

July 20, 2022

Michigan Legislature  
State Capitol  
Lansing, MI 48909

Representatives,

Today I was proud to sign Enrolled House Bill 5783, which forms the Fiscal Year 2023 state budget. This is the fourth balanced, bipartisan budget I have signed since taking office. It is fiscally responsible, does not raise taxes by a dime, increases our state's rainy-day fund to an all-time high of \$1.6 billion and pays down billions in debt. Our collaboration on this budget proves that when we work together, we can deliver on the kitchen-table priorities that matter most—growing the middle class, supporting our small businesses, and investing in our communities.

It must be noted the Public Health Code gives health officials the tools they need to protect people from epidemic diseases. The legislature cannot unwind the Public Health Code in a budget bill or un-appropriate funds because they take issue with the actions of local health departments. Budget boilerplate that purports to prohibit state or local health officials from issuing mask and quarantine orders or to penalize local health departments for using their powers under the Public Health Code violates the Michigan Constitution.

I also note that provisions in House Bill 5783 that express intent, advice, or preferences of the Legislature do not impose conditions upon appropriations and are non-binding.

Finally, I am striking multiple items that undermine a woman's ability to make her own medical decisions with her trusted health care provider. I want to provide every possible resource to women who are pregnant, seeking to start a family, or those who aren't ready yet, but I cannot support aspects of a bill that are connected to efforts to intentionally deceive women and withhold accurate information about their health, bodies, and full reproductive freedom when they face a vulnerable time in their lives. I will continue to oppose any efforts to strip away fundamental rights from women or get in the way of doctors' ability to do their jobs.

The items vetoed are detailed in the attached copy of the bill that has been filed with the Secretary of State.

In addition, I note the following boilerplate provisions that violate the Michigan Constitution and will therefore not take effect:

1. Article 3, section 2 of the Michigan Constitution provides: "The powers of government are divided into three branches: legislative, executive, and judicial. No person exercising powers of one branch shall exercise powers properly belonging to

another branch except as expressly provided in this constitution.” Core executive branch functions include management of department operations; hiring, discipline, and management of personnel; and deliberative decision-making, among others. Boilerplate that attempts to insert the legislature into core executive functions violates the constitutional separation of powers. Accordingly, each of the following provisions is unenforceable:

- Certain boilerplate provisions that appear in multiple articles, such as Department of Agriculture and Rural Development, Article 1, sections 215, 217, and 218.
- Department of Corrections, Article 2, sections 304, and 324.
- General Government, Article 5, sections 229, 314(3), 714, 718, 816, and 947.
- Department of Health and Human Services, Article 6, sections 225, 229, 595, and 1222(4).
- Department of Licensing and Regulatory Affairs, Article 9, Section 235.
- Department of Military and Veterans Affairs, Article 10, section 453. Section 224 is also unenforceable to the extent that it bars the department from taking an action otherwise permitted by law.
- Department of State Police, Article 12, sections 226, 233, 601(2), 602(2)-(5), 603(3), 701(3)-(4), 702(2)-(8), and 704(8)-(9).
- Department of Transportation, Article 13, sections 353 and 357.

2. Article 4, section 22 of the Michigan Constitution provides: “All legislation shall be by bill and may originate in either house.” Moreover, article 4, section 33 of the Michigan Constitution provides, in part: “Every bill passed by the legislature shall be presented to the governor before it becomes law . . . .” Boilerplate that purports to authorize legislation other than by bill, such as section 218 of Article 1, impermissibly skirts the bill requirement of section 22 and the presentment requirement of section 33 and is therefore unenforceable.

3. Article 4, section 24 of the Michigan Constitution provides, in part: “No law shall embrace more than one object, which shall be expressed in its title.” Accordingly, because each introduces a second object into HB 5783, the following provisions are unenforceable:

- Department of Transportation, Article 13, sections 601 and 660(2).

4. Article 4, section 25 of the Michigan Constitution provides: “No law shall be revised, altered, or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.” Boilerplate that alters statutory requirements with reenactment and publication is therefore unconstitutional and void. Accordingly, each of the following provisions is unenforceable:

- Department of Environment, Great Lakes, and Energy, Article 4, sections 225 and 237.
- General Government, Article 5, sections 229, 624, 625, 718, 983, and 1009.
- Department of Health and Human Services, Article 6, sections 250, 595, 1222(4), 1305, and 1347.

- Department of Licensing and Regulatory Affairs, Article 9, section 803.
- Department of Transportation, Article 13, section 382.

5. Article 4, section 53 of the Michigan Constitution provides: “[The Auditor General] shall be assigned no duties other than those specified in this section.” Any provision that assigns the Legislative Auditor General powers and duties other than those provided for in that section is therefore unconstitutional.

6. Article 5, section 28 of the Michigan Constitution provides, in part: “There is hereby established a state transportation commission, which shall establish policy for the state transportation department transportation programs and facilities, and such other public works of the state, as provided by law.” Any provision that dictates spending priorities reserved to the State Transportation Commission is therefore unconstitutional.

7. Article 11, section 5 of the Michigan Constitution vests the power to “regulate all conditions of employment in the classified service” in the Civil Service Commission. Any provision that abrogates that exclusive grant of authority is therefore unconstitutional.

Thank you for your attention to these matters. I know that if we continue working together to get things done, there is no limit to what we can accomplish. In the months ahead, I look forward to continuing in this spirit of collaboration to offer Michiganders immediate relief as they face rising prices on everyday expenses. Let us use the \$7 billion we still have on the state balance sheet to deliver real inflation relief to working families. Let us continue to put Michiganders first.

Sincerely,

Gretchen Whitmer  
Governor

cc: Michigan Senate  
The Honorable Jocelyn Benson