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10:00 a.m.

Pursuant to rule 1.101, in the absence of the Presiding Officers, the Senate was called to order by the Secretary of the Senate.

Messages from the Governor

The following message from the Governor was received on April 30, 2020, and read:

EXECUTIVE ORDER
No. 2020-65

Provision of K-12 education during the remainder of the 2019-2020 school year

Rescission of Executive Order 2020-35

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.*

In the three weeks that followed, the virus spread across Michigan, bringing deaths in the hundreds, confirmed cases in the 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.

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).

Section 1 of article 8 of the Michigan Constitution provides that "schools and the means of education shall forever be encouraged." Although the COVID-19 pandemic has required the closure of elementary and secondary schools throughout the state for the remainder of the 2019-2020 school year, schools must

continue to provide students the highest level of educational opportunities possible under the difficult circumstances before us. We must therefore enable schools and students to innovate and adapt, and not allow these efforts to be inhibited by requirements and restrictions that are misplaced in this time of unprecedented crisis.

Executive Order 2020-35 provided such relief. Among other things, that order suspended all in-person instruction in our K-12 schools for the remainder of the 2019-2020 school year. It also provided for continuity of learning to the greatest extent possible during this unprecedented time, and temporarily suspended strict compliance with certain rules and procedures under the Revised School Code and the State School Aid Act of 1979. This order extends and clarifies that relief, 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. It also expands that relief to temporarily suspend certain requirements under the Teachers' Tenure Act, 1937 PA 4 (Ex. Sess), as amended, MCL 38.71 *et seq.*, and for the Great Start Readiness Program, MCL 388.1632 and 388.1639, as it is reasonable and necessary to ensure that the COVID-19 pandemic does not frustrate this state's ability to retain talented teachers or eliminate opportunities to assist at-risk preschool children in becoming ready for school.

With this order, Executive Order 2020-35 is rescinded.

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

I. Suspension of in-person K-12 instruction, GSRP program delivery, and early childhood programs for the remainder of 2019-2020 school year

1. Except as provided in section III of this order, in-person instruction for pupils in kindergarten through grade 12 ("K-12") is suspended for the remainder of the 2019-2020 school year and school buildings used for the provision of K-12 education must remain closed for the purpose of providing K-12 education in person for the remainder of the 2019-2020 school year. K-12 school sports activities and other in-person extracurricular school activities are suspended while any state of emergency or state of disaster prompted by COVID-19 is in effect. This section applies to all public, nonpublic, and boarding schools in the state.

2. For a district implementing a Continuity of Learning and COVID-19 Response Plan ("CoL Plan") pursuant to section II of this order, all of the following apply:

(a) Strict compliance with rules and procedures under subdivisions (d) to (f) of subsection (3) of section 101 of the State School Aid Act of 1979 ("School Aid Act"), 1979 PA 94, as amended, MCL 388.1701(3)(d) to (f), is temporarily suspended for the period beginning on March 11, 2020 and ending on the last day of the 2019-2020 school year, to the extent necessary to waive any requirement that a district have a minimum number of the district's membership in attendance on any day of pupil instruction and to waive any requirement that a district report the percentage of the district's membership in attendance to the Department of Education ("Department").

(b) Strict compliance with rules and procedures under sections 101(3)(a), 101(3)(b), 101(4), 101(6), and 101(10) of the School Aid Act, MCL 388.1701(3)(a), 388.1701(3)(b), 388.1701(4), 388.1701(6), and 388.1701(10), requiring a district to provide at least 1,098 hours and 180 days of pupil instruction, is temporarily suspended to the extent necessary to provide for the following exceptions to that requirement:

(1) In addition to counting as hours and days of pupil instruction under section 101(4) the first six days or the equivalent number of hours for which pupil instruction is not provided because of conditions not within the control of school authorities, the Department shall count up to 13 additional days or the equivalent number of hours for which pupil instruction is not provided due to a closure of schools pursuant to an executive order issued by the governor in response to the COVID-19 state of emergency and/or state of disaster.

(2) Under section 101(10), a district may also count an additional five days or the equivalent number of hours used for the purpose of preparing to provide and providing instruction by alternative modes of instruction pursuant to a CoL Plan as days or an equivalent number of hours of pupil instruction.

(c) Strict compliance with rules and procedures under section 101(9) of the School Aid Act, MCL 388.1701(9), is temporarily suspended to the extent necessary to permit a district that has a Department-approved alternative education program or another innovative program approved by the Department under MCL 388.1701(9) and that does not use a 100% online model of delivery approved before the effective date of this order to use the additional exceptions provided for in section I.2(b) of this order in satisfying the number of days and hours of instruction required under a waiver granted by the Department under section 101(9).

(d) Strict compliance with rules and procedures under section 101(9) of the School Aid Act, MCL 388.1701(9), is temporarily suspended to the extent necessary to waive the minimum number of hours and days of pupil instruction required under section 101(3) of the School Aid Act, MCL 388.1701(3), for any district with a CoL Plan approved under section II of this order. A district with a CoL Plan approved under section II of this order will be considered to be operating a Department-approved alternative education

program or another innovative program approved by the Department for the remainder of the 2019-2020 school year only. A district with a CoL Plan approved under section II of this order is not subject to forfeiture of money under section 101 of the School Aid Act, MCL 388.1701. If the district does not comply substantially with the terms of the CoL Plan, the amount of any forfeiture under MCL 388.1701 will be calculated based on a comparison of the number of hours and days of pupil instruction provided to the minimum number of hours and days of pupil instruction required under MCL 388.1701(3), as affected by this order. A district with a CoL Plan approved under section II of this order is not required to report to the Center the pupils enrolled in a Department-approved alternative education program under MCL 388.1701(9).

3. A school of excellence that is a cyber school, as defined in section 551 of the Revised School Code ("School Code"), 1976 PA 451, as amended, MCL 380.551, and is in compliance with section 553a of the School Code, MCL 380.553a, may continue to educate pupils in a manner consistent with section I.A of this order, and continues to be exempt from the requirements of subsections (3) and (8) of section 101 of the School Aid Act, MCL 388.1701(3) and (8).

4. If before March 11, 2020, a district was providing nonessential elective courses to nonpublic school pupils, homeschool pupils, or both at either a district, intermediate district, or nonpublic school site pursuant to section 166b of the School Aid Act, MCL 388.1766b, and is able to continue to offer the nonessential elective courses through alternative modes of instruction, then the district may, to the extent feasible, provide for such courses in its CoL Plan and continue to offer the nonessential elective courses to nonpublic school and/or homeschool pupils through alternative modes of instruction for the remainder of the 2019-2020 school year.

5. Nothing in this order alters the inapplicability of subsections (3) and (8) of section 101 of the School Aid Act, MCL 388.1701(3) and (8), to eligible pupils enrolled in a dropout recovery program that meets the requirements of section 23a of the School Aid Act, MCL 388.1623a. As used in this section, "eligible pupil" means that term as defined in MCL 388.1623a.

6. The approval of the Superintendent of Public Instruction ("Superintendent") or the Department is not required for a district to make use of a waiver provided for under section I.2 of this order.

7. Strict compliance with rules and procedures under section 6(7)(b) of the School Aid Act, MCL 388.1606(7)(b), is temporarily suspended to eliminate the requirement during the 2019-2020 school year for a district or intermediate district maintaining school during the entire school year to use the fourth Wednesday in April as a pupil membership count day.

8. Strict compliance with rules and procedures under sections 1284 and 1284a of the School Code, MCL 380.1284 and 380.1284a, is temporarily suspended as necessary to facilitate implementation of section I of this order.

9. Strict compliance with rules and procedures under section 104b(4)(b) of the School Aid Act, MCL 388.1704b(4)(b), is temporarily suspended to the extent necessary to permit a district to include each day that a pupil is deemed in attendance under section I of this order or pursuant to a CoL Plan under section II of this order as a day the pupil was in attendance at school during the 2019-2020 school year for purposes of MCL 388.1704b(4)(b).

10. Strict compliance with rules and procedures under section 29.19 of the Fire Prevention Code, 1941 PA 207, as amended, MCL 29.19, is temporarily suspended for the remainder of the 2019-2020 school year as follows:

(a) All requirements that a district or intermediate district conduct a minimum number of fire drills, lockdown drills, and tornado drills during the 2019-2020 school year, or conduct such drills after March 11, 2020 and before the end of the 2019-2020 school year, as required under section 19(2) to (6), MCL 29.19(2) to (6), are waived.

(b) All requirements that a district or intermediate district record or publish documentation pertaining to scheduled and completed fire drills and tornado drills that otherwise would have been required after March 11, 2020, as required under sections 19(1) and (8), MCL 29.19(1) and (8), are waived.

(c) All requirements for rescheduling drills scheduled after March 11, 2020 but not conducted, and for notifying emergency management coordinators and law enforcement agencies, as required under section 19(8), MCL 29.19(8), are waived.

11. Strict compliance with rules and procedures under sections 1169, 1506 and 1507(6) of the School Code, MCL 380.1169, 380.1506, and 380.1507(6), and section 166a(1) of the School Aid Act, MCL 388.1766a(1), is temporarily suspended for the 2019-2020 school year so as to waive instruction requirements unmet by a district prior to March 11, 2020, except as described in the district's approved CoL Plan.

12. Strict compliance with rules and procedures under sections 1561 and 1577 to 1599 of the School Code, MCL 380.1561 and MCL 380.1577 to 380.1599, is temporarily suspended to the extent necessary to waive all compulsory attendance requirements and enforcement measures for the 2019-2020 school year, consistent with this order and a district's CoL Plan.

13. Strict compliance with rules and procedures under section 1170a(1) of the School Code, MCL 380.1170a(1), is temporarily suspended for the 2019-2020 school year so as to waive psychomotor skills instruction requirements, except as described in the district's approved CoL Plan.

II. CoL Plans (including addenda for early childhood programs)

1. A CoL Plan must include all of the following elements:

(a) A description of the methods a district will use to provide alternative modes of instruction other than in-person instruction and a summary of materials each pupil and the pupil's parents or guardians will need to meaningfully access the alternative modes of instruction included in the CoL Plan. If the CoL Plan relies on electronic instruction, the CoL Plan must ensure to the extent feasible that pupils have access to a device capable of accessing the electronic instruction and must not penalize a pupil for the pupil's inability to fully participate.

(b) A description of the methods a district will use to keep pupils at the center of educational activities, including outreach to continue building relationships and maintain connections, and to help pupils feel safe and valued.

(c) A description of plans to deliver content in multiple ways so that all pupils can access learning.

(d) A description of plans to manage and monitor learning by pupils.

(e) A budget outline estimating additional expenditures associated with the CoL Plan and sources of revenue to pay for those expenditures.

(f) A description of the manner in which district administrators, board members, teachers, and any representatives of teachers collaborated in development of the CoL Plan.

(g) A description of methods the district will use to notify pupils and parents or guardians of the CoL Plan.

(h) A best estimate of the date on which the district will begin implementation of the CoL Plan, which must be no later than April 28, 2020.

2. A CoL Plan must do all of the following:

(a) Provide for assistance, to the extent feasible, to pupils enrolled in any postsecondary dual enrollment courses under the Postsecondary Enrollment Options Act, 1996 PA 160, as amended, MCL 388.511 to 388.524, and the Career and Technical Preparation Act, 2000 PA 258, as amended, MCL 388.1901 to 388.1913, in completing the courses during the 2019-2020 school year.

(b) Provide or arrange for continuation of food distribution to eligible pupils.

(c) Continue to pay school employees while redeploying staff to provide meaningful work in the context of the CoL Plan, subject to any applicable requirements of a collective bargaining agreement.

(d) Provide for evaluation of participation in the CoL Plan by pupils.

(e) Provide mental health supports to pupils affected by a state of emergency or state of disaster prompted by COVID-19.

(f) Provide for the district to support the efforts of the intermediate district in which the district is located to mobilize disaster relief childcare centers as described in Executive Order 2020-51 or any executive order that may follow it.

(g) Any CoL Plan adopted by an intermediate district pursuant to section II.6 of this order shall include a plan for early childhood services, including Great Start Readiness Program, compliant with the requirements of section II.16 of this order and guidance issued by the Department. For purposes of this section, the Early Childhood Plan may be incorporated in the original CoL Plan submitted for approval or submitted for approval as an amendment or addendum to the district's currently approved CoL Plan.

3. A CoL Plan may provide for the adoption of a balanced calendar instructional program for the remainder of the 2019-2020 school year and planning for the adoption of a balanced calendar instructional program for the 2020-2021 school year.

4. A district may contract with one or more providers for implementation of a CoL Plan.

5. If a district lacks the capacity to implement a CoL Plan on its own, a district may partner with one or more other districts or intermediate districts. A district may enter into one or more cooperative agreements under section 11a(4) of the School Code, MCL 380.11a(4), to provide for implementation of a CoL Plan.

6. For a district that is not a public school academy, the district's CoL Plan must be approved by the intermediate superintendent of the intermediate district in which the district is located. For a district that is a public school academy, the district's CoL Plan must be approved by the authorizing body of the public school academy or the authorizing body's designee for the purpose of administering contracts with public school academies. For a public school academy that by agreement provides public educational services for the residents of a district that does not directly provide public educational services to its residents, the public school academy's CoL Plan must be approved by the intermediate superintendent of the intermediate district in which the public school academy is located. If an intermediate district educates K-12 students, the intermediate district may adopt a CoL Plan for those activities and implement the CoL Plan once adopted. A school of excellence that is a cyber school, as defined in section 551 of the School Code, MCL 380.551, and is in compliance with section 553a of the School Code, MCL 380.553a, may continue to educate pupils under its charter contract which will be that school's CoL Plan.

7. An intermediate district or an authorizing body shall approve a CoL Plan submitted by a district if the CoL Plan complies with the requirements of section II of this order and if the intermediate district or authorizing body believes the CoL Plan represents a good-faith effort to provide adequate alternative modes of instruction given the limitations resulting from the COVID-19 pandemic and accompanying response efforts. Intermediate districts and authorizing bodies must allow for flexibility and presume that a CoL Plan submitted by a district will be implemented to the best of the district's ability.

8. Intermediate districts and authorizing bodies shall transmit copies of approved CoL Plans to the Superintendent and to the State Treasurer. If a district or intermediate district maintains a public internet site, the district or intermediate district shall post its approved CoL Plan on the internet site.

9. An intermediate district may enter into a cooperative agreement with one or more other intermediate districts for the purpose of reviewing and approving CoL Plans under this order.

10. An intermediate district or authorizing body that reviews and approves or disapproves CoL Plans on its own or with others pursuant to section II of this order will be eligible for any additional funding appropriated to support these activities. An intermediate district or authorizing body that does not review and approve or disapprove CoL Plans will not be eligible for any additional funding appropriated.

11. Intermediate districts and authorizing bodies must be prepared to review and approve or reject CoL Plans beginning on April 8, 2020.

12. A district with an approved CoL Plan is eligible to receive continued payments from the State School Aid Fund for the 2019-2020 school year.

13. A district that is not a public school academy may amend its CoL Plan with the approval of the intermediate superintendent of the intermediate district in which the school district is located. A district that is a public school academy may amend its CoL Plan with the approval of its authorizing body or its designee. For a public school academy that by agreement provides public educational services for the residents of a district that does not directly provide public educational services to the residents on its own, the public school academy's CoL Plan may be amended with the approval of the intermediate superintendent of the intermediate district in which the public school academy is located.

14. Decisions regarding the awarding of credit, the issuance of grades, and the use of pass or fail designations will be made at the district level by districts with due recognition of the impact of the COVID-19 pandemic.

15. State-approved nonpublic schools and parents and guardians homeschooling students are encouraged to do all of the following:

(a) Offer all students electronic, other remote, or home-based instruction, to the extent feasible, for the remainder of the 2019-2020 school year, including course offerings provided by the Michigan Virtual School.

(b) Coordinate with districts providing nonessential elective courses under section 166b of the School Aid Act, MCL 388.1766b, to any of their students for the remainder of the 2019-2020 school year.

(c) Assist eligible nonpublic school students to complete postsecondary dual enrollment courses, to the extent feasible, under the Postsecondary Enrollment Options Act, 1996 PA 160, as amended, MCL 388.511 *et seq.*, and the Career and Technical Preparation Act, 2000 PA 258, as amended, MCL 388.1901 *et seq.*

(d) Take actions necessary to continue to receive any federal funding previously allocated in a manner consistent with applicable federal law.

16. An intermediate school district that is an approved grantee of Great Start Readiness Program (GSRP) funding under sections 1632d and 1639 of the School Aid Act, MCL 388.1632d and 388.1639, for the 2019-2020 school year shall maintain records of approved subrecipient plans for continuing the GSRP for the remainder of the 2019-2020 school year. The intermediate school district is responsible for ensuring all subrecipients, including community-based providers, create a GSRP plan. Subrecipient plans may be incorporated in the original CoL Plan submitted for approval or may be submitted for approval as an amendment or addendum to the district's currently approved CoL Plan. Plans must include, at a minimum:

(a) A description of plans to provide and document, at a minimum, how all members of the GSRP teaching team will engage on an ongoing basis with enrolled children and their families, through the most convenient communication method for the family in light of COVID-19-related orders and guidance, and, as appropriate, provide children and their families plans for the transition from GSRP to kindergarten. This outreach must include a virtual conference with the family.

(b) A description of how GSRP funds and resources will be used to implement a modified program that is developmentally appropriate for the strengths, interests, and needs of each individualized child.

(c) A best estimate of the date on which subrecipients will begin implementation of the GSRP plan, which must be no later than May 7, 2020.

III. District employees permitted in district buildings

1. Notwithstanding the closure of school buildings under Executive Order 2020-11 or any executive order that may follow it, district employees or contractors necessary to conduct minimum basic school operations

consistent with a CoL Plan, including those employers or contractors necessary to facilitate alternative modes of instruction, such as distributing materials and equipment, or performing other necessary in-person functions, are permitted to be physically present in district buildings, as determined by district administrators. District employees and contractors performing these functions are considered to be performing necessary government activities for purposes of Executive Order 2020-59 or any executive order that may follow it. Districts must adopt social distancing practices and other mitigation measures to protect district employees and contractors, including all of the following:

- (a) Restricting the number of employees and contractors present in a district building to no more than is strictly necessary to perform the activities authorized by section III of this order.
- (b) Promoting remote work to the fullest extent possible.
- (c) Keeping employees and contractors in a district building at least six feet from one another to the maximum extent possible.
- (d) Increasing standards of district building cleaning and disinfection to limit employee and contractor exposure to COVID-19, as well as adopting protocols to clean and disinfect in the event of a positive COVID-19 case in a district building.
- (e) Adopting policies to prevent employees and contractors from entering the premises if they display respiratory symptoms or have had contact with a person who is known or suspected to have contracted COVID-19.
- (f) Any other social distancing practices and mitigation measures relating to COVID-19 recommended by the Centers for Disease Control and Prevention.

2. A district may permit parents and guardians of pupils to visit school property for the purpose of obtaining materials and equipment pursuant to a CoL Plan and using the same social distancing and other mitigation measures required for district employees and contractors under section III.1 of this order. Parents or guardians leaving their homes or residences for this purpose are considered to be obtaining necessary services or supplies for purposes of Executive Order 2020-59 or any executive order that may follow it.

3. Any childcare workers at a childcare located within a district building (including workers at disaster relief childcare centers), are permitted to be physically present in district buildings, as determined by district administrators and to the extent permitted by Executive Order 2020-59 or any executive order that may follow it.

IV. Assessments

1. CoL Plans are not required to address the following provisions of the Elementary and Secondary Education Act of 1965 (“ESEA”) that have been waived by the United States Department of Education for the 2019-2020 school year pursuant to section 8401(b) of the ESEA, 20 USC 7861(b):

- (a) Assessment requirements under section 1111(b)(2) of the ESEA, 20 USC 6311(b)(2).
- (b) Report card provisions related to certain assessments and accountability in section 1111(h) of the ESEA, 20 USC 6311(h) based on data from the 2019-2020 school year, including all of the following:
 - (1) Section 1111(h)(1)(C)(i) of the ESEA, 20 USC 6311(h)(1)(C)(i) (accountability system description).
 - (2) Section 1111(h)(1)(C)(ii) of the ESEA, 20 USC 6311(h)(1)(C)(ii) (assessment results).
 - (3) Section 1111(h)(1)(C)(iii)(I) of the ESEA, 20 USC 6311(h)(1)(C)(iii)(I) (other academic indicator results).
 - (4) Section 1111(h)(1)(C)(iv) of the ESEA, 20 USC 6311(h)(1)(C)(iv) (English language proficiency assessment results).
 - (5) Section 1111(h)(1)(C)(v) of the ESEA, 20 USC 6311(h)(1)(C)(v) (school quality or student success indicator results).
 - (6) Section 1111(h)(1)(C)(vi) of the ESEA, 20 USC 6311(h)(1)(C)(vi) (progress toward meeting long-term goals and measurements of interim progress).
 - (7) Section 1111(h)(1)(C)(vii) of the ESEA, 20 USC 6311(h)(1)(C)(vii) (percentage of students assessed and not assessed).
 - (8) Section 1111(h)(1)(C)(xi) of the ESEA, 20 USC 6311(h)(1)(C)(xi), (number and percentage of students with the most significant cognitive disabilities taking an alternate assessment).
 - (9) Section 1111(h)(2) of the ESEA, 20 USC 6311(h)(2), with respect to all waived requirements in section 1111(h)(1)(C) of ESEA, 20 USC 6311(h)(1)(C).
 - (10) Section 1111(h)(2)(C)(i) and (ii) of the ESEA, 20 USC 6311(h)(2)(C)(i) and (ii) (information showing how students in a local educational agency (“LEA”) and each school, respectively, achieved on the academic assessments compared to students in Michigan and the LEA).

2. Strict compliance with rules and procedures under section 1279g of the School Code, MCL 380.1279g, and section 104b of the School Aid Act, MCL 388.1704b, requiring a district to administer during the 2019-2020 school year the Michigan Merit Examination to pupils in grade 11 and to pupils in grade 12 who did not take the complete Michigan Merit Examination in grade 11, is temporarily suspended for the

remainder of the 2019-20 school year. Pupils currently in grade 11 will be administered the Scholastic Aptitude Test portion of the Michigan Merit Examination during the school day in the fall of the 2020-21 school year as permitted by the College Board, with results from this test being used for college entrance purposes but not for school accountability purposes.

3. Strict compliance with rules and procedures under sections 503(6)(a), 523(2)(a), 553(5)(a), and 1311e(5)(a) of the School Code, MCL 380.503(6)(a), 380.523(2)(a), 380.553(5)(a), and 380.1311e(5)(a), and under section 104c of the School Aid Act, MCL 388.1704c, is temporarily suspended so as to suspend for the remainder of the 2019-2020 school year the obligation of a district to administer the state assessments described in those sections, including the Michigan Student Test of Educational Progress (“M-STEP”), or an alternative to M-STEP such as the MI-ACCESS assessment, or other assessment taken in conjunction with the M-STEP, including the Preliminary Scholastic Aptitude Test (“PSAT”) developed by the College Board. Pupils otherwise scheduled to be administered the PSAT during the school day in the 2019-2020 school year will be administered the PSAT during the school day in the fall of the 2020-2021 school year as permitted by the College Board.

4. Strict compliance with rules and procedures under section 41 of the School Aid Act, MCL 388.1641, is temporarily suspended so as to suspend for the remainder of the 2019-2020 school year the obligation of a district to administer to English language learners the English language proficiency assessment known as the “WIDA ACCESS for English language learners” or the “WIDA Alternative ACCESS.”

5. Strict compliance with rules and procedures under section 1279g of the School Code, MCL 380.1279g, is temporarily suspended so as to suspend for the remainder of the 2019-2020 school year the obligation of a district, imposed by the Department or otherwise, to administer an assessment that assesses a pupil’s ability to apply reading and mathematics skills in a manner that is intended to allow employers to use the results in making employment decisions, including the WorkKeys assessment.

6. Strict compliance with rules and procedures under section 104 of the School Aid Act, MCL 388.1704, is temporarily suspended to the extent necessary to suspend any requirement for a district to administer the Maryland-Ohio observational tool during the 2019-2020 school year, which is also referred to as the Kindergarten Readiness Assessment.

7. Pupils enrolled in advanced placement courses and eligible to take examinations for advanced placement courses administered by the College Board must be permitted to take the examinations using the at-home testing option provided by the College Board. Districts shall facilitate, to the extent feasible, access to information relating to advanced placement courses and course schedules provided online by the College Board. For pupils without access to the internet or a device necessary to access the internet, districts shall facilitate, to the extent feasible, access to information regarding assistance provided by the College Board in completing examination requirements. Information relating to advanced placement courses and examinations is available at: apstudents.collegeboard.org/coronavirus-updates.

8. Strict compliance with rules and procedures under section 1249, 1249a, 1249b, and 1250(1) of the School Code, MCL 380.1249, 380.1249a, 380.1249b, and 380.1250(1), under section 38.93 of the Teachers’ Tenure Act, MCL 38.93, and under section 104 of the School Aid Act, MCL 388.1704, is temporarily suspended to the extent necessary to waive any requirement for assessments or other performance evaluations of teachers not on an individual development plan on March 13, 2020 and district administrators during the 2019-2020 school year.

9. Strict compliance with rules and procedures under subsections (1), (3) and (4) of section 1250 of the School Code, MCL 380.1250(1), (3) and (4), is temporarily suspended for the remainder of the 2019-20 school year.

10. Any teacher who has an individualized development plan, pursuant to section 38.83a or section 38.93 of the Teachers’ Tenure Act, MCL 38.83a, 38.93, shall be provided an annual year-end performance evaluation by the employing school district.

(a) Except as provided in section IV.12 of this order, a teacher’s annual year-end performance evaluation shall be determined based on the teacher’s performance at least through March 13, 2020, consistent with section 1249 of the School Code, MCL 380.1249, and sections 38.83a and 38.93 of the Teachers’ Tenure Act, MCL 38.83a and 38.93, as affected by this and other orders.

(b) Except as provided in section IV.12 of this order, a teacher’s annual year-end performance evaluation may account for the teacher’s performance after March 13, 2020 through the end of the 2019-2020 school year, consistent with section 1249 of the School Code, MCL 380.1249, and sections 38.83a and 38.93 of the Teachers’ Tenure Act, MCL 38.83a and 38.93, as affected by this and other orders, including efforts made by the teacher to prepare and provide remote student instruction given the limitations resulting from the COVID-19 pandemic and accompanying response efforts.

11. Strict compliance with rules and procedures under sections 38.83a, 38.83b, and 38.93 of the Teachers’ Tenure Act, MCL 38.83a, 38.83b, and 38.93, and section 1249 of the School Code, MCL 380.1249, is

temporarily suspended such that annual year-end performance evaluations under section IV.10 of this order shall give no consideration to criteria requiring data or other information unavailable because a school district, student, teacher, or administrator acts in conformance with this executive order or other orders or response efforts prompted by the COVID-19 state of emergency and/or state of disaster.

12. Strict compliance with rules and procedures under sections 38.83a, 38.83b, and 38.93 of the Teachers' Tenure Act, MCL 38.83a, 38.83b, and 38.93, and under section 1249 of the School Code, MCL 380.1249, is temporarily suspended to the extent necessary to allow a teacher rated as highly effective or effective on their annual year-end performance evaluation for the 2019-2020 school year under sections IV.10 and IV.11 of this order to accrue time toward completing the teacher's probationary period under Article II, sections 38.81 through 38.84, of the Teachers' Tenure Act, MCL 38.81 through MCL 38.84.

13. Strict compliance with rules and procedures under sections 38.83a, 38.83b, and 38.93 of the Teachers' Tenure Act, MCL 38.83a, 38.83b, and 38.93, and under section 1249 of the School Code, MCL 380.1249, is temporarily suspended so as to allow a teacher rated as highly effective or effective on their annual year-end performance evaluation for the 2019-2020 school year under sections IV.10 and IV.11 of this order to maintain continuing tenure under Article III, sections 38.91 through 38.93, of the Teachers' Tenure Act, MCL 38.91 through MCL 38.93.

14. Strict compliance with the rules and procedures under section 38.93 of the Teachers' Tenure Act, MCL 38.93, is temporarily suspended as follows:

(a) Time periods specified for a teacher on continuing tenure to make progress toward individual development plan goals, as required by section 38.93 of the Teachers' Tenure Act, MCL 38.93, may be extended to allow the teacher sufficient time to make progress toward goals based on criteria requiring data or other information unavailable because a school district, student, teacher, or administrator acts in conformance with this executive order or other orders or response efforts prompted by the COVID-19 state of emergency and/or state of disaster.

(b) An individual development plan goal based on criteria requiring data or other information that is unavailable because of the COVID-19 crisis, including but not limited to a school district, student, teacher, or administrator acting in conformance with this executive order or other orders or response efforts prompted by the COVID-19 state of emergency and/or state of disaster, may be waived.

15. Nothing in this order prohibits an employing school district from completing an annual year-end performance evaluation for the 2019-2020 school year for a teacher on continuing tenure who has not been provided with an individualized development plan. Should the district complete an annual year-end performance evaluation for the 2019-2020 school year for a teacher on continuing tenure who has not been provided with an individualized development plan, the district shall comply with sections IV.10 and IV.11 of this order.

V. Pupils in grade 12

1. A district shall implement a process to issue grades to pupils in grade 12, award credits needed for graduation, provide for completion of the Michigan Merit Curriculum, issue diplomas to pupils in grade 12, and reflect continued learning by pupils in grade 12 pursuant to this order. When implementing this section, a district may, without limitation, use one or more of the following options:

(a) Award credits and grades for courses taken based on coursework through March 11, 2020.

(b) Provide an optional final exam or other culminating activity to test pupil understanding of the subject matter of a course to the extent practicable.

(c) Implement a process for pupils in grade 12 to be certified as eligible to graduate using a prior learning assessment, a portfolio, or a resume approach.

(d) Offer an interdisciplinary culminating activity that encompasses essential standards missed by pupils due to the closure of schools.

2. Districts must provide a pupil in grade 12 who was failing a course as of March 11, 2020 an opportunity to the extent feasible to demonstrate learning in the subject matter of the course and receive credit for the course, as determined by the district.

3. Strict compliance with rules and procedures under section 1166(2) of the School Code, MCL 380.1166(2), is temporarily suspended for the remainder of the 2019-2020 school year so as to suspend the restriction on a high school from issuing a diploma to a pupil who has not completed a one-semester course of study of five periods per week in civics.

4. If before March 11, 2020, a district was providing a nonessential elective course to a nonpublic school pupil or homeschool pupil in grade 12 at either a district, intermediate district, or nonpublic school site pursuant to section 166b of the School Aid Act, MCL 388.1766b, and that course is required for the pupil to graduate and receive a diploma, the district must, to the extent feasible, continue to offer the nonessential elective course to the pupil through alternative modes of instruction for the remainder of the 2019-2020 school year.

VI. Special education

1. Districts shall strive in good faith and to the extent practicable, based upon existing resources, technology, training, and curriculum, as well as the circumstances presented by any state of emergency or state of disaster, to provide equal access to alternative modes of instruction to students with disabilities for the remainder of the 2019-2020 school year from birth through age 26. This includes the provision of auxiliary services under section 1296 of the School Code, MCL 380.1296.

2. While either the COVID-19 states of emergency or disaster, or both, continue, districts shall comply with guidance from the United States Department of Education (“USDOE”), including its Office of Civil Rights and Office of Special Education and Rehabilitative Services, and the Department concerning the delivery of alternative modes of instruction to students with disabilities in light of the impact of COVID-19.

3. Districts shall, to the extent practicable and necessary, make individualized determinations whether and to what extent compensatory services may be needed for pupils after the school closure period prompted by the COVID-19 state of emergency and/or state of disaster ends.

4. A district or a nonpublic school that has been allocated federal funds for the 2019-2020 school year for the purpose of providing special education services shall not be penalized or required to repay the funds by this state due to the inability to provide those services in person during the 2019-2020 school year after March 11, 2020.

5. Within five days of the effective date of this order, the Department and the Department of Civil Rights are strongly encouraged to submit requests for interpretation, guidance on implementation, flexibility, or waivers to USDOE that would permit districts and nonpublic schools to do one or more of the following during the remainder of the 2019-2020 school year:

(a) Deliver instruction to all pupils, including students with disabilities, without having to reconvene or amend individualized education plans (“IEPs”) or Section 504 plans.

(b) Deliver direct and consultative related services such as therapies, including occupational therapy, physical therapy, speech language pathologist, social service worker, teacher consultant, and other special education services and supports, without having to reconvene or amend IEPs or Section 504 plans.

(c) Complete IEPs and Section 504 plans online, either by telephone conference or video conference, if the parents or guardians involved have access to the technology and agree to the alternative means of participation. If a parent or guardian elects not to participate in an otherwise due IEP online, a district should be permitted to extend the deadline for completion of the IEP for up to 30 school days after the school closure period prompted by the COVID-19 state of emergency and/or state of disaster ends.

(d) Complete annual or otherwise due IEPs online, either by telephone conference or video conference, with those IEPs being considered timely if they are completed by the end of the 2019-2020 school year.

(e) Consider whether a pupil should be provided compensatory education for pupils after the school closure period prompted by the COVID-19 state of emergency and/or state of disaster ends, based on applicable law and guidance, no later than the first annual IEP meeting of the 2020-2021 school year.

(f) Consider compensatory education for pupils who are more likely to qualify for compensatory education through IEP amendments, with the authority to complete those IEP amendments online, either by telephone conference, virtual meetings, or other existing technology.

(g) Other requests the Department deems necessary to facilitate the delivery of alternative modes of instruction with equal access.

6. This order does not require that an IEP be amended.

VII. Temporary suspension of certain requirements relating to the suspension of administrative rules by the Superintendent

1. Strict compliance with rules and procedures under section 1281(3) of the School Code, MCL 380.1281(3), is temporarily suspended so as to suspend for the remainder of the 2019-2020 school year the requirement that a district, university school, or intermediate district apply for a limited time waiver from a Department rule interpreting or implementing a provision of the School Code and so as permit the Superintendent to temporarily suspend a Department rule interpreting or implementing a provision of the Code to facilitate the implementation of this order or other orders or response efforts prompted by the COVID-19 state of emergency and/or state of disaster.

2. The Superintendent may not grant a waiver from the duty to comply with a provision of the School Code and may not grant a waiver from the duty to comply with another state statute unless and to the extent that a waiver is specifically allowed by that other state statute.

VIII. Temporary suspension of certain certification and continuing learning requirements

1. Strict compliance with rules and procedures under section 1531(2) of the School Code, MCL 380.1531(2), is temporarily suspended so as to permit the Superintendent to issue a temporary one-year teaching certificate to an otherwise qualified individual who is unable to take an appropriate subject area examination required by MCL 380.1531(2) due to COVID-19 or accompanying response efforts.

2. Strict compliance with rules and procedures under section 1531(3) of the School Code, MCL 380.1531(3), is temporarily suspended so as to permit the Superintendent to issue a temporary one-year teaching certificate to an individual holding a teaching certificate from another state or a teaching degree from an out-of-state teacher preparation institution who applies for a Michigan teaching certificate, is otherwise qualified, but is unable to take an appropriate subject area examination required by MCL 380.1531(3) because the examination is not offered due to COVID-19 or accompanying response efforts.

3. Strict compliance with rules and procedures under section 1531d of the School Code, MCL 380.1531d, is temporarily suspended so as to permit the Superintendent to temporarily waive the requirement that a person seeking a teaching certificate successfully complete a course approved by the Department in first aid and cardiopulmonary resuscitation and instruction approved by the Department in foreign body airway obstruction management when the person is unable to complete the course and/or the instruction because the course and/or the instruction is not offered due to COVID-19 or accompanying response efforts.

4. Strict compliance with rules and procedures under section 1531i(2)(c) of the School Code, MCL 380.1531i(2)(c), is temporarily suspended so as to permit the Superintendent to issue an interim teaching certificate to an otherwise qualified individual who is unable to take an appropriate subject area examination required by MCL 380.1531i(2)(c) because the examination is not offered due to COVID-19 or accompanying response efforts.

5. Strict compliance with rules and procedures under Rule 390.1130(6) and (7) of the Michigan Administrative Code is temporarily suspended so as to permit the Superintendent to extend the duration of a 1-year temporary teacher employment authorization by an additional year if the holder of the 1-year temporary teacher employment authorization is unable to complete the requirements to obtain a Michigan teaching certificate because the requirements cannot be satisfied due to COVID-19 or accompanying response efforts.

6. Strict compliance with rules and procedures under section 1526 of the School Code, MCL 380.1526, is temporarily suspended so as to waive for any teacher within his or her third year of employment the requirement that the teacher receive at least 15 days of professional development within the teacher's first three years of employment if the requirement could not be completed due to COVID-19 or accompanying response efforts.

7. Strict compliance with rules and procedures under section 1527(1) of the School Code, MCL 380.1527(1), is temporarily suspended so as to waive the requirement for the 2019-2020 school year that a district or intermediate district provide at least five days of teacher professional development each year.

8. Strict compliance with rules and procedures under section 1233(6) of the School Code, MCL 380.1233(6), is temporarily suspended so as to permit the Department to renew an individual's school counselor credential regardless of whether the individual has completed at least 25 hours of professional development approved by the Department under MCL 380.1233(8) covering counseling about the college preparation and selection process and at least 25 hours of professional development approved by the Department under MCL 380.1233(8) covering career counseling.

9. Strict compliance with rules and procedures under Rules 1137(1)(c), 1138(3), 1142(2)(d)(i), and 1142(3)(d) of the Teacher Certification Code, Mich. Admin. Code R 390.1137(1)(c), 1138(3), 1142(2)(d)(i), and 1142(3)(d), is temporarily suspended to the extent necessary to permit the Department to renew an individual's teaching certificate or permit between now and the end of the individual's certificate or period permit regardless of whether the individual has received an annual year-end evaluation for the 2019-2020 school year.

IX. Implementation

1. Strict compliance with rules and procedures under section 21f of the School Aid Act, MCL 388.1621f, is temporarily suspended to the extent necessary to permit a district pursuant to an approved CoL Plan to enroll a pupil in more than two virtual courses, regardless of whether the virtual course is published in a catalog of courses or a parent or guardian approves, and so as to suspend any requirement to comply with minimum requirements to count a pupil in membership established by the pupil accounting manual.

2. Strict compliance with rules and procedures under section 1278a(4) of the School Code, MCL 380.1278a(4), is temporarily suspended to the extent necessary to permit a district to determine a pupil has completed a credit without using subject area content expectations or guidelines developed by the Department.

3. Strict compliance with rules and procedures under section 1280f(5) of the School Code, MCL 380.1280f(5), is temporarily suspended so as to relieve a district of the obligations imposed by that provision for the remainder of the 2019-2020 school year, including the obligation to retain a pupil in grade 3.

4. Strict compliance with rules and procedures under sections 162 and 163 of the School Aid Act, MCL 388.1762 and 388.1763, is temporarily suspended so as to prevent the forfeiture of funds resulting from the implementation of this order.

5. To mitigate the impact of COVID-19 on educational outcomes, a district may adopt year-round school or a year-round program for the 2020-2021 school year or start the 2020-2021 school year before the first Monday in September. Strict compliance with rules and procedures under sections 1284a and 1284b of the School Code, MCL 380.1284a and 380.1284b, is temporarily suspended so as to permit a district to adopt year-round school, a year-round program, or an early start for the 2020-2021 school year. Adoption of measures provided in this section may be included by a district as part of the district's CoL Plan.

6. Mandatory closure of schools relating to COVID-19 shall not affect an employer contribution, employee contribution, or the accrual of service credit under the Public School Employees Retirement Act of 1979, 1980 PA 300, as amended, MCL 38.1301 to 38.1467.

7. For a district with a collective bargaining agreement, this order must be implemented by the district in a manner consistent with the collective bargaining agreement.

8. Before the Department, the Superintendent, or the Department of Civil Rights seeks any guidance, issues a waiver, seeks a waiver relating to this order, or suspends an administrative rule pursuant to this order, the Superintendent or the director of the Department of Civil Rights, as applicable, shall provide the governor in writing with a copy of the request or waiver and information relating to the request, waiver, or suspension, as required by section 8 of article 5 of the Michigan Constitution of 1963.

9. To ensure management of district and intermediate district affairs and property in ways that will assist the response to the COVID-19 states of emergency and disaster, districts and intermediate districts are authorized and encouraged to donate medical personal protective equipment and supplies to healthcare providers and other necessary personnel engaged in response efforts to COVID-19.

10. This order is effective immediately and continues through the end of the states of emergency and disaster declared in Executive Order 2020-33 or any other state of emergency or disaster declared in response to COVID-19 during the remainder of the 2019-2020 school year, with the exception of the provisions of this order relating to scheduling for the 2020-2021 school year, which will continue into the 2020-2021 school year for that purpose.

11. Executive Order 2020-35 is rescinded.

X. Definitions

As used in this order:

1. "Alternative modes of instruction" means modes of pupil instruction, other than in-person instruction, that may include, without limitation, partnerships with other districts or intermediate districts or community colleges or institutions of higher education, use of vendors, use of online learning, telephone communications, email, virtual instruction, videos, slideshows, project-based learning, use of instructional packets, or a hybrid of multiple modes of learning that still promote recommended practices for social distancing to mitigate the spread of COVID-19.

2. "Center" means the Center for Educational Performance and Information referenced in section 94a of the School Aid Act, MCL 388.1694a.

3. "District" means a school district established under the School Code or a public school academy. District does not include an intermediate district, except for an intermediate district that educates K-12 students.

4. "Intermediate district" means an intermediate school district established under part 7 of the School Code, MCL 380.601 to 380.705b.

5. "Intermediate superintendent" means the superintendent of an intermediate district.

6. "Membership" means that term as defined in section 6(4) of the School Aid Act, MCL 388.1606(4).

7. "Michigan Virtual School" means the Michigan Virtual School referenced in section 98 of the School Aid Act, MCL 388.1698.

8. "Public school academy" means that term as defined in section 5 of the School Code, MCL 380.5.

9. "Pupil" means that term as defined in section 6(6) of the School Aid Act, MCL 388.1606(6).

10. "Superintendent of Public Instruction" or "Superintendent" means the superintendent of public instruction described in section 3 of article 8 of the Michigan Constitution of 1963.

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

Date: April 30, 2020

Time: 7:20 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 April 30, 2020, and read:

EXECUTIVE ORDER
No. 2020-66

**Termination of the states of emergency and disaster declared under
the Emergency Management Act in Executive Order 2020-33**

On March 10, 2020, I issued Executive Order 2020-4, which declared a state of emergency in Michigan to address the COVID-19 pandemic. This new disease, caused by a novel coronavirus not previously identified in humans, can easily spread from person to person and can result in serious illness or death. There is currently no approved vaccine or antiviral treatment.

Scarcely three weeks later, the virus had spread across Michigan. As of April 1, 2020, the state had 9,334 confirmed cases of COVID-19 and 337 deaths from the disease, with many thousands more infected but not yet tested. The virus's rapid and relentless spread threatened to quickly overwhelm the state's health care system: hospitals in multiple counties were reportedly at or near capacity; medical personnel, supplies, and resources necessary to treat COVID-19 patients were in high demand but short supply; dormitories and a convention center were being converted to temporary field hospitals. And the virus had also brought 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. Like Executive Order 2020-4, this declaration was based on multiple independent authorities: 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.* On April 7, 2020, the Michigan legislature adopted a concurrent resolution to extend the states of emergency and disaster declared under the Emergency Management Act until April 30, 2020.

Since I first declared an emergency in response to this pandemic, my administration has taken aggressive measures to fight the spread of COVID-19, prevent the rapid depletion of this state's critical health care resources, and avoid needless deaths. The best way to slow the spread of the virus is for people to stay home and keep their distance from others. To that end, and in keeping with the recommendations of public health experts, I have issued orders restricting access to places of public accommodation and school buildings, limiting gatherings and travel, and requiring workers who are not necessary to sustain or protect life to remain at home. I have also issued orders enhancing the operational capacity and efficiency of health care facilities and operations, allowing health care professionals to practice to the full extent of their training regardless of licensure, and facilitating the delivery of goods, supplies, equipment, and personnel that are needed to combat this pandemic. And I have taken steps to begin building the public health infrastructure in this state that is necessary to contain the infection.

My administration has also moved quickly to mitigate the economic and social harms of this pandemic. Through my orders, we have placed strict rules on businesses to prevent price gouging, put a temporary hold on evictions for families that cannot make their rent, expanded eligibility for unemployment benefits, provided protections to workers who stay home when they or their close contacts are sick, and created a structure through which our schools can continue to provide their students with the highest level of educational opportunities possible under the difficult circumstances now before us.

These statewide measures have been effective, but the need for them—like the unprecedented crisis posed by this global pandemic—is far from over. Though its pace of growth has showed signs of slowing, the virus remains aggressive and persistent: to date, there have been 41,379 confirmed cases of COVID-19 in Michigan, and 3,789 deaths from the disease—fourfold and tenfold increases, respectively, since the start of this month. And there are still countless more who are infected but have not yet been tested. There remains no treatment for the virus; it remains exceptionally easy to transmit, passing from asymptomatic individuals and surviving on surfaces for days; and we still lack adequate means to fully test for it and trace its spread. COVID-19 remains present and pervasive in Michigan, and it stands ready to quickly undo our recent progress in slowing its spread. Indeed, while COVID-19 initially hit Southeast Michigan hardest, the disease is now increasing more quickly in other parts of the state. For instance, cases in some counties in Western and Northern Michigan are now doubling every 6 days or faster.

The economic and social harms from this pandemic likewise persist. Due to the pandemic and the responsive measures necessary to address it, businesses and government agencies have had to quickly and dramatically adjust how they work. Where working from home is not possible, businesses have closed or significantly restricted their normal operations. Michiganders are losing their jobs in record numbers: to date, roughly one quarter of the eligible workforce has filed for unemployment. And state revenue, used to fund many essential services such as our schools, has dropped sharply.

The economic damage—already severe—will continue to compound with time. Between March 15 and April 18, Michigan had 1.2 million initial unemployment claims—the fifth-highest nationally, amounting to

nearly 24% of the Michigan workforce. During this crisis, Michigan has often processed more unemployment claims in a single day than in the most painful week of the Great Recession, and the state has already reached its highest unemployment rate since the Great Depression. On April 9, 2020, economists at the University of Michigan forecasted that the U.S. economy will contract by 7% in the second quarter of this year, or roughly an annualized rate of 25%. As a result, many families in Michigan will struggle to pay their bills or even put food on the table.

So too will the pandemic continue to disrupt our homes and our educational, civic, social, and religious institutions. Transitioning almost overnight to a distance-learning environment has placed strain on educators, students, and parents alike. The closure of museums and theaters limits people's ability to enrich themselves through the arts. And curtailing gatherings has left many seeking new ways to connect with their community during these challenging times.

The health, economic, and social harms of the COVID-19 pandemic thus remain widespread and severe, and they continue to constitute a statewide emergency and disaster. While the virus has afflicted some regions of the state more severely than others, the extent of the virus's spread, coupled with its elusiveness and its ease of transmission, render the virus difficult to contain and threaten the entirety of this state. Although local health departments have some limited capacity to respond to cases as they arise within their jurisdiction, state emergency operations are necessary to bring this pandemic under control in Michigan and to build and maintain infrastructure to stop the spread of COVID-19, trace infections, and quickly direct additional resources to hotspots as they arise. State assistance to bolster health care capacity and flexibility also has been, and will continue to be, critical to saving lives, protecting public health and safety, and averting catastrophe.

Moreover, state disaster and emergency recovery efforts remain necessary not only to support Michiganders in need due to the economic effects of this pandemic, but also to ensure that the prospect of lost income does not impel workers who may be infected to report to work, which would undermine infection control and contribute to further spread of the virus. Statewide coordination of these efforts is crucial to creating a stable path to recovery. Until that recovery is underway, the economic and fiscal harms from this pandemic have been contained, and the threats posed by COVID-19 to life and the public health, safety, and welfare of this state have been neutralized, statewide disaster and emergency conditions will exist.

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

The Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 *et seq.*, provides that "[t]he governor shall, by executive order or proclamation, declare a state of emergency" and/or a "state of disaster" upon finding that an emergency and/or disaster has occurred or is threatening to occur. MCL 30.403(3) & (4). The Emergency Management Act further provides that a declared state of emergency or disaster

shall continue until the governor finds that the threat or danger has passed, the [disaster/emergency] has been dealt with to the extent that [disaster/ emergency] conditions no longer exist, or until the declared state of [disaster/ emergency] has been in effect for 28 days. After 28 days, the governor shall issue an executive order or proclamation declaring the state of [disaster/ emergency] terminated, unless a request by the governor for an extension of the state of [disaster/emergency] for a specific number of days is approved by resolution of both houses of the legislature. [Id.]

For the reasons set forth above, the threat and danger posed to Michigan by the COVID-19 pandemic has by no means passed, and the disaster and emergency conditions it has created still very much exist. Twenty-eight days, however, have elapsed since I declared states of emergency and disaster under the Emergency Management Act in Executive Order 2020-33. And while I have sought the legislature's agreement that these declared states of emergency and disaster should be extended, the legislature—despite the clear and ongoing danger to the state—has refused to extend them beyond today.

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

1. The state of emergency declared under the Emergency Management Act in Executive Order 2020-33 is terminated.
2. The state of disaster declared under the Emergency Management Act in Executive Order 2020-33 is terminated.

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

Date: April 30, 2020

Time: 7:29 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 April 30, 2020, and read:

EXECUTIVE ORDER
No. 2020-67

**Declaration of state of emergency under the
Emergency Powers of the Governor Act, 1945 PA 302**

On March 10, 2020, I issued Executive Order 2020-4, which declared a state of emergency in Michigan to address the COVID-19 pandemic. This new disease, caused by a novel coronavirus not previously identified in humans, can easily spread from person to person and can result in serious illness or death. There is currently no approved vaccine or antiviral treatment.

Scarcely three weeks later, the virus had spread across Michigan. As of April 1, 2020, the state had 9,334 confirmed cases of COVID-19 and 337 deaths from the disease, with many thousands more infected but not yet tested. The virus's rapid and relentless spread threatened to quickly overwhelm the state's health care system: hospitals in multiple counties were reportedly at or near capacity; medical personnel, supplies, and resources necessary to treat COVID-19 patients were in high demand but short supply; dormitories and a convention center were being converted to temporary field hospitals. And the virus had also brought 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. Like Executive Order 2020-4, this declaration was based on multiple independent authorities: 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.* On April 7, 2020, the Michigan legislature adopted a concurrent resolution to extend the states of emergency and disaster declared under the Emergency Management Act until April 30, 2020.

Since I first declared an emergency in response to this pandemic, my administration has taken aggressive measures to fight the spread of COVID-19, prevent the rapid depletion of this state's critical health care resources, and avoid needless deaths. The best way to slow the spread of the virus is for people to stay home and keep their distance from others. To that end, and in keeping with the recommendations of public health experts, I have issued orders restricting access to places of public accommodation and school buildings, limiting gatherings and travel, and requiring workers who are not necessary to sustain or protect life to remain at home. I have also issued orders enhancing the operational capacity and efficiency of health care facilities and operations, allowing health care professionals to practice to the full extent of their training regardless of licensure, and facilitating the delivery of goods, supplies, equipment, and personnel that are needed to combat this pandemic. And I have taken steps to begin building the public health infrastructure in this state that is necessary to contain the infection.

My administration has also moved quickly to mitigate the economic and social harms of this pandemic. Through my orders, we have placed strict rules on businesses to prevent price gouging, put a temporary hold on evictions for families that cannot make their rent, expanded eligibility for unemployment benefits, provided protections to workers who stay home when they or their close contacts are sick, and created a structure through which our schools can continue to provide their students with the highest level of educational opportunities possible under the difficult circumstances now before us.

These statewide measures have been effective, but the need for them—like the unprecedented crisis posed by this global pandemic—is far from over. Though its pace of growth has showed signs of slowing, the virus remains aggressive and persistent: to date, there have been 41,379 confirmed cases of COVID-19 in Michigan, and 3,789 deaths from the disease—fourfold and tenfold increases, respectively, since the start of this month. And there are still countless more who are infected but have not yet been tested. There remains no treatment for the virus; it remains exceptionally easy to transmit, passing from asymptomatic individuals and surviving on surfaces for days; and we still lack adequate means to fully test for it and trace its spread. COVID-19 remains present and pervasive in Michigan, and it stands ready to quickly undo our recent progress in slowing its spread. Indeed, while COVID-19 initially hit Southeast Michigan hardest, the disease is now increasing more quickly in other parts of the state. For instance, cases in some counties in Western and Northern Michigan are now doubling every 6 days or faster.

The economic and social harms from this pandemic likewise persist. Due to the pandemic and the responsive measures necessary to address it, businesses and government agencies have had to quickly and dramatically adjust how they work. Where working from home is not possible, businesses have closed or

significantly restricted their normal operations. Michiganders are losing their jobs in record numbers: to date, roughly one quarter of the eligible workforce has filed for unemployment. And state revenue, used to fund many essential services such as our schools, has dropped sharply.

The economic damage—already severe—will continue to compound with time. Between March 15 and April 18, Michigan had 1.2 million initial unemployment claims—the fifth-highest nationally, amounting to nearly 24% of the Michigan workforce. During this crisis, Michigan has often processed more unemployment claims in a single day than in the most painful week of the Great Recession, and the state has already reached its highest unemployment rate since the Great Depression. On April 9, 2020, economists at the University of Michigan forecasted that the U.S. economy will contract by 7% in the second quarter of this year, or roughly an annualized rate of 25%. As a result, many families in Michigan will struggle to pay their bills or even put food on the table.

So too will the pandemic continue to disrupt our homes and our educational, civic, social, and religious institutions. Transitioning almost overnight to a distance-learning environment has placed strain on educators, students, and parents alike. The closure of museums and theaters limits people's ability to enrich themselves through the arts. And curtailing gatherings has left many seeking new ways to connect with their community during these challenging times.

The health, economic, and social harms of the COVID-19 pandemic thus remain widespread and severe, and they continue to constitute a statewide emergency and disaster. While the virus has afflicted some regions of the state more severely than others, the extent of the virus's spread, coupled with its elusiveness and its ease of transmission, render the virus difficult to contain and threaten the entirety of this state. Although local health departments have some limited capacity to respond to cases as they arise within their jurisdiction, state emergency operations are necessary to bring this pandemic under control in Michigan and to build and maintain infrastructure to stop the spread of COVID-19, trace infections, and quickly direct additional resources to hotspots as they arise. State assistance to bolster health care capacity and flexibility also has been, and will continue to be, critical to saving lives, protecting public health and safety, and averting catastrophe.

Moreover, state disaster and emergency recovery efforts remain necessary not only to support Michiganders in need due to the economic effects of this pandemic, but also to ensure that the prospect of lost income does not impel workers who may be infected to report to work, which would undermine infection control and contribute to further spread of the virus. Statewide coordination of these efforts is crucial to creating a stable path to recovery. Until that recovery is underway, the economic and fiscal harms from this pandemic have been contained, and the threats posed by COVID-19 to life and the public health, safety, and welfare of this state have been neutralized, statewide disaster and emergency conditions will exist.

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

The Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 *et seq.*, provides that “[d]uring times of great public crisis, disaster, rioting, catastrophe, or similar public emergency within the state . . . the governor may proclaim a state of emergency and designate the area involved.” MCL 10.31(1). The state of emergency ceases “upon declaration by the governor that the emergency no longer exists.” MCL 10.31(2).

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

1. A state of emergency remains declared across the State of Michigan under the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 *et seq.*
2. This order is effective immediately and continues through May 28, 2020 at 11:59 p.m.
3. I will evaluate the continuing need for this order prior to its expiration.
4. Executive Order 2020-33 is rescinded and replaced. All previous orders that rested on Executive Order 2020-33 now rest on this order.

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

Date: April 30, 2020

Time: 7:30 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 April 30, 2020, and read:

EXECUTIVE ORDER
No. 2020-68

**Declaration of states of emergency and disaster under
the Emergency Management Act, 1976 PA 390**

On March 10, 2020, I issued Executive Order 2020-4, which declared a state of emergency in Michigan to address the COVID-19 pandemic. This new disease, caused by a novel coronavirus not previously identified in humans, can easily spread from person to person and can result in serious illness or death. There is currently no approved vaccine or antiviral treatment.

Scarcely three weeks later, the virus had spread across Michigan. As of April 1, 2020, the state had 9,334 confirmed cases of COVID-19 and 337 deaths from the disease, with many thousands more infected but not yet tested. The virus's rapid and relentless spread threatened to quickly overwhelm the state's health care system: hospitals in multiple counties were reportedly at or near capacity; medical personnel, supplies, and resources necessary to treat COVID-19 patients were in high demand but short supply; dormitories and a convention center were being converted to temporary field hospitals. And the virus had also brought 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. Like Executive Order 2020-4, this declaration was based on multiple independent authorities: 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.* On April 7, 2020, the Michigan legislature adopted a concurrent resolution to extend the states of emergency and disaster declared under the Emergency Management Act until April 30, 2020.

Since I first declared an emergency in response to this pandemic, my administration has taken aggressive measures to fight the spread of COVID-19, prevent the rapid depletion of this state's critical health care resources, and avoid needless deaths. The best way to slow the spread of the virus is for people to stay home and keep their distance from others. To that end, and in keeping with the recommendations of public health experts, I have issued orders restricting access to places of public accommodation and school buildings, limiting gatherings and travel, and requiring workers who are not necessary to sustain or protect life to remain at home. I have also issued orders enhancing the operational capacity and efficiency of health care facilities and operations, allowing health care professionals to practice to the full extent of their training regardless of licensure, and facilitating the delivery of goods, supplies, equipment, and personnel that are needed to combat this pandemic. And I have taken steps to begin building the public health infrastructure in this state that is necessary to contain the infection.

My administration has also moved quickly to mitigate the economic and social harms of this pandemic. Through my orders, we have placed strict rules on businesses to prevent price gouging, put a temporary hold on evictions for families that cannot make their rent, expanded eligibility for unemployment benefits, provided protections to workers who stay home when they or their close contacts are sick, and created a structure through which our schools can continue to provide their students with the highest level of educational opportunities possible under the difficult circumstances now before us.

These statewide measures have been effective, but the need for them—like the unprecedented crisis posed by this global pandemic—is far from over. Though its pace of growth has showed signs of slowing, the virus remains aggressive and persistent: to date, there have been 41,379 confirmed cases of COVID-19 in Michigan, and 3,789 deaths from the disease—fourfold and tenfold increases, respectively, since the start of this month. And there are still countless more who are infected but have not yet been tested. There remains no treatment for the virus; it remains exceptionally easy to transmit, passing from asymptomatic individuals and surviving on surfaces for days; and we still lack adequate means to fully test for it and trace its spread. COVID-19 remains present and pervasive in Michigan, and it stands ready to quickly undo our recent progress in slowing its spread. Indeed, while COVID-19 initially hit Southeast Michigan hardest, the disease is now increasing more quickly in other parts of the state. For instance, cases in some counties in Western and Northern Michigan are now doubling every 6 days or faster.

The economic and social harms from this pandemic likewise persist. Due to the pandemic and the responsive measures necessary to address it, businesses and government agencies have had to quickly and dramatically adjust how they work. Where working from home is not possible, businesses have closed or significantly restricted their normal operations. Michiganders are losing their jobs in record numbers: to date, roughly one quarter of the eligible workforce has filed for unemployment. And state revenue, used to fund many essential services such as our schools, has dropped sharply.

The economic damage—already severe—will continue to compound with time. Between March 15 and April 18, Michigan had 1.2 million initial unemployment claims—the fifth-highest nationally, amounting to nearly 24% of the Michigan workforce. During this crisis, Michigan has often processed more unemployment claims in a single day than in the most painful week of the Great Recession, and the state has already reached its highest unemployment rate since the Great Depression. On April 9, 2020, economists at the University of Michigan forecasted that the U.S. economy will contract by 7% in the second quarter of this year, or roughly an annualized rate of 25%. As a result, many families in Michigan will struggle to pay their bills or even put food on the table.

So too will the pandemic continue to disrupt our homes and our educational, civic, social, and religious institutions. Transitioning almost overnight to a distance-learning environment has placed strain on educators, students, and parents alike. The closure of museums and theaters limits people's ability to enrich themselves through the arts. And curtailing gatherings has left many seeking new ways to connect with their community during these challenging times.

The health, economic, and social harms of the COVID-19 pandemic thus remain widespread and severe, and they continue to constitute a statewide emergency and disaster. While the virus has afflicted some regions of the state more severely than others, the extent of the virus's spread, coupled with its elusiveness and its ease of transmission, render the virus difficult to contain and threaten the entirety of this state. Although local health departments have some limited capacity to respond to cases as they arise within their jurisdiction, state emergency operations are necessary to bring this pandemic under control in Michigan and to build and maintain infrastructure to stop the spread of COVID-19, trace infections, and quickly direct additional resources to hotspots as they arise. State assistance to bolster health care capacity and flexibility also has been, and will continue to be, critical to saving lives, protecting public health and safety, and averting catastrophe.

Moreover, state disaster and emergency recovery efforts remain necessary not only to support Michiganders in need due to the economic effects of this pandemic, but also to ensure that the prospect of lost income does not impel workers who may be infected to report to work, which would undermine infection control and contribute to further spread of the virus. Statewide coordination of these efforts is crucial to creating a stable path to recovery. Until that recovery is underway, the economic and fiscal harms from this pandemic have been contained, and the threats posed by COVID-19 to life and the public health, safety, and welfare of this state have been neutralized, statewide disaster and emergency conditions will exist.

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

The Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 *et seq.*, provides that “[t]he governor is responsible for coping with dangers to this state or the people of this state presented by a disaster or emergency.” MCL 30.403(1). In particular, the Emergency Management Act mandates that “[t]he governor shall, by executive order or proclamation, declare a state of emergency” and/or a “state of disaster” upon finding that an emergency and/or disaster has occurred or is threatening to occur. MCL 30.403(3) & (4). Under the Emergency Management Act, an emergency constitutes “any occasion or instance in which the governor determines state assistance is needed to supplement local efforts and capabilities to save lives, protect property and the public health and safety, or to lessen or avert the threat of a catastrophe in any part of the state.” MCL 30.402(h). And a disaster constitutes “an occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or human-made cause, including, but not limited to, . . . epidemic.” MCL 30.402(e).

Acting under the Michigan Constitution of 1963 and Michigan law:

1. I now declare a state of emergency and a state of disaster across the State of Michigan under the Emergency Management Act.

2. The Emergency Management and Homeland Security Division of the Department of State Police must coordinate and maximize all state efforts that may be activated to state service to assist local governments and officials and may call upon all state departments to utilize available resources to assist.

3. This order is effective immediately and continues through May 28, 2020 at 11:59 p.m.

4. I will evaluate the continuing need for this order prior to its expiration.

5. All previous orders that rested on Executive Order 2020-33 now rest on this order.

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

Date: April 30, 2020

Time: 7:30 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 April 30, 2020, and read:

EXECUTIVE ORDER
No. 2020-69

Temporary restrictions on the use of places of public accommodation

Rescission of Executive Order 2020-43

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 impose limited and temporary restrictions on the use of places of public accommodation.

Executive Order 2020-20 imposed such restrictions, which were then supplemented by the restrictions on in-person work, travel, and gatherings imposed by Executive Order 2020-42. Executive Orders 2020-20 and 2020-42 were then replaced by Executive Orders 2020-43 and 2020-59, respectively. Because these restrictions on places of public accommodation remain reasonable and necessary to suppress the spread of COVID-19 and protect the public health and safety of this state and its residents, this order extends their duration to May 28, 2020. With this order, Executive Order 2020-43 is rescinded.

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

1. Effective immediately and continuing until May 28, 2020 at 11:59 p.m., the following places of public accommodation are closed to ingress, egress, use, and occupancy by members of the public:

(a) Restaurants, food courts, cafes, coffeehouses, and other places of public accommodation offering food or beverage for on-premises consumption;

(b) Bars, taverns, brew pubs, breweries, microbreweries, distilleries, wineries, tasting rooms, special licensees, clubs, and other places of public accommodation offering alcoholic beverages for on-premises consumption;

(c) Hookah bars, cigar bars, and vaping lounges offering their products for on-premises consumption;

(d) Theaters, cinemas, and indoor and outdoor performance venues;

(e) Libraries and museums;

(f) Gymnasiums, fitness centers, recreation centers, indoor sports facilities, indoor exercise facilities, exercise studios, and facilities offering non-essential personal care services;

(g) Casinos licensed by the Michigan Gaming Control Board, racetracks licensed by the Michigan Gaming Control Board, and Millionaire Parties licensed by the Michigan Gaming Control Board; and

(h) Places of public amusement not otherwise listed above.

Places of public accommodation subject to this section are encouraged to offer food and beverage using delivery service, window service, walk-up service, drive-through service, or drive-up service, and must use precautions in doing so to mitigate the potential transmission of COVID-19, including social distancing. In offering food or beverage, a place of public accommodation subject to this section may permit up to five

members of the public at one time in the place of public accommodation for the purpose of picking up their food or beverage orders, so long as those individuals are at least six feet apart from one another while on premises.

This section does not prohibit an employee, contractor, vendor, or supplier of a place of public accommodation from entering, exiting, using, or occupying that place of public accommodation in their professional capacity.

2. The restrictions imposed by this order do not apply to any of the following:

(a) Places of public accommodation that offer food and beverage not for on-premises consumption, including grocery stores, markets, convenience stores, pharmacies, drug stores, and food pantries, other than those portions of the place of public accommodation subject to the requirements of section 1;

(b) Health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities;

(c) Crisis shelters or similar institutions; and

(d) Food courts inside the secured zones of airports.

3. For purposes of this order:

(a) “Non-essential personal care services” includes but is not limited to hair, nail, tanning, massage, traditional spa, tattoo, body art, and piercing services, and similar personal care services that require individuals to be within six feet of each other. This does not include services necessary for medical treatment as determined by a licensed medical provider.

(b) “Place of public accommodation” means a business, or an educational, refreshment, entertainment, or recreation facility, or an institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public. Place of public accommodation also includes the facilities of private clubs, including country clubs, golf clubs, boating or yachting clubs, sports or athletic clubs, and dining clubs.

(c) “Place of public amusement” means a place of public accommodation that offers indoor services or facilities, or outdoor services or facilities involving close contact of persons, for amusement or other recreational or entertainment purposes. A place of public amusement includes an amusement park, arcade, bingo hall, bowling alley, indoor climbing facility, skating rink, trampoline park, and other similar recreational or entertainment facilities.

4. The director of the Department of Health and Human Services, the Michigan Liquor Control Commission, and the executive director of the Michigan Gaming Control Board must issue orders and directives and take other actions pursuant to law as necessary to implement this order.

5. This order does not alter any of the obligations under law of an employer affected by this order to its employees or to the employees of another employer.

6. The restrictions and requirements imposed by this order supplement, and must not be construed to diminish or relax in any way, the restrictions and requirements imposed by Executive Order 2020-59 or any executive order that may follow from it.

7. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.

8. Executive Order 2020-43 is rescinded.

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

Date: April 30, 2020

Time: 9:27 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 4, 2020, and read:

EXECUTIVE ORDER
No. 2020-70

**Temporary requirement to suspend activities that
are not necessary to sustain or protect life**

Rescission of Executive Order 2020-59

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.*

In the weeks that followed, 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 suppress the spread of COVID-19, to prevent the state's health care system from being overwhelmed, to allow time for the production of critical test kits, ventilators, and personal protective equipment, to establish the public health infrastructure necessary to contain the spread of infection, and to avoid needless deaths, it is reasonable and necessary to direct residents to remain at home or in their place of residence to the maximum extent feasible. To that end, on March 23, 2020, I issued Executive Order 2020-21, ordering all people in Michigan to stay home and stay safe. In Executive Orders 2020-42 and 2020-59, I extended that initial order, modifying its scope as needed and appropriate to match the ever-changing circumstances presented by this pandemic.

The measures put in place by Executive Orders 2020-21, 2020-42, and 2020-59 have been effective: the number of new confirmed cases each day has started to drop. Although the virus remains aggressive and persistent—on April 30, 2020, Michigan reported 41,379 confirmed cases and 3,789 deaths—the strain on our health care system has begun to relent, even as our testing capacity has increased. We can now start the process of gradually resuming in-person work and activities that were temporarily suspended under my prior orders. In so doing, however, we must move with care, patience, and vigilance, recognizing the grave harm that this virus continues to inflict on our state and how quickly our progress in suppressing it can be undone.

Accordingly, with this order, I find it reasonable and necessary to reaffirm the measures set forth in Executive Order 2020-59 and amend their scope. With Executive Order 2020-59, I ordered that certain previously suspended work and activities could resume, based on an evaluation of public health metrics and an assessment of the statewide risks and benefits. That evaluation remains ongoing, and based upon it, I find that we will soon be positioned to allow another segment of previously suspended work to resume. This work is permitted to resume on May 7, 2020, and includes construction, real-estate activities, and work that is traditionally and primarily performed outdoors. This work, like the resumed activities allowed under Executive Order 2020-59, will be subject to stringent precautionary measures. This partial and incremental reopening will allow my public health team to evaluate the effects of allowing these activities to resume, to assess the capacity of the health care system to respond adequately to any increases in infections, and to prepare for any increase in patients presenting to a health-care facility or provider. With this order, Executive Order 2020-59 is rescinded. This order will remain in effect until May 15, 2020.

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

1. This order must be construed broadly to prohibit in-person work that is not necessary to sustain or protect life.
2. Subject to the exceptions in section 7 of this order, all individuals currently living within the State of Michigan are ordered to stay at home or at their place of residence. Subject to the same exceptions, all public and private gatherings of any number of people occurring among persons not part of a single household are prohibited.
3. All individuals who leave their home or place of residence must adhere to social distancing measures recommended by the Centers for Disease Control and Prevention ("CDC"), including remaining at least six feet from people from outside the individual's household to the extent feasible under the circumstances.

4. No person or entity shall operate a business or conduct operations that require workers to leave their homes or places of residence except to the extent that those workers are necessary to sustain or protect life, to conduct minimum basic operations, or to perform a resumed activity within the meaning of this order.

(a) For purposes of this order, workers who are necessary to sustain or protect life are defined as “critical infrastructure workers,” as described in sections 8 and 9 of this order.

(b) For purposes of this order, workers who are necessary to conduct minimum basic operations are those whose in-person presence is strictly necessary to allow the business or operation to maintain the value of inventory and equipment, care for animals, ensure security, process transactions (including payroll and employee benefits), or facilitate the ability of other workers to work remotely.

Businesses and operations must determine which of their workers are necessary to conduct minimum basic operations and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Workers need not carry copies of their designations when they leave the home or place of residence for work.

Any in-person work necessary to conduct minimum basic operations must be performed consistently with the social distancing practices and other mitigation measures described in section 11 of this order.

(c) Workers who perform resumed activities are defined in section 10 of this order.

5. Businesses and operations that employ critical infrastructure workers or workers who perform resumed activities may continue in-person operations, subject to the following conditions:

(a) Consistent with sections 8, 9, and 10 of this order, businesses and operations must determine which of their workers are critical infrastructure workers or workers who perform resumed activities and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Workers need not carry copies of their designations when they leave the home or place of residence for work. Businesses and operations need not designate:

(1) Workers in health care and public health.

(2) Workers who perform necessary government activities, as described in section 6 of this order.

(3) Workers and volunteers described in section 9(d) of this order.

(b) In-person activities that are not necessary to sustain or protect life or to perform a resumed activity must be suspended.

(c) Businesses and operations maintaining in-person activities must adopt social distancing practices and other mitigation measures to protect workers and patrons, as described in section 11 of this order. Stores that are open for in-person sales must also adhere to the rules described in section 12 of this order.

(d) Any business or operation that employs workers who perform resumed activities under section 10(a) of this order, but that does not sell necessary supplies, may sell any goods through remote sales via delivery or at the curbside. Such a business or operation, however, must otherwise remain closed to the public.

6. All in-person government activities at whatever level (state, county, or local) are suspended unless:

(a) They are performed by critical infrastructure workers, including workers in law enforcement, public safety, and first responders, as defined in sections 8 and 9 of this order.

(b) They are performed by workers who are permitted to resume work under section 10 of this order.

(c) They are necessary to support the activities of workers described in sections 8, 9, and 10 of this order, or to enable transactions that support businesses or operations that employ such workers.

(d) They involve public transit, trash pick-up and disposal (including recycling and composting), the management and oversight of elections, and the maintenance of safe and sanitary public parks so as to allow for outdoor activity permitted under this order.

(e) For purposes of this order, necessary government activities include minimum basic operations, as described in section 4(b) of this order. Workers performing such activities need not be designated.

(f) Any in-person government activities must be performed consistently with the social distancing practices and other mitigation measures to protect workers and patrons described in section 11 of this order.

7. Exceptions.

(a) Individuals may leave their home or place of residence, and travel as necessary:

(1) To engage in outdoor recreational activity, consistent with remaining at least six feet from people from outside the individual’s household. Outdoor recreational activity includes walking, hiking, running, cycling, boating, golfing, or other similar activity, as well as any comparable activity for those with limited mobility.

(2) To perform their jobs as critical infrastructure workers after being so designated by their employers. (Critical infrastructure workers who need not be designated under section 5(a) of this order may leave their home for work without being designated.)

(3) To conduct minimum basic operations, as described in section 4(b) of this order, after being designated to perform such work by their employers.

- (4) To perform resumed activities, as described in section 10 of this order, after being designated to perform such work by their employers.
 - (5) To perform necessary government activities, as described in section 6 of this order.
 - (6) To perform tasks that are necessary to their health and safety, or to the health and safety of their family or household members (including pets). Individuals may, for example, leave the home or place of residence to secure medication or to seek medical or dental care that is necessary to address a medical emergency or to preserve the health and safety of a household or family member (including in-person procedures or veterinary services that, in accordance with a duly implemented non-essential procedure or veterinary services postponement plan, have not been postponed).
 - (7) To obtain necessary services or supplies for themselves, their family or household members, their pets, and their motor vehicles.
 - (A) Individuals must secure such services or supplies via delivery to the maximum extent possible. As needed, however, individuals may leave the home or place of residence to purchase groceries, take-out food, gasoline, needed medical supplies, and any other products necessary to maintain the safety, sanitation, and basic operation of their residences or motor vehicles.
 - (B) Individuals may also leave the home to pick up or return a motor vehicle as permitted under section 9(i) of this order, or to have a motor vehicle or bicycle repaired or maintained.
 - (C) Individuals should limit, to the maximum extent that is safe and feasible, the number of household members who leave the home for any errands.
 - (8) To pick up non-necessary supplies at the curbside from a store that must otherwise remain closed to the public.
 - (9) To care for a family member or a family member's pet in another household.
 - (10) To care for minors, dependents, the elderly, persons with disabilities, or other vulnerable persons.
 - (11) To visit an individual under the care of a health care facility, residential care facility, or congregate care facility, to the extent otherwise permitted.
 - (12) To visit a child in out-of-home care, or to facilitate a visit between a parent and a child in out-of-home care, when there is agreement between the child placing agency, the parent, and the caregiver about a safe visitation plan, or when, failing such agreement, the individual secures an exception from the executive director of the Children's Services Agency.
 - (13) To attend legal proceedings or hearings for essential or emergency purposes as ordered by a court.
 - (14) To work or volunteer for businesses or operations (including both religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.
 - (15) To attend a funeral, provided that no more than 10 people are in attendance.
 - (16) To attend a meeting of an addiction recovery mutual aid society, provided that no more than 10 people are in attendance.
 - (17) To view a real-estate listing by appointment, as permitted under section 10(h) of this order.
 - (b) Individuals may also travel:
 - (1) To return to a home or place of residence from outside this state.
 - (2) To leave this state for a home or residence elsewhere.
 - (3) Between two residences in this state, including moving to a new residence.
 - (4) As required by law enforcement or a court order, including the transportation of children pursuant to a custody agreement.
 - (c) All other travel is prohibited, including all travel to vacation rentals.
8. For purposes of this order, critical infrastructure workers are those workers described by the Director of the U.S. Cybersecurity and Infrastructure Security Agency in his guidance of March 19, 2020 on the COVID-19 response (available here). This order does not adopt any subsequent guidance document released by this same agency.
- Consistent with the March 19, 2020 guidance document, critical infrastructure workers include some workers in each of the following sectors:
- (a) Health care and public health.
 - (b) Law enforcement, public safety, and first responders.
 - (c) Food and agriculture.
 - (d) Energy.
 - (e) Water and wastewater.
 - (f) Transportation and logistics.
 - (g) Public works.
 - (h) Communications and information technology, including news media.
 - (i) Other community-based government operations and essential functions.

- (j) Critical manufacturing.
- (k) Hazardous materials.
- (l) Financial services.
- (m) Chemical supply chains and safety.
- (n) Defense industrial base.

9. For purposes of this order, critical infrastructure workers also include:

(a) Child care workers (including workers at disaster relief child care centers), but only to the extent necessary to serve the children or dependents of critical infrastructure workers, workers who conduct minimum basic operations, workers who perform necessary government activities, or workers who perform resumed activities. This category includes individuals (whether licensed or not) who have arranged to care for the children or dependents of such workers.

(b) Workers at suppliers, distribution centers, or service providers, as described below.

(1) Any suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate another business's or operation's critical infrastructure work may designate their workers as critical infrastructure workers, provided that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.

(2) Any suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate the necessary work of suppliers, distribution centers, or service providers described in subprovision (1) of this subsection may designate their workers as critical infrastructure workers, provided that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.

(3) Consistent with the scope of work permitted under subprovision (2) of this subsection, any suppliers, distribution centers, or service providers further down the supply chain whose continued operation is necessary to enable, support, or facilitate the necessary work of other suppliers, distribution centers, or service providers may likewise designate their workers as critical infrastructure workers, provided that only those workers whose in-person presence is necessary to enable, support, or facilitate such work may be so designated.

(4) Suppliers, distribution centers, and service providers that abuse their designation authority under this subsection shall be subject to sanctions to the fullest extent of the law.

(c) Workers in the insurance industry, but only to the extent that their work cannot be done by telephone or remotely.

(d) Workers and volunteers for businesses or operations (including both religious and secular nonprofit organizations) that provide food, shelter, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.

(e) Workers who perform critical labor union functions, including those who administer health and welfare funds and those who monitor the well-being and safety of union members who are critical infrastructure workers, provided that any administration or monitoring should be done by telephone or remotely where possible.

(f) Workers at retail stores who sell groceries, medical supplies, and products necessary to maintain the safety, sanitation, and basic operation of residences or motor vehicles, including convenience stores, pet supply stores, auto supplies and repair stores, hardware and home maintenance stores, and home appliance retailers.

(g) Workers at laundromats, coin laundries, and dry cleaners.

(h) Workers at hotels and motels, provided that the hotels or motels do not offer additional in-house amenities such as gyms, pools, spas, dining, entertainment facilities, meeting rooms, or like facilities.

(i) Workers at motor vehicle dealerships who are necessary to facilitate remote and electronic sales or leases, or to deliver motor vehicles to customers, provided that showrooms remain closed to in-person traffic.

10. For purposes of this order, workers who perform resumed activities are defined as follows:

(a) Workers who process or fulfill remote orders for goods for delivery or curbside pick-up.

(b) Workers who perform bicycle maintenance or repair.

(c) Workers for garden stores, nurseries, and lawn care, pest control, and landscaping operations, subject to the enhanced social-distancing rules described in section 11(h) of this order.

(d) Maintenance workers and groundskeepers who are necessary to maintain the safety and sanitation of places of outdoor recreation not otherwise closed under Executive Order 2020-69 or any order that may follow from it, provided that the places and their workers do not provide goods, equipment, supplies, or services to individuals, and subject to the enhanced social-distancing rules described in section 11(h) of this order.

(e) Workers for moving or storage operations, subject to the enhanced social-distancing rules described in section 11(h) of this order.

(f) Effective at 12:01 a.m. on May 7, 2020, and subject to the enhanced social-distancing rules described in section 11(h) of this order, workers who perform work that is traditionally and primarily performed outdoors, including but not limited to forestry workers, outdoor power equipment technicians, parking enforcement workers, and similar workers.

(g) Effective at 12:01 a.m. on May 7, 2020, workers in the construction industry, including workers in the building trades (plumbers, electricians, HVAC technicians, and similar workers), subject to the enhanced social-distancing rules described in section 11(i) of this order.

(h) Effective at 12:01 a.m. on May 7, 2020, workers in the real-estate industry, including agents, appraisers, brokers, inspectors, surveyors, and registers of deeds, provided that:

(1) Any showings, inspections, appraisals, photography or videography, or final walk-throughs must be performed by appointment and must be limited to no more than four people on the premises at any one time. No in-person open houses are permitted.

(2) Private showings may only be arranged for owner-occupied homes, vacant homes, vacant land, commercial property, and industrial property.

(i) Effective at 12:01 a.m. on May 7, 2020, workers necessary to the manufacture of goods that support workplace modification to forestall the spread of COVID-19 infections.

11. Businesses, operations, and government agencies that remain open for in-person work must, at a minimum:

(a) Develop a COVID-19 preparedness and response plan, consistent with recommendations in Guidance on Preparing Workplaces for COVID-19, developed by the Occupational Health and Safety Administration and available here. Such plan must be available at company headquarters or the worksite.

(b) Restrict the number of workers present on premises to no more than is strictly necessary to perform the in-person work permitted under this order.

(c) Promote remote work to the fullest extent possible.

(d) Keep workers and patrons who are on premises at least six feet from one another to the maximum extent possible.

(e) Increase standards of facility cleaning and disinfection to limit worker and patron exposure to COVID-19, as well as adopting protocols to clean and disinfect in the event of a positive COVID-19 case in the workplace.

(f) Adopt policies to prevent workers from entering the premises if they display respiratory symptoms or have had contact with a person with a confirmed diagnosis of COVID-19.

(g) Adopt any other social distancing practices and mitigation measures recommended by the CDC.

(h) Businesses or operations whose in-person work is permitted under sections 10(c) through 10(f) of this order must also:

(1) Prohibit gatherings of any size in which people cannot maintain six feet of distance from one another.

(2) Limit in-person interaction with clients and patrons to the maximum extent possible, and barring any such interaction in which people cannot maintain six feet of distance from one another.

(3) Provide personal protective equipment such as gloves, goggles, face shields, and face masks as appropriate for the activity being performed.

(4) Adopt protocols to limit the sharing of tools and equipment to the maximum extent possible and to ensure frequent and thorough cleaning of tools, equipment, and frequently touched surfaces.

(i) Businesses or operations in the construction industry must also:

(1) Adhere to all of the provisions in subsection (h) of this section.

(2) Designate a site-specific supervisor to monitor and oversee the implementation of COVID-19 control strategies developed under subsection (a) of this section. The supervisor must remain on-site at all times during activities. An on-site worker may be designated to perform the supervisory role.

(3) Conduct a daily entry screening protocol for workers and visitors entering the worksite, including a questionnaire covering symptoms and exposure to people with possible COVID-19, together with, if possible, a temperature screening.

(4) Create dedicated entry point(s) at every worksite, if possible, for daily screening as provided in subprovision (3) of this subsection, or in the alternative issue stickers or other indicators to workers to show that they received a screening before entering the worksite that day.

(5) Require face shields or masks to be worn when workers cannot consistently maintain six feet of separation from other workers.

(6) Provide instructions for the distribution of personal protective equipment and designate on-site locations for soiled masks.

(7) Encourage or require the use of work gloves, as appropriate, to prevent skin contact with contaminated surfaces.

(8) Identify choke points and high-risk areas where workers must stand near one another (such as hallways, hoists and elevators, break areas, water stations, and buses) and control their access and use (including through physical barriers) so that social distancing is maintained.

- (9) Ensure there are sufficient hand-washing or hand-sanitizing stations at the worksite to enable easy access by workers.
- (10) Notify contractors (if a subcontractor) or owners (if a contractor) of any confirmed COVID-19 cases among workers at the worksite.
- (11) Restrict unnecessary movement between project sites.
- (12) Create protocols for minimizing personal contact upon delivery of materials to the worksite.
 12. Any store that remains open for in-store sales under section 9(f) or section 10(c) of this order:
 - (a) Must establish lines to regulate entry in accordance with subsection (b) of this section, with markings for patrons to enable them to stand at least six feet apart from one another while waiting. Stores should also explore alternatives to lines, including by allowing customers to wait in their cars for a text message or phone call, to enable social distancing and to accommodate seniors and those with disabilities.
 - (b) Must adhere to the following restrictions:
 - (1) For stores of less than 50,000 square feet of customer floor space, must limit the number of people in the store (including employees) to 25% of the total occupancy limits established by the State Fire Marshal or a local fire marshal.
 - (2) For stores of more than 50,000 square feet, must:
 - (A) Limit the number of customers in the store at one time (excluding employees) to 4 people per 1,000 square feet of customer floor space.
 - (B) Create at least two hours per week of dedicated shopping time for vulnerable populations, which for purposes of this order are people over 60, pregnant women, and those with chronic conditions like heart disease, diabetes, and lung disease.
 - (3) The director of the Department of Health and Human Services is authorized to issue an emergency order varying the capacity limits described in this subsection as necessary to protect the public health.
 - (c) May continue to sell goods other than necessary supplies if the sale of such goods is in the ordinary course of business.
 - (d) Must consider establishing curbside pick-up to reduce in-store traffic and mitigate outdoor lines.
13. No one shall rent a short-term vacation property except as necessary to assist in housing a health care professional aiding in the response to the COVID-19 pandemic or a volunteer who is aiding the same.
14. Michigan state parks remain open for day use, subject to any reductions in services and specific closures that, in the judgment of the director of the Department of Natural Resources, are necessary to minimize large gatherings and to prevent the spread of COVID-19.
15. Rules governing face coverings.
 - (a) Any individual able to medically tolerate a face covering must wear a covering over his or her nose and mouth—such as a homemade mask, scarf, bandana, or handkerchief—when in any enclosed public space.
 - (b) All businesses and operations whose workers perform in-person work must, at a minimum, provide non-medical grade face coverings to their workers.
 - (c) Supplies of N95 masks and surgical masks should generally be reserved, for now, for health care professionals, first responders (e.g., police officers, fire fighters, paramedics), and other critical workers who interact with the public.
 - (d) The protections against discrimination in the Elliott-Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 *et seq.*, and any other protections against discrimination in Michigan law, apply in full force to individuals who wear a face covering under this order.
16. Nothing in this order should be taken to supersede another executive order or directive that is in effect, except to the extent this order imposes more stringent limitations on in-person work, activities, and interactions. Consistent with prior guidance, neither a place of religious worship nor its owner is subject to penalty under section 20 of this order for allowing religious worship at such place. No individual is subject to penalty under section 20 of this order for violating section 15(a) of this order.
17. Nothing in this order should be taken to interfere with or infringe on the powers of the legislative and judicial branches to perform their constitutional duties or exercise their authority.
18. This order takes effect immediately, unless otherwise specified in this order, and continues through May 15, 2020 at 11:59 p.m. Executive Order 2020-59 is rescinded. All references to that order in other executive orders, agency rules, letters of understanding, or other legal authorities shall be taken to refer to this order.
19. I will evaluate the continuing need for this order prior to its expiration. In determining whether to maintain, intensify, or relax its restrictions, I will consider, among other things, (1) data on COVID-19 infections and the disease's rate of spread; (2) whether sufficient medical personnel, hospital beds, and ventilators exist to meet anticipated medical need; (3) the availability of personal protective equipment for the health care workforce; (4) the state's capacity to test for COVID-19 cases and isolate infected people; and (5) economic conditions in the state.

20. 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 1, 2020

Time: 2:49 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 4, 2020, and read:

EXECUTIVE ORDER
No. 2020-71

Temporary safety measures for food-selling establishments and pharmacies and temporary relief from requirements applicable to the renewal of licenses for the food-service industry

Rescission of Executive Order 2020-60

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).

The COVID-19 pandemic has created the risk of COVID-19 exposure in food-selling establishments and pharmacies. Given the need to protect employees and the public from exposure to COVID-19, it is necessary and reasonable to impose standards for food-selling establishments and pharmacies to reduce the risk of COVID-19 exposure and disease transmission. In addition, the COVID-19 pandemic has placed an immediate and unprecedented strain on Michigan's food service industries, local health departments, and the Michigan Department of Agriculture and Rural Development (MDARD). Given the additional workload of local health departments and MDARD due to the COVID-19 pandemic, and given these agencies' statutorily defined role in the renewal of licenses for the food service industry, it is also necessary and reasonable to provide limited and temporary relief from certain licensing requirements and regulations. Executive Order 2020-60 provided this relief. This order extends and clarifies that relief, because it remains necessary and reasonable to do so.

With this order, Executive Order 2020-60 is rescinded.

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

1. Any individual who enters a food-selling establishment or pharmacy who is able to medically tolerate a face covering must wear a covering over his or her nose and mouth, such as a homemade mask, scarf, bandana, or handkerchief.

2. Grocery stores and pharmacies must create at least two hours per week of dedicated shopping time for vulnerable populations, which for purposes of this order are people over 60, pregnant people, and those with chronic conditions, including heart disease, diabetes, and lung disease.

3. Food-selling establishments and pharmacies must deploy strategies to reduce COVID-19 exposure for their customers and employees, including but not limited to the strategies described in sections 11 and 12 of Executive Order 2020-70 or any order that follows from it, as well as the following:

- (a) Provide access to handwashing facilities, including those available in public restrooms;
 - (b) Require checkout employees to wear coverings over their noses and mouths, such as homemade masks, scarves, bandanas, or handkerchiefs;
 - (c) Allow employees sufficient break time to wash hands as needed;
 - (d) Use best efforts to ensure checkout employees to disinfect their hands between orders to prevent cross-contamination;
 - (e) Use best efforts to provide employees and customers access to an alcohol-based hand sanitizer that contains at least 60% alcohol, as recommended by the Centers for Disease Control and Prevention (CDC);
 - (f) Use best efforts to provide disinfecting wipes at cash registers and entrance points for customers to disinfect carts and baskets, as well as at other appropriate locations;
 - (g) Ensure that both employees and customers remain at least six feet apart to the maximum extent possible, including during employee breaks, for example by reviewing floor plans, creating temporary barriers, designating aisles as one-way only, and demarcating queueing distances;
 - (h) Close self-serve prepared food stations such as salad bars;
 - (i) Eliminate free samples and tasting stations;
 - (j) Adopt procedures to meet the environmental cleaning guidelines set by the CDC, including by cleaning and disinfecting frequent touchpoints throughout the day such as point of sale terminals at registers, shopping carts, and shopping baskets;
 - (k) Prohibit employees who are sick from reporting to work and send employees home if they display symptoms of COVID-19. Employees who test positive for COVID-19 or who display one or more of the principal symptoms of COVID-19 should follow the procedures of Executive Order 2020-36 or any order that follows from it;
 - (l) Accommodate employees who fall within a vulnerable population by providing lower-exposure work assignments or giving them the option to take an unpaid leave of absence with a return date coinciding with the end of the declared states of emergency and disaster, or May 21, 2020, whichever is later. Nothing in this executive order abrogates any right to disability benefits. Employees who take an unpaid leave of absence as described in this subsection are encouraged to apply for unemployment benefits;
 - (m) Close to the public for sufficient time each night to allow stores to be properly sanitized;
 - (n) Encourage cash transactions to be processed at self-checkout kiosks when possible; and
 - (o) Develop and implement a daily screening program, as described herein, for all staff upon or just prior to reporting to work sites.
- (1) The screening procedures must include the following questions:
- (A) Do you have any of the following symptoms?
 - (i) Fever of 100.4 degrees or higher (as measured by a touchless thermometer if available, but a verbal confirmation of lack of fever is sufficient if a touchless thermometer is not available);
 - (ii) Cough (excluding chronic cough due to a known medical reason other than COVID-19);
 - (iii) Shortness of breath; or
 - (iv) Sore throat.
 - (B) Have you travelled internationally or outside of Michigan in the last 14 days, excluding commuting from a home location outside of Michigan? For purposes of this order, commuting is defined as traveling between one's home and work on a regular basis.
 - (C) Have you had any close contact in the last 14 days with someone with a diagnosis of COVID-19?
- (2) Any affirmative response to screening questions (1)(A) or (B) above requires the individual to be excluded:
- (A) For at least 72 hours with no fever (three full days of no fever without use of medicine that reduces fever) and other symptoms have improved (for example, when cough and shortness of breath have improved) and at least seven days have passed since symptoms first appeared.

- (B) Except for necessary workers engaged in travel related to supply chain and critical infrastructure, for 14 days following travel unless that travel was due to commuting from a home location outside of Michigan.
- (3) An employee who provides an affirmative response to screening question (1)(C) may be allowed to continue work at the employer's discretion provided they remain asymptomatic and the employer implements the following additional precautions to protect the employee and the community:
- (A) Employers should measure the employee's temperature and assess symptoms each day before they start work. Ideally, temperature checks should happen before the individual enters the facility. A touchless thermometer, or a dedicated thermometer for the employee if not touchless, should be used. Sharing of any thermometer other than a touchless thermometer is strictly prohibited.
- (B) As long as the employee does not have a fever or other symptoms, they should self-monitor under the supervision of their employer's occupational health program or other programs in place to protect employee health and safety.
- (C) If the employee begins to experience symptoms during the day, they should be sent home immediately.
- (D) The employee should wear a face mask at all times while in the workplace for 14 days after last exposure. Employers can issue facemasks or can approve employees' supplied cloth face coverings in the event of shortages.
- (E) The employee should maintain at least six feet of distance from other people as work duties permit.
- (F) Beyond standard cleaning protocol, clean and disinfect all areas such as offices, bathrooms, common areas, and shared electronic equipment routinely known to be impacted by the exposed employee for 14 days after last exposure.
- (4) Nothing in this section limits the operations of first responders, health care institutions, public health functions, pharmacies, and other entities that are involved in the mitigation of risk during this pandemic.
4. Vendors moving between food-selling establishments must frequently clean and disinfect frequent touch points.
5. If an employee at a food-selling establishment tests positive for COVID-19, the establishment must notify food vendors and other employees of the positive test result as soon as possible and in no case later than 12 hours after receiving the test result, without revealing the personal health-related information of any employee.
6. Strict compliance with sections 3119, 4109, 4113, and 4115 of the Food Law, 92 PA 2000, as amended, MCL 289.3119, MCL 289.4109, MCL 289.4113, and MCL 289.4115, is temporarily suspended to the extent necessary to extend the deadline for local health departments to submit fees under section 3119, and to extend the license and registration expiration dates under sections 4109 and 4115, until 60 days after the end of the declared states of emergency and disaster. Furthermore, late fees shall not be assessed under sections 4113 or 4115 during the 2020-2021 license year.
7. Strict compliance with subsection 6137 of the Food Law, MCL 289.6137, is suspended to the extent necessary to make a license holder eligible for a special transitory temporary food unit for the 2020-2021 licensing year, even if the license holder received only 1 evaluation during the 2019-2020 licensing year.
8. For the purposes of this order, "food-selling establishments" means grocery stores, convenience stores, restaurants that sell groceries or food available for takeout, and any other business that sells food.
9. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order, excepting section 1 of this order, is a misdemeanor.
10. This order is effective immediately and continues through May 30, 2020.
11. Executive Order 2020-60 is rescinded.
- Given under my hand and the Great Seal of the State of Michigan.

Date: May 2, 2020

Time: 12:51 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 4, 2020, and read:

EXECUTIVE ORDER
No. 2020-72

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

Rescission of Executive Order 2020-37

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).

Executive Order 2020-7 imposed such restrictions. Executive Order 2020-37 clarified those restrictions and extended their duration. This order extends them further, as they remain reasonable and necessary to protect the health and safety of this state and its residents from the COVID-19 pandemic.

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

1. Effective immediately and continuing through May 31, 2020 at 11:59 p.m., 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, 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. Effective immediately and continuing through May 31, 2020 at 11:59 p.m., 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: symptoms of a respiratory infection, such as fever, cough, or shortness of breath; and contact in the last 14 days with someone with a confirmed diagnosis of COVID-19.

3. Effective immediately and continuing through May 31, 2020 at 11:59 p.m., all staff members and visitors of a residential care facility, congregate care facility, or juvenile justice facility must wear a covering over their 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. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order shall constitute a misdemeanor.

7. Executive Order 2020-37 is rescinded.

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

Date: May 3, 2020

Time: 9:10 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 messages from the Governor were received and read:

May 1, 2020

I respectfully submit to the Senate the following appointments to office pursuant to Public Act 232 of 1965, MCL 290.657:

Michigan Apple Committee

Mr. Michael Dietrich of 1201 Wilson Street, Conklin, Michigan 49403, county of Ottawa, reappointed to represent District 3 growers, for a term commencing May 1, 2020 and expiring April 1, 2023.

Mr. Jeremy R. Shank of 29261 Peavine Street, Dowagiac, Michigan 49047, county of Cass, reappointed to represent District 1 growers, for a term commencing May 1, 2020 and expiring April 1, 2023.

May 1, 2020

I respectfully submit to the Senate the following appointments to office pursuant to Public Act 227 of 1967, MCL 408.807:

Elevator Safety Board

Mr. Richard M. Karp of 401 S. Washington Square, Suite 102, Lansing, Michigan 48933, county of Ingham, succeeding Terri Flint who has resigned, appointed to represent owners and lessees of elevators within this state, for a term commencing May 1, 2020 and expiring July 22, 2022.

Mr. Ricardo L. Knott of 2157 Vernier Road, Grosse Pointe Woods, Michigan 48236, county of Wayne, reappointed to represent a municipality in the state having a population of at least 500,000, for a term commencing July 23, 2020 and expiring July 22, 2024.

May 1, 2020

I respectfully submit to the Senate the following appointments to office pursuant to Public Act 523 of 1980, MCL 32.1067:

Military Appeals Tribunal

Mr. Robert C. Gardella of 4538 River Hills Court, Brighton, Michigan 48114, county of Livingston, succeeding Thomas Bourque whose term has expired, appointed to represent an individual licensed to practice law in this state, for a term commencing May 1, 2020 and expiring April 16, 2024.

Mr. Eric A. Jonker of 6120 Pawtucket Lane, Apt. 41F, Bloomfield Hills, Michigan 48301, county of Oakland, succeeding Gaetan Gerville-Reache whose term has expired, appointed to represent an individual licensed to practice law in this state, for a term commencing May 1, 2020 and expiring April 16, 2024.

May 1, 2020

I respectfully submit to the Senate the following appointments to office pursuant to Public Act 300 of 1980, MCL 38.1322:

Michigan Public School Employees’ Retirement Board

Dr. Patricia A. Chatman of 22456 Glen Oak Drive, Clinton Township, Michigan 48035, county of Macomb, succeeding Ann Kroneman whose term has expired, appointed to represent an administrator or trustee of a community college which is a reporting unit, for a term commencing May 1, 2020 and expiring March 30, 2024.

Ms. Anne Hamming of 5830 Creekridge Drive, Middleville, Michigan 49333, county of Barry, succeeding Laura Colligan whose term has expired, appointed to represent an elected member of a reporting unit's board of control, for a term commencing May 1, 2020 and expiring March 30, 2024.

Mr. Kevin D. Philipps of 4263 S. Oak Pointe Court, N.E., Grand Rapids, Michigan 49525, county of Kent, reappointed to represent a member who is working in a school system in a finance or operations management position but who is not a school system superintendent, for a term commencing May 1, 2020 and expiring March 30, 2024.

Mr. John J. Solecki of 210 Orange Lake Drive, Bloomfield Hills, Michigan 48302, county of Macomb, succeeding Steven Epstein whose term has expired, appointed to represent a general public member with experience in institutional investments, for a term commencing May 1, 2020 and expiring March 30, 2024.

Respectfully,
Gretchen Whitmer
Governor

The appointments were referred to the Committee on Advice and Consent.

Pursuant to rule 3.104, the Senate proceeded to the order of

Introduction and Referral of Bills

Senator Lucido introduced

Senate Bill No. 907, entitled

A bill to amend 1933 PA 167, entitled "General sales tax act," by amending section 25 (MCL 205.75), as amended by 2020 PA 29.

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

Senator Runestad introduced

Senate Bill No. 908, entitled

A bill to create the state technology oversight act; to create the state technology oversight board; to prescribe the powers and duties of the state technology oversight board; and to require certain reports by state departments, state agencies, or law enforcement agencies.

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

House Bill No. 5709, entitled

A bill to amend 1976 PA 390, entitled "Emergency management act," by amending section 5 (MCL 30.405), as amended by 2006 PA 545.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Government Operations.

Announcements of Printing and Enrollment

The Secretary announced the enrollment printing and presentation to the Governor on Thursday, April 30, for her approval the following bill:

Enrolled Senate Bill No. 858 at 6:44 p.m.

The Secretary announced that the following bills and resolutions were printed and filed on Thursday, April 30, and are available on the Michigan Legislature website:

Senate Bill Nos. 900 901 902 903 904 905 906
Senate Resolution Nos. 110 114

Scheduled Meetings

Environmental Quality - Wednesday, May 6, 9:00 a.m., Harry T. Gast Appropriations Room, 3rd Floor, Capitol Building, (517) 373-5323

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#

In the absence of all Senators, pursuant to Joint Rule 15, the Secretary of the Senate adjourned the Senate, the time being 10:03 a.m.

The Secretary of the Senate declared the Senate adjourned until Wednesday, May 6, 2020, at 10:00 a.m.

MARGARET O'BRIEN
Secretary of the Senate