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MICHIGAN HOUSE OF REPRESENTATIVES

CHRISTINE GREIG
HOUSE DEMOCRATIC LEADER

April 4, 2020

The Honorable Lee Chatfield
Speaker of the House of Representatives
162 Michigan State Capitol Building
Lansing, MI 48933

Dear Mr. Speaker:

I am writing to express my grave concerns about the prospect of the House returning to legislative session on April 7 without adequate precautions in place to protect the health and safety of Members, staff, and the public and for the purpose, if press reports are to be believed, of acting on a measure that is both insufficient to address the present public health crisis and legally dubious.

On March 13, I wrote to you regarding the necessity of limiting legislative session to only those matters that relate directly to Michigan's response to this deadly pandemic and we have spoken about the need to implement social distancing and other precautions to mitigate the risk of spreading the novel coronavirus while conducting legislative business. I was dismayed that the House then proceeded to meet in session for over twelve hours with few, if any, such precautions implemented. This despite the fact that many House Members are at greater risk of becoming seriously ill from COVID-19 due to age and preexisting medical conditions. The House must not repeat these mistakes. The pressing need for such precautions is underscored by the tragic death of our colleague, and my friend, State Representative Isaac Robinson.

I have requested, at a minimum, that the House adhere to the social distancing guidelines established by the Michigan Department of Health and Human Services (MDHHS) and the Centers for Disease Control and Prevention (CDC). In addition, I have requested that the House implement a screening protocol for all Members and staff present for session that includes a symptom check and temperature check. Finally, I have requested that Members and staff be asked to wear cloth masks or other face coverings while attending session, as recommended by the CDC. As I write today, it remains unclear which, if any, of these precautions you intend to implement for any future session days during the duration of this crisis. Clarity on this matter is essential for Members and staff to evaluate the risk attending legislative session poses to themselves, their families, and their communities.

In addition to the aforementioned concerns over the conduct of session, I was dismayed to read press reports that you intend to ask the House to consider a concurrent resolution that purports to extend Governor Whitmer's declaration of a state of emergency and state of disaster for only 23 days. To be frank, such an extension is grossly inadequate to the all-important task before us.

The Governor and the public health experts directing Michigan's response to COVID-19 have determined that an extension of 70 days is necessary and appropriate. As you yourself have said on more than one occasion, the Governor "remains in the best position to make these decisions." I agree, Mr. Speaker, which is why I am befuddled and troubled that we would choose now to disregard her considered decision in this matter.

To the extent that Executive Order 2020-33 relies in part on the authority of the Emergency Management Act, 1976 PA 390, Governor Whitmer's declaration of a state of emergency and state of disaster, may remain in effect without legislative action until April 29. As a result, a concurrent resolution "extending" these declarations until April 30 is not an extension at all using any intelligible sense of the word. It is indefensible and unconscionable to expose Members, staff, and the public to the risk of novel coronavirus transmission to take a vote that amounts to little more than political theatre and will certainly require the House to return to approve an actual extension in just three weeks—precisely when public health experts predict the COVID-19 pandemic will be at its peak in Michigan. By approving the 70-day extension requested by the Governor now, we would be providing the Governor, doctors and nurses, and first responders with the tools they need to fight this virus while protecting Members and staff from unnecessary risk.

Finally, I must also note that if you do, in fact, intend to seek approval of a concurrent resolution along the lines described in recent media reporting, you are embarking upon an unprecedented course of action that is inconsistent with the text of the Emergency Management Act and past precedent in the Michigan Legislature. The act provides that the Governor may submit "a request . . . for an extension of the state of disaster [or state of emergency] for a specific number of days." MCL 30.403. The plain text of the statute strongly suggests that the Legislature is permitted to approve or disapprove the Governor's request, but not to modify it. Such a reading of the Emergency Management Act is further buttressed by the fact that the act declares that: "The governor is responsible for coping with dangers to this state or the people of this state presented by a disaster or emergency." *Id.* Governor Snyder requested that the Legislature extend states of emergency he had declared three times. On each of those three occasions, the Legislature approved Governor Snyder's requested extension without modification. See 2016 SCR 23; 2016 SCR 28; 2017 HCR 1. Those extensions were for 73, 122, and 56 days, respectively. No attempt to draw factual distinctions between the emergencies at issue in Governor Snyder's declarations and the present situation justifies disregarding the limitations placed on the Legislature by statute or our past practice.

Mr. Speaker, we have a job to do. That job is to put the necessary precautions in place to protect Members, staff, and the public during legislative session and to approve Governor Whitmer's request for a 70-day extension of her emergency and disaster declarations so that Michigan can continue its effort to fight COVID-19 uninterrupted and unimpeded by partisan politics. Michiganders expect and deserve nothing less from their Legislature.

Sincerely,



Christine Greig
Democratic Leader
Michigan House of Representatives

CEG/nat

cc: Governor Gretchen Whitmer
Clerk Gary Randall