schmidt	Zorn

Nays—14

Alexander	Bullock	Hollier	Moss
Ananich	Chang	Irwin	Santana
Bayer	Geiss	Lauwers	Wojno
Brinks	Hertel		

Excused—0**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

Protests

Senators Bayer, Hollier, Santana, Wojno, Alexander and Moss, under their constitutional right of protest (Art. 4, Sec. 18), protested against the passage of Senate Bill No. 899.

Senator Bayer moved that the statement she made during the discussion of the bill be printed as her reasons for voting “no.”

The motion prevailed.

Senator Bayer's statement, in which Senators Hollier, Santana, Wojno, Alexander and Moss concurred, is as follows:

The three branches of our government each have specific duties and responsibilities. Our legislative branch is responsible for budgets and laws. Creating a law impacts the entire state and, by design, law is difficult to change. It should be. It's meant to last a long time. We are meant to take our time and do it right. That's why it's appropriate that we are, by design, a deliberative body—deliberative body. We are, by design, tasked to fully examine, research, and deliberate over legislation with hearings and public input. It should take a minimum of ten days for a bill to pass. Even when we bend the rules like we are doing today with this bill, it takes more than a week just to get to this stage.

This is no way to govern when lives are at stake. This is no way to govern when over 4,250 Michiganders have died in just a few months and more are dying every day. I'm sure that's why, in 1945, the Legislature designed the law that gives our executive branch the power to act quickly in an emergency—the power to make immediate decisions and save lives. The executive branch has the power, the resources, the legal authority, and the responsibility to act quickly—immediately—to protect the people of Michigan.

The Legislature and the way we work is not designed for that. The Governor has shown her capability to execute quickly and effectively to protect seniors, families, communities, and all our lives. In fact, the Governor already issued Executive Order No. 2020-30 and now No. 2020-61 that protects our health care workers from liability. It says, "Any licensed health care professional or designated health care facility that provides medical services in support of this state's response to the COVID-19 pandemic is not liable for an injury sustained by a person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained, unless it is established that such injury or death was caused by the gross negligence." Clearly, Governor Whitmer has shown that she can create executive orders quickly, and can extend them as needed as we go through this emergency.

We should do our job and work deliberatively to solve the longer-term issues such as paid sick leave, safe workplaces, affordable and safe childcare, and equitable education for our children. In this urgent situation, while we are still in an emergency, we need to let the Governor do her legally-mandated job.

Senator Irwin asked and was granted unanimous consent to make statements and moved that statements be printed in the Journal.

The motion prevailed.

Senator Irwin's first statement is as follows:

I rise to offer a couple of remarks in support of this amendment. In general what this legislation is doing is removing accountability for healthcare professionals. As it's currently written, it does so very broadly, and if this legislation were passed and signed into law it would mean that if an individual went into a hospital—let's say they went into a hospital for an amputation and for some reason the doctors amputate the wrong leg—the doctors and the hospitals could simply explain that mistake away and have a full shield from any liability by describing the fact that there happened to be some COVID-19 patients somewhere in the hospital system, there was additional strain in the hospital system because of COVID-19, and therefore they're not going to take responsibility; they're not going to make our citizens whole if there are mistakes or errors or gross misdiagnoses.

What my amendment does is it adds language to the definition of a provider by making it clear that this protection from liability only applies when mistakes were made related to the treatment, diagnosis, prevention, or mitigation of COVID-19, or the assessment or care of an individual with a confirmed case, or suspected case, of COVID-19. If we do not narrowly tailor this language to COVID-19, my concern is that this liability shield will be used to protect folks who have engaged in gross misdiagnoses, errors in judgement, and errors in procedures that normally they would and should be accountable for.

Senator Irwin's second statement, in which Senator Bullock concurred, is as follows:

My amendment seeks to provide some clarity and assurance to a large portion of our citizens who have a lack of trust in the health care industry. Many of our citizens, particularly black Americans, feel that in the health care system, they don't always get a fair shake. We can see that with the dollars that are put into health care research and how those dollars are spent, and we can see that from time to time in facilities right here in Michigan.

I want to direct you all to the story of Mr. Fowler. Mr. Fowler was a Detroitier who recently passed from COVID-19 and this gentleman visited three emergency rooms and was turned away from all three of those emergency rooms, not admitted, and not tested. In the wake of this, his son said in the media, "I honestly believe it was because my father was black. They didn't honestly take his symptoms serious enough to give him a test."

What I’m asking for my colleagues to do is to support this amendment—provide some reassurance to our citizens who know that there is racial bias in pain assessment, who know that there is racial bias in treatment, who know that there is racial bias in diagnosis and prescriptions. I urge my colleagues to Google racial bias and pain assessment. See what’s happening with doctors post-training here in the United States of America who believe falsely that there are biological differences between black Americans and white Americans, and it affects the way that they diagnose and it affects the way that they prescribe treatment for individuals.

What I’m asking for you to do today is to adopt this amendment to add clearly to this bill that wipes away liability and accountability for our health care professionals during this COVID-19 crisis to say that no, that does not apply if our citizens can show that you’ve discriminated against them based on their race or based on their ethnicity or based on who they love.

That’s wrong, we should stand against it here in this Legislature, and particularly in this moment when we’ve been challenged here in this Capitol and on these grounds with the racism in our society. I think now is an especially-important time for this body to stand up and say we do not support discrimination in health care and we are not going to pass a bill that wipes away liability in an environment where we know our citizens are being discriminated against.

The following bill was read a third time:

House Bill No. 5496, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending sections 11503 and 11504 (MCL 324.11503 and 324.11504), as amended by 2018 PA 640.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 140

Yeas—38

Alexander	Geiss	MacGregor	Santana
Ananich	Hertel	McBroom	Schmidt
Barrett	Hollier	McCann	Shirkey
Bayer	Horn	McMorrow	Stamas
Bizon	Irwin	Moss	Theis
Brinks	Johnson	Nesbitt	VanderWall
Bullock	LaSata	Outman	Victory
Bumstead	Lauwers	Polehanki	Wojno
Chang	Lucido	Runestad	Zorn
Daley	MacDonald		

Nays—0

Excused—0

Not Voting—0

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect, The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

“An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people’s right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.”

The Senate agreed to the full title.

By unanimous consent the Senate proceeded to the order of
General Orders

Senator MacGregor moved that the Senate resolve itself into the Committee of the Whole for consideration of the General Orders calendar.

The motion prevailed, and the President, Lieutenant Governor Gilchrist, designated Senator Schmidt as Chairperson.

After some time spent therein, the Committee arose; and the President, Lieutenant Governor Gilchrist, having resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 887, entitled

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.713) by adding sections 301a and 681a.

Substitute (S-1)

The Senate agreed to the substitute recommended by the Committee of the Whole, and the bill as substituted was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 888, entitled

A bill to amend 1941 PA 122, entitled "An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of this state; to prescribe certain powers and duties of the state treasurer; to establish the collection duties of certain other state departments for money or accounts owed to this state; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments, and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," by amending sections 24 and 30 (MCL 205.24 and 205.30), section 24 as amended by 2003 PA 201 and section 30 as amended by 2016 PA 267.

Substitute (S-1)

The Senate agreed to the substitute recommended by the Committee of the Whole, and the bill as substituted was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 889, entitled

A bill to amend 1964 PA 284, entitled "City income tax act," (MCL 141.501 to 141.787) by adding sections 40 and 80 to chapter 2.

Substitute (S-1)

The Senate agreed to the substitute recommended by the Committee of the Whole, and the bill as substituted was placed on the order of Third Reading of Bills.

By unanimous consent the Senate returned to the order of
Third Reading of Bills

Senator MacGregor moved to reconsider the vote by which the following bill was passed:

Senate Bill No. 899, entitled

A bill to amend 1976 PA 390, entitled "Emergency management act," by amending section 11 (MCL 30.411), as amended by 2005 PA 321.

The motion prevailed, a majority of the members serving voting therefor.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 141**Yeas—25**

Barrett	Lauwers	McMorrow	Shirkey
Bizon	Lucido	Nesbitt	Stamas
Bumstead	MacDonald	Outman	Theis
Daley	MacGregor	Polehanki	VanderWall
Horn	McBroom	Runestad	Victory
Johnson	McCann	Schmidt	Zorn
LaSata			

Nays—13

Alexander	Bullock	Hertel	Moss
Ananich	Chang	Hollier	Santana
Bayer	Geiss	Irwin	Wojno
Brinks			

Excused—0**Not Voting—0**

In The Chair: President

Announcements of Printing and Enrollment

The Secretary announced that the following bill and resolutions were printed and filed on Wednesday, May 6, and are available on the Michigan Legislature website:

Senate Bill No. 909
Senate Concurrent Resolution No. 25
Senate Resolution Nos. 113 115

Scheduled Meetings

State Capitol Commission - Monday, May 11, 11:00 a.m., Room H-65, Capitol Building (517) 373-0184
 Public Attendance by Zoom Only – Computer: <https://us02web.zoom.us/j/84590109458> Meeting ID 84590109458#; Phone (312) 626-6799, meeting ID 84590109458#

Senator MacGregor moved that the Senate adjourn.
 The motion prevailed, the time being 11:04 a.m.

The President, Lieutenant Governor Gilchrist, declared the Senate adjourned until Tuesday, May 12, 2020, at 10:00 a.m.

MARGARET O'BRIEN
 Secretary of the Senate