

**SENATE FISCAL AGENCY
 MEMORANDUM**

DATE: May 5, 2020

TO: Members of the Michigan Senate

FROM: Ellyn Ackerman, Bruce Baker, Ryan Bergan, Joe Carrasco, John Maxwell, Elizabeth Raczkowski, Cory Savino, Josh Sefton, and Michael Siracuse, Fiscal Analysts; Drew Krogulecki and Stephen Jackson, Legislative Analysts; Ryan Bergan, Economist; David Zin, Chief Economist; and Jeff Mann, Associate Director

RE: Coronavirus Disease 2019 (COVID-19) Executive Orders 2020-52 through 2020-59

Overview

From April 17, 2020, through April 24, 2020, Governor Whitmer issued Executive Orders (EOs) 2020-52 through 2020-59 to maintain a state of emergency across the State of Michigan in relation to the outbreak of COVID-19 and to implement various measures in response to COVID-19 in Michigan. These measures affect, among other things, protections against price gouging, pesticide applicator certificates, pharmacies, unemployment, and allowable activities during the pandemic. The Executive Orders will have a fiscal impact on State revenue, various State departments, including the Department of Health and Human Services (DHHS), the Department of Licensing and Regulatory Affairs (LARA), the Attorney General, State courts, and the Unemployment Insurance Agency, and local units of government.

COVID-19

Coronavirus disease 2019, COVID-19, is a respiratory illness caused by a virus that can spread from person to person. Generally, coronaviruses cause mild, cold-like symptoms; however, severe diseases, such as Severe Acute Respiratory Syndrome (SARS) and Middle East Respiratory Syndrome (MERS) also are examples of disease cause by other forms of coronavirus. Reported symptoms of COVID-19 have ranged from mild (if any) cold-like symptoms in the majority of individuals, to severe illness or death.

The virus that causes COVID-19 was identified as the cause of an outbreak detected in Wuhan City, China, in November 2019. In late January 2020, the first case of COVID-19 in the United States was confirmed. The Michigan DHHS identified the first two positive cases of COVID-19 in Michigan on March 10, 2020. As of May 3, 2020, the DHHS has reported 43,754 cases and 4,049 deaths attributable to COVID-19.

Authority for Orders

Executive Order 2020-33, which continues the state of emergency and state of disaster in response to the COVID-19 pandemic, cites the Emergency Management Act (EMA) and Public Act (PA) 302 of 1945 (which pertains to the Governor's emergency powers) as authority for its

issuance.¹ Under the EMA, the Governor must declare a state of emergency if he or she finds that an emergency has occurred or that the threat of an emergency exists. In addition, Section 1 of PA 302 of 1945 allows the Governor to proclaim a state of emergency "during times of great public crisis, disaster, rioting, catastrophe, or similar public emergency" within Michigan.

The Governor derives the authority for most of the EOs summarized in the memorandum from those same acts, namely Section 3 of the EMA, which provides (in pertinent part), that the Governor may "issue executive orders, proclamations, and directives having the force and effect of law to implement" the EMA, and Section 1 of PA 302 of 1945.²

Executive Order 2020-55, which establishes the Michigan Coronavirus Task Force on Racial Disparities, cites various provisions of the Michigan Constitution as the basis for its authority. Article V, Section 1 of the Michigan Constitution states that the power of the executive is vested in the Governor. Article V, Section 8 places each principal department of State government under the supervision of the Governor, unless otherwise provided, and obligates the Governor to take care that the laws be faithfully executed.

A listing of all Executive Orders issued in response to the COVID-19 pandemic through Executive Order 2020-71, including the effective date and the expiration date of each, can be found in the appendix attached to this document.

Summary of Order Contents

Executive Order 2020-52

Under this Order, effective April 17, 2020, all three-year pesticide applicator certificates for commercial applicators, private applicators, and registered applicators that were set to expire December 31, 2019, are deemed unexpired and will not expire until 60 days after the end of the declared state of emergency.

Executive Order 2020-53

This Order rescinds Executive Order 2020-18, which imposed restrictions on the excessive pricing of goods, materials, emergency supplies, and consumer food items. Executive Order 2020-53, effective April 17, 2020, and continuing until May 15, 2020, at 11:59 PM, prohibits a person from reselling a product in Michigan at a price that is grossly in excess of the purchase price at which the person acquired the product. A person may not offer for sale or sell any product in Michigan at a price that is more than 20% higher than what the person offered or charged for that product as of March 9, 2020, unless the person demonstrates that the price increase is attributable to an

¹ On April 30, 2020, Governor Whitmer issued Executive Orders 2020-66, 2020-67, and 2020-68. These EOs terminate the state of emergency under the EMA, and declare new states of emergency under the EMA and PA 302 of 1945, respectively. The latter two orders state that any of the EOs that rested on EO 2020-33 now rest on EOs 2020-67 and 2020-68. These orders will be discussed in greater detail in a subsequent memorandum.

² Section 1 of PA 302 of 1945 specifically states that orders may designate specific zones within the area involved in the emergency in which occupancy and use of buildings and ingress and egress of people and vehicles may be prohibited or regulated; control places of amusement and assembly and of individuals on public streets and thoroughfares; establish a curfew; and control the sale, transportation, and use of alcoholic beverages and liquors, among other things.

increase in the cost of bringing the product to market or to an extraordinary discount in effect on that date.

"Product" means any good, material, or consumer food item with a fair market value of less than \$1,000, or any emergency supply. The Order does not limit or impair the ability of the Attorney General to investigate, determine, or impose liability under the Michigan Consumer Protection Act or any other State law.

Executive Order 2020-54

This Order rescinds EO 2020-19, which was effective until April 17, 2020, and prohibits the same activities. Effective April 17, 2020, and continuing until May 15, 2020, at 11:59 PM, the Order prohibits a person from removing or excluding from leased residential premises or residential premises held under a forfeited executory contract a tenant, a vendee of a forfeited executory contract, or a person holding under a tenant or vendee, except when the tenant, vendee, or person holding under them poses a substantial risk to another person or an imminent and severe risk to property.

For the same period, the Order prohibits a person from entering residential property to remove or exclude from the premises a tenant, a vendee of a forfeited executory contract, a person holding under a tenant or vendee, or the personal property of any of those individuals or entities, including pursuant to a writ of restitution, except when the tenant, vendee, or person holding under them poses a substantial risk to another person or an imminent and severe risk to property.

A sheriff, undersheriff or constable, deputy, or other officer may not serve process requiring forfeiture of leased residential premises or residential premises held under a forfeited executory contract. Any requirements imposed by the Revised Judicature Act are suspended.

The Order prohibits a person from denying a mobile home owner access to his or her mobile home, except when the mobile home owner's tenancy has been terminated because he or she poses a substantial risk to another person or an imminent and severe risk to property.

Until 30 days after the restrictions provided above expire, any statutory limits on Michigan courts to adjourn any proceedings, toll any redemption or limitation periods, or extend any deadlines are suspended. The Order is not intended to abrogate the judicial power under the Michigan Constitution, and does not affect the inherent power of a judge to order equitable relief. In addition, the order does not abrogate the obligation to pay or right to receive payment due under a lease, nor the obligations and duties prescribed under the Revised Judicature Act pertaining to demands for payment, except that a demand for payment of rent must not include a demand for possession. While the Order is in effect demand for payment may not be served by personal delivery.

As used in the Order, all of the terms have the meanings provided by the Revised Judicature Act.

Executive Order 2020-55

Effective April 20, 2020, the Order creates the Michigan Coronavirus Task Force on Racial Disparities as an advisory board within the DHHS. The Task Force will act in an advisory capacity to the Governor to study the causes racial disparity in the impact of COVID-19. The Task Force will continue its work until 90 days after the end of the declared states of emergency and disaster, or such other time as the Governor identifies.

Creating the Michigan Coronavirus Task Force on Racial Disparities.

The Order creates the Michigan Coronavirus Task Force on Racial Disparities as an advisory board within the DHHS. The Task Force will consist of the following:

- The Lieutenant Governor.
- The Director of the DHHS and his or her designee, or two individuals designated by the Director.
- The chief medical executive.
- 24 members appointed by the Governor reflecting the diverse geographic, economic, racial, cultural, gender, and occupational composition of Michigan.

Any vacancy on the Task Force must be filled in the same manner as the original appointment.

Task Force Duties and Responsibilities.

The Task Force must act in an advisory capacity to the Governor to study the causes of racial disparities in the impact of COVID-19 and recommend actions to address those disparities. The Task Force will recommend actions to do the following:

- Make recommendations to increase transparency in reporting data regarding the racial and ethnic impact of COVID-19.
- Remove barriers to accessing physical and mental health care.
- Reduce the impact of medical bias in testing and treatment.
- Mitigate environmental and infrastructure factors contributing to increased exposure during pandemics resulting in mortality.
- Develop and improve systems for supporting long-term economic recovery and physical and mental health care following a pandemic.

Additionally, the Task Force will perform outreach to ensure all stakeholders in affected areas are informed, educated, and empowered. The outreach will include community leaders, partner organizations, tribal governments, local government officials, and other elected officials representing the affected areas. The outreach will ensure the general public is informed about racial disparities in the impact COVID-19 and the work of the Task Force.

Furthermore, the Task Force must identify avenues of funding for combating racial disparities in the impact of COVID-19, recommend changes in Michigan law relevant to combating racial disparities in the impact of and response to pandemics, identify other issues and provide recommendations to the Governor on any other matters relevant to addressing racial disparities in the impact of and response to pandemic, and provide other information or advice or take other actions as requested by the Governor.

The Task Force must report regularly to the Governor on its activities and make recommendations on an ongoing basis. The Task Force will continue its work until 90 days after the end of the declared states of emergency and disaster, or another time as the Governor identifies.

Task Force Operations.

The DHHS will assist and staff the Task Force, and will provide any budget, procurement, or other management functions necessary to perform the Task Force's objectives. The Lieutenant Governor will serve as the chairperson of the Task Force. The Task Force must adopt procedures consistent with all Michigan law and select a vice chairperson and secretary for the Task Force.

The Task Force may establish advisory workgroups, conduct investigations, hold hearings, consult with outside experts, or hire or retain contractors or consultants as determined by the Director of the DHHS. The Task Force will coordinate all pertinent legislative and media contacts.

Executive Order 2020-56

Executive Order 2020-56 rescinds Executive Order 2020-25 and extends the special permissions pertaining to the operation and regulation of pharmacies that were included in that Order. The Order allows pharmacists and others to conduct their work in a manner that differs from standard practice and, in some cases, conflicts with existing statutes, rules, and regulations. The Order also waives a requirement that a pharmacist license applicant show evidence of the completion of continuing education credits. The EO suspends strict compliance with current law, rules, and regulations to the extent they conflict with the permissions outlined by the Order. The Order took effect April 21, 2020, at which time Executive Order 2020-25 was rescinded, and remains in effect through May 19, 2020 at 11:59 PM.

Dispensing of Prescriptions, Treatments, and Substances.

Executive Order 2020-56 expands a pharmacist's ability to refill prescriptions and to dispense and administer drugs for the treatment of COVID-19. A pharmacist or pharmacist intern is permitted to dispense a controlled substance without the supervision of another pharmacist. Insurers and health maintenance organizations that issue policies that provide prescription drug benefits must cover any emergency refills issued under the Order, including early refills.

Location.

The Order allows pharmacists to temporarily operate a pharmacy in an area other than that designated on the pharmacy license. However, those licensees may prepare only low-risk preparations in those areas. Other rules and statutes pertaining to the size and set-up of prescription departments are suspended as needed to comply with the remainder of the Order. In addition, licensees are not required to reapply and be approved before beginning work at a new location.

Regulations Pertaining to Supervision.

The Order allows pharmacists to supervise pharmacy technicians and other pharmacy staff remotely if it is conducted through a real-time audiovisual system that allows the identification of markings on medications. The relevant patient information must be available to the pharmacist. However, a pharmacy technician may not perform sterile or nonsterile compounding without a pharmacist on the premises.

The Order suspends strict compliance with a number of provisions of Part 177 (Pharmacy Practice and Drug Control) and associated rules that pertain to the supervision of and scope of practice allowed for pharmacy technician and pharmacy interns to the extent those provisions conflict with the EO.

Out-of-State Entities.

The Order requires pharmacies and wholesale distributors licensed, certified, or otherwise registered and in good standing in another state to be deemed licensed to do business in Michigan. They are prohibited from delivering controlled substances in Michigan and must adhere to state regulations unless otherwise exempted.

The Order also grants additional permissions and temporarily suspends certain other restrictions related to the practice of pharmacy.

Executive Order 2020-57

Executive Order 2020-57 extends several measures set forth in Executive Order 2020-24, adds additional provisions, and rescinds the Executive Order 2020-24. Effective April 22, 2020, the Order suspends strict compliance with Section 29(a)(1) of the Michigan Employment Security Act as described below. Under Section 29(1) of the Michigan Employment Security Act, individuals are disqualified from receiving benefits for a variety of reasons including his or her leaving work voluntarily without good cause or his or her absence for three consecutive work days without contacting his or her employer. Additionally, the subsection requires medical professional approval to be classified as leaving work involuntarily for medical reasons.

The individual must be considered to have left work involuntarily for medical reasons if he or she leaves work, or may be deemed laid off if she or she becomes unemployed, for any of the following reasons: 1) he or she is under self-isolation or self-quarantine in response to elevated risk from COVID-19, 2) he or she has displayed COVID-19 symptoms, 3) he or she has had contact in the last 14 days with someone with a confirmed diagnosis of COVID-19, 4) he or she must care for someone with a confirmed diagnosis, or 5) he or she has family care responsibilities as a result of a government directive.

The Order suspends strict compliance with Section 48(3) of the Act. An individual on a leave of absence for the reasons listed above must be considered unemployed unless he or she is already on sick leave or receives a disability benefit. Under Section 48(3), an individual may not be considered to be unemployed during any leave of absence from work granted by an employer either at the request of the individual or pursuant to an agreement with the individual's duly authorized bargaining agent, or in accordance with law.

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

Strict compliance with Section 27(d) is suspended. An eligible individual who files an initial claim as of the effective date of the Order will receive for up to 26 weeks of benefits payable in a benefit year. Section 27(d) of the Act specifies that eligible individuals filing initial claims after January 15, 2012, are limited to not more than 20 weeks of benefits payable within a benefit year.

The Order suspends strict compliance with Section 28c(1) and (2)(b) of the Michigan Employment Security. The Unemployment Insurance Agency may approve an employer's participation in a

shared-work plan upon application by the employer, regardless of whether the employer has complied with the requirements that an employer must meet to apply for approval of a shared-work plan. The Order also suspends strict compliance with Section 28c(2)(f) of the Act to allow an application for a shared-work plan to be approved without the employer's certification that implementation is instead of layoffs that would affect at least 15% of the employees in the affected unit and would result in an equivalent reduction in workers.

Strict compliance with Section 28d(1)(b)(i) of the Act is suspended to allow a shared-work plan to be approved regardless of whether it includes an employee who has been employed in the unit for less than three months before the employer applies for the plan. Section 28d(1)(b)(i) prohibits an employee who has been employed for less than three months to be included in the shared-work plan.

Strict compliance with Section 28d(2)(a) of the Act is suspended to allow the reduction percentage of a shared-work plan to be less than 15% and more than 45% if it is not less than 10% or more than 60%. Section 28d(2)(a) prohibits the reduction percentage of a shared-work plan from being less than 15% and more than 45%.

Any benefit paid to a claimant who is laid off or placed on a leave of absence must not be charged to the account of the employer or employers that otherwise would have been charged but must be charged to the Unemployment Insurance Agency's (UIA) nonchargeable account, instead. Employers would be charged for unemployment benefits to the State's nonchargeable account if their employees become unemployed because of an Executive Order requiring them to close or limit operations.

Strict compliance with Section 28(1)(a) of the Act is suspended to the extent necessary to allow an unemployed individual to be eligible to receive benefits without a finding by the UIA that the individual is actively engaged in seeking work.

The Order suspends compliance with Section 29(5) of the Act to the extent necessary to allow an individual to be considered to have met the Section's requirements regardless of whether he or she performed services for the new employer and was doing permanent full-time work. Under Section 29(5), if an individual leaves work to accept permanent full-time work with another employer or to accept a referral to another employer from the individual's union hiring hall and performs services for that employer, or if an individual leaves work to accept a recall from a former employer, certain unemployment disqualification conditions apply.

Strict compliance with Section 68c of the State Employees' Retirement Act is suspended to the extent necessary to specify that the provisions of that Section do not apply to a retiree who becomes employed by the UIA or by the Michigan Occupational Safety and Health Administration on or after the Order's date. Section 68c concerns the forfeit of a retiree receiving a retirement allowance under that Act if he or she is employed by the State after October 1, 2007, among other things.

Executive Order 2020-57 remains in effect during the declared states of emergency and disaster.

Executive Order 2020-58

The Order tolls all civil and probate pleading deadlines while the declared state of emergency related to COVID-19 is in effect. The Order is effective as of April 22, 2020, and remains in effect until the end of the state of emergency.

Executive Order 2020-59

The Order extends the measures set forth in Executive Order 2020-42 with certain modifications and additions. The Order takes effect April 24, 2020, at which time Executive Order 2020-42 was rescinded, and runs through May 15, 2020 at 11:59 PM. While EO 2020-59 is in effect, all individuals living within the State of Michigan are ordered to stay at home or at their place of residence, with the following exceptions:

- To engage in outdoor activity or recreation, including boating and golfing, that is consistent with remaining at least six feet from people from outside an individual's household.
- To perform jobs as "critical infrastructure workers".
- To conduct minimum basic operations after being designated to perform such work by their employers.
- To perform necessary government activities.
- To perform a resumed activity as defined within the order.
- To perform tasks that are necessary to an individual's health and safety, or to the health and safety of his or her family or household members (including pets).
- To obtain necessary services or supplies (such as groceries, take-out food, gasoline, medical supplies, and other items needed to maintain safety, sanitation, and basic residential operations) for themselves, their family or household members, and their vehicles.
- To care for a family member or a family member's pet in another household.
- To care for minors, dependents, the elderly, individuals with disabilities, or other vulnerable individuals.
- To visit an individual under the care of a health care facility, residential care facility, or congregate care facility.
- To attend legal proceedings or hearings for essential or emergency purposes as ordered by a court.
- 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.
- To attend a funeral, provided that no more than ten people are in attendance.
- To return to a home or place of residence from outside Michigan, to leave the State for a home or residence located elsewhere, or, as required by law enforcement or a court order, including transporting children pursuant to a custody agreement.
- To travel between two residences within Michigan.
- To pick up nonnecessary supplies at the curbside of a store that must otherwise remain closed.
- To visit a child in out-of-home care, under circumstances specified within the order.
- To attend addiction recovery meetings attended by no more than 10 people.

The Order prohibits all other travel, including all travel to vacation rentals.

"Critical infrastructure workers" are those workers described by the Director of the U.S. Cybersecurity and Infrastructure Security Agency in guidance issued March 19, 2020, on the COVID-19 response. The definition includes workers in certain listed sectors, such as health care and public health, and food and agriculture.

"Workers who perform resumed activities" are defined as workers who:

- Process or fulfill remote orders for delivery or curbside pickup.
- Perform bicycle maintenance or repair.
- Work in garden stores or nurseries.
- Work for lawn care, pest control, and landscaping operations, or moving and storage operations, subject to enhanced social distancing measures contained within the Order.

The enhanced social distancing measures applicable to workers who perform resumed activities include provisions that do the following:

- Bar gatherings in which people cannot maintain a distance of six feet.
- Limit in-person interaction between patrons and clients to the maximum extent possible.
- Provide personal protective equipment appropriate for the activities performed.
- Limit the sharing of tools and equipment and ensure frequent cleaning of tools, equipment, and surfaces.

Individuals must adhere to social distancing measures recommended by the Centers for Disease Control and Prevention, which include remaining at least six feet from people outside the individual's household.

The Order prohibits an individual or entity from operating a business or conducting 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 or to conduct minimum basic operations. Businesses and operations that employ critical infrastructure workers may continue in-person operations subject to a variety of conditions.

Any stores that remain open for in-person sales must do the following:

- For stores of less than 50,000 square feet, limit the total number of people (including employees) to 25% of occupancy limits.
- For stores of more than 50,000 square feet, limit the number of customers in the store at one time (excluding employees) to four people per 1,000 square feet of customer floor space, and create at least two hours per week of dedicated shopping time for vulnerable populations.

The Order prohibits anyone from advertising or renting a short-term vacation property except as necessary to assist in housing a health care professional or volunteer aiding in the response to the COVID-19 health crisis.

The Order allows State parks to remain open for day use and empowers the Director of the Department of Natural Resources to close parks when necessary to minimize gatherings and to prevent the spread of COVID-19.

The Order requires all individuals who are able to wear a mask while within enclosed public spaces to do so. Workers who perform in-person services may use homemade coverings, while N95 and surgical masks should be reserved for medical personnel and other critical workers who interact with the public. The Order states that the Elliott-Larsen Civil Rights Act applies in full force to those who wear masks.

The Order also suspends all in-person government activities at the State, county, and local level not necessary to sustain or protect life (or to support those activities). Government activities necessary to sustain or protect life include a variety of specified activities, including law enforcement, public safety, first response, trash pick-up and disposal, elections oversight, and public transit.

Violations of Orders

Executive Orders 2020-53, 2020-54, 2020-56, 2020-57, and 2020-59 specify that, consistent with Section 3 of PA 302 of 1945 (MCL 10.33) and Section 5(3) of the EMA (MCL 30.405(3)), a willful violation of these Orders is a misdemeanor.

Section 3 of PA 302 of 1945 specifies that a violation of an order, rule, or regulations made in conformity with the Act is punishable as a misdemeanor, when it states that a violation constitutes a misdemeanor. Section 5(3) of the EMA states that a person who willfully disobeys or interferes with the implementation of a rule order, or directive issued by the Governor pursuant to Section 5 of EMA is guilty of a misdemeanor. Under Section 504 of the Michigan Penal Code, if a person is convicted of a crime under State law designated as a misdemeanor for which no punishment is prescribed, the violation is punishable by up to 90 days' imprisonment or a fine of up to \$500, or both.

Fiscal Impact

Overview

The Executive Orders will have a substantial fiscal impact, immediately and in the near future. Some of these impacts will be absorbed by existing appropriations, while others may require additional appropriations in the future. For orders that prescribe a misdemeanor penalty for a violation, each may have a negative fiscal impact on the State and local governments. New misdemeanor arrests and convictions may increase resource demands on law enforcement, court systems, community supervision, and jails. However, it is unknown how many people will be prosecuted for a violation. Any additional revenue from imposed fines will go to local libraries.

Executive Order 2020-52

The Order will have no fiscal impact on State or local government.

Executive Order 2020-53

The Department of the Attorney General likely will incur some costs for possible investigations and prosecutions related to violations of the Order. The Department has indicated an increase in the call volume to the Department's hotline, creating unbudgeted overtime costs. To date the Department has not hired any additional attorneys or staff to work on cases involving excessive pricing of goods and materials related to COVID-19. Should that become necessary, however,

the estimated average annual cost for an attorney at the Department of Attorney General is \$185,000 in salary and benefits. The actual cost to the Department is indeterminate and will depend on the number of investigations and any prosecutions that may result.

Executive Order 2020-54

The Order will have a negligible fiscal impact on local law enforcement, as it prohibits, for a period of time, a required action that is taken only occasionally.

Local law enforcement officials do not evict tenants without a writ of eviction. Very few, if any, of these writs are being issued by district courts on account of the Supreme Court's Administrative Order 2020-4, which tolls all filing deadlines until the expiration of EO 2020-59 on May 15, 2020. Under this order, no new writs of eviction will be issued unless summary proceedings hearings are conducted remotely, which is highly unlikely.

Executive Order 2020-55

The Department of Health and Human Services will incur the costs for staff or support that is provided to the Task Force. Members of the Task Force will serve without compensation; however, they may be reimbursed for necessary travel and expenses consistent with current law, rules, and procedures subject to available funding.

The typical annual costs to support an advisory committee can range from \$10,000 to \$200,000 depending on the travel expenses and staff demands of the Task Force. As mentioned, the costs will be determined by demand and available funding within the Department of Health and Human Services. Accordingly, there is no anticipated need for additional funding.

Executive Order 2020-56

The Executive Order likely will not have a significant fiscal impact on LARA. The Department may see increased administrative costs because of increases in the number of individuals seeking information regarding the Order, but it is unknown at the present time if the cost of providing guidance and monitoring compliance will require any additional appropriations.

Executive Order 2020-57

Executive Order 2020-57 will have a negative fiscal impact on the Unemployment Insurance Agency and the Michigan Unemployment Trust Fund. The Unemployment Insurance Agency will experience additional administrative costs to implement necessary changes to the administrative procedures and Information Technology Systems, which are one-time costs. The Agency may require additional staff and administration to process the additional claims from eligible individuals because of Executive Order 2020-57 and the closure of businesses as a result of other executive orders. These costs may extend beyond the state of emergency declaration, as benefits will be paid out for up to 26 weeks and compliance with various reporting requirements over that time will have to be tracked.

Executive Order 2020-57 and the other executive orders closing certain businesses will have a significant negative impact on the Michigan Unemployment Trust Fund. In calendar year 2019, around 214,000 individuals received benefits with an average of 47,200 weekly payments made

each week. The Unemployment Trust Fund had a fund balance above \$4.6 billion at the end of 2019.

The Unemployment Insurance Agency projects an increase of 14% in total benefit payments, because of EO 2020-24's extension of benefit payments from 20 weeks to 26 weeks. This will bring the projected payments made in calendar year 2020 from \$760.0 million to \$870.0 million.

Allowing additional individuals to qualify to receive unemployment benefits will result in additional payments from the Michigan Unemployment Trust Fund. The number of individuals who may self-isolate or self-quarantine because of COVID-19 and qualify for unemployment insurance benefits under Executive Order 2020-57, is indeterminate. Additionally, it is unknown how many employees will be laid off because of business closures and reductions. Since the Order does not charge unemployment insurance payments to businesses with employees who become unemployed because of these executive orders, additional claimants will be a total loss to the Unemployment Trust Fund. In calendar year 2019, claimants received benefits for an average of 11.3 weeks with an average weekly payment of \$315. Statute allows individuals to receive up to \$362 in weekly benefits depending on their previous quarterly earnings and the number of dependents in the household. This means that for every additional 100,000 individuals who receive unemployment insurance benefits, the Fund will pay out an additional \$31,500,000 to \$36,500,000 for each week those individuals are unemployed or unable to work.

The Executive Order's expansion of shared-work plans could result in more claimants receiving a reduced unemployment insurance payment. This could decrease the weekly payment to claimants, which would lower the potential loss to the Michigan Unemployment Trust Fund.

In 2019, Michigan had approximately 4.4 million wage and salary employees, including 473,000 in durable goods manufacturing, 381,000 in food services and accommodations, and 464,000 in retail trade. If 500,000 of these employees become unemployed (as opposed to having reduced hours) and are affected by COVID-19-related measures, the Fund will pay out an additional \$157.5 million to \$182.5 million per week while these employees are unemployed.

Executive Order 2020-58

The Order will have no additional fiscal impact on State or local government. The effect of the Order is already in place as determined by the State Supreme Court with its Administrative Order 2020-3, which has been in effect since March 23, 2020.

Executive Order 2020-59

The Order will reduce State tax revenue, particularly from individual and corporate income taxes and the sales tax, by an unknown amount that will depend on how long and the degree to which business activity is reduced or that individuals are affected. For individuals, the impact also will be affected by the degree and extent to which individuals continue to receive pay, receive unemployment compensation or otherwise maintain income levels, draw down savings or maintain consumption, work from home, and the degree to which any changes result in prolonged or permanent changes in employment or other financial conditions. Given the magnitude of economic activity affected by the Executive Order, the revenue reductions could be significant and would affect revenue in fiscal year (FY) 2019-20 as well as FY 2020-21 (when annual payments are due and/or reconciled).

The Department of State could see a decrease in revenue from various vehicle and driver license transactions. While only late fees are being waived while the Order is in effect, all fees will be due and eventually will be paid so there is no large anticipated change to revenue. However, the Order could affect vehicle sales, which could reduce the amount of revenue the Department receives. However, these costs are indeterminate and will depend on how sales are affected and how long the stay-at-home order is in effect.

Conclusion

The Executive Orders summarized above implement various measures in response to COVID-19 in Michigan. These measures affect, among other things, protections against price gouging, pesticide applicator certificates, pharmacies, unemployment, and allowable activities during the pandemic. The Executive Orders will have a fiscal impact on State revenue, various State departments and agencies, including the DHHS, LARA, the Attorney General, State courts, the Unemployment Insurance Agency, and local units of government.

If you have any questions regarding these Executive Orders, please do not hesitate to contact us.

/lms

Attachment

c: Christopher Harkins, Director

Executive Orders Related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
4	Declaration of State of Emergency	3/10/2020	EO 2020-33	4/1/2020
5	Temporary prohibition on large assemblages and events, temporary school closures	3/13/2020	EO 2020-11	3/16/2020
6	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	3/14/2020	EO 2020-6	3/14/2020
7	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	3/14/2020	EO 2020-37	4/5/2020
8	Enhanced restrictions on price gouging	3/16/2020	EO 2020-18	4/13/2020
9	Temporary restrictions on the use of places of public accommodation	3/16/2020	EO 2020-20	3/22/2020
10	Temporary expansions in unemployment eligibility and cost-sharing	3/16/2020	EO 2020-24	3/25/2020
11	Temporary prohibition on large assemblages and events, temporary school closures	3/16/2020		4/5/2020
12	Enhanced support for deliveries	3/16/2020	EO 2020-44	4/13/2020
13	Temporary enhancements to operational capacity and efficiency of health care facilities	3/17/2020	EO 2020-49	4/14/2020
14	Temporary extension of deadline to redeem property for nonpayment of delinquent property taxes	3/18/2020		5/29/2020*
15	Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards	3/18/2020	EO 2020-48	4/14/2020
16	Expanding child care access during the COVID-19 emergency	3/18/2020	EO 2020-51	4/15/2020
17	Temporary restrictions on non-essential medical and dental procedures	3/20/2020		*
18	Enhanced restrictions on price gouging	3/20/2020	EO 2020-53	4/17/2020

Executive Orders Related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
19	Temporary prohibition against entry to premises for the purpose of removing or excluding a tenant or mobile home owner from their home	3/20/2020	EO 2020-54	4/17/2020
20	Temporary restrictions on the use of places of public accommodation	3/22/2020	EO 2020-43	4/13/2020
21	Temporary requirement to suspend activities that are not necessary to sustain or protect life	3/24/2020	EO 2020-42	4/9/2020
22	Extension of county canvass deadlines for the March 10, 2020 Presidential Primary Election	3/24/2020		4/30/2020
23	Enhanced authorization of remote means for carrying out state administrative procedures	3/25/2020	EO 2020-45	4/13/2020
24	Temporary expansions in unemployment eligibility and cost-sharing	3/25/2020	EO 2020-57	4/22/2020
25	Temporary enhancements to operational capacity, flexibility, and efficiency of pharmacies	3/25/2020	EO 2020-56	4/21/2020
26	Extension of April 2020 Michigan income tax filing deadlines	3/27/2020		7/31/2020
27	Conducting elections on May 5, 2020 using absent voter ballots	3/27/2020		5/5/2020
28	Restoring water service to occupied residences during the COVID-19 pandemic	3/28/2020		*
29	Temporary COVID-19 protocols for entry into Michigan Department of Corrections facilities and transfers to and from Department custody; temporary recommended COVID-19 protocols and enhanced early-release authorization for county jails, local lockups, and juvenile detention centers	3/29/2020	EO 2020-62	4/26/2020
30	Temporary relief from certain restrictions and requirements governing the provision of medical services	3/29/2020	EO 2020-61	4/26/2020
31	Temporary relief from standard vapor pressure restrictions on gasoline sales	3/30/2020		5/31/2020
32	Temporary restrictions on non-essential veterinary services	3/31/2020	EO 2020-34	4/2/2020

Executive Orders Related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
33	Expanded emergency and disaster declaration	4/1/2020	EO 2020-66 EO 2020-67	4/30/2020
34	Temporary restrictions on veterinary services	4/2/2020		*
35	Provision of K-12 education during the remainder of the 2019-2020 school year	4/2/2020	EO 2020-65	4/30/2020
36	Protecting workers who stay home, stay safe when they or their close contacts are sick	4/3/2020		*
37	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	4/5/2020		5/3/2020
38	Temporary extensions of certain FOIA deadlines to facilitate COVID-19 emergency response efforts	4/5/2020		6/4/2020
39	Temporary relief from certain restrictions and requirements governing the provision of emergency medical services	4/7/2020		*
40	Temporary relief from certain credentialing requirements for motor carriers transporting essential supplies, equipment, and persons	4/8/2020		5/5/2020
41	Encouraging the use of electronic signatures and remote notarization, witnessing, and visitation during the COVID-19 pandemic	4/8/2020		5/6/2020
42	Temporary requirement to suspend activities that are not necessary to sustain or protect life	4/9/2020	EO 2020-59	4/24/2020
43	Temporary restrictions on the use of places of public accommodation	4/13/2020	EO 2020-43	4/30/2020
44	Enhanced support for deliveries	4/13/2020		5/11/2020
45	Enhanced authorization of remote means for carrying out state administrative procedures	4/13/2020		5/11/2020
46	Mitigating the economic harms of the COVID-19 pandemic through the creation of a spirits buyback program for restaurants and bars throughout the state	4/13/2020		*

Executive Orders Related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
47	Temporary extension of validity of driver's licenses, state identification cards and registration	4/13/2020		6/30/2020
48	Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards	4/14/2020		5/12/2020
49	Temporary enhancements to operational capacity and efficiency of health care facilities	4/14/2020		5/12/2020
50	Enhanced protections for residents and staff of long-term care facilities during the COVID-19 pandemic	4/15/2020		5/13/2020
51	Expanding child care access during the COVID-19 pandemic	4/15/2020		5/13/2020
52	Temporary extension of certain pesticide applicator certificates	4/17/2020		*
53	Enhance restrictions on price gouging	4/17/2020		5/15/2020
54	Temporary prohibition against entry to premises for the purpose of removing or excluding a tenant or mobile home owner from their home	4/17/2020		5/15/2020
55	Michigan Coronavirus Task Force on Racial Disparities	4/20/2020		*
56	Temporary enhancements to operational capacity, flexibility, and efficiency of pharmacies	4/21/2020		5/19/2020
57	Temporary expansions in unemployment eligibility and cost-sharing	4/22/2020		*
58	Temporary suspension of certain timing requirements relating to the commencement of civil and probate actions and proceedings	4/22/2020		*
59	Temporary requirement to suspend activities that are not necessary to sustain or protect life	4/24/2020	EO 2020-70	5/15/2020
60	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	4/24/2020	EO 2020-71	5/1/2020

Executive Orders Related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
61	Temporary relief from certain restrictions and requirements governing the provision of medical services	4/26/2020		*
62	Temporary COVID-19 protocols for entry into Michigan Department of Corrections facilities and transfers to and from Department custody; temporary recommended COVID-19 protocols and enhanced early-release authorization for county jails, local lockups, and juvenile detention centers.	4/26/2020		5/24/2020
63	Temporary suspending the expiration of personal protection orders	4/27/2020		7/21/2020
64	Affirming anti-discrimination policies and requiring certain health care providers to develop equitable access to care protocols	4/29/2020		*
65	Provision of K-12 education during the remainder of the 2019-2020 school year	4/30/2020		*
66	Termination of the state of emergency and disaster declared under the Emergency Management Act in Executive Order 2020-33	4/30/2020		4/30/2020
67	Declaration of state of emergency under the Emergency Powers of the Governor Act, 1945 PA 302	4/30/2020		5/28/2020
68	Declaration of states of emergency and disaster under the Emergency Management Act, 1976 PA 390	4/30/2020		5/28/2020
69	Temporary restrictions on the use of places of public accommodation	4/30/2020		5/28/2020
70	Temporary requirement to suspend activities that are not necessary to sustain or protect life	5/1/2020		5/15/2020
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	5/1/2020		5/30/2020
*The end date for these marked items will be the end of the declared state of emergency or a date reasonably related to the end of the declared state of emergency.				