

## HOUSE CONCURRENT RESOLUTION NO. 6

Reps. LaFave, Miller, O'Malley, Rendon, Crawford, Vaupel, Markkanen, Reilly, Maddock, Wozniak, Hoitenga, Hornberger, Hall, Mueller, Lightner, Griffin, Bellino, Alexander, VanSingel, Paquette, Frederick, Calley, Albert, Afendoulis, Wentworth and Meerman offered the following concurrent resolution:

1           A concurrent resolution to urge the Attorney General to  
2 reverse her opinion on the constitutionality of Public Act 359 of  
3 2018 and urge the Governor to follow the law as enacted and proceed  
4 with the Mackinac Straits Utility Corridor.

5           Whereas, The Enbridge Line 5 pipeline is critical  
6 infrastructure for the state of Michigan. Residents in the Upper  
7 Peninsula rely on the Enbridge Line 5 pipeline to heat their homes  
8 and support the local economy; and

9           Whereas, The Great Lakes are vitally important for Michigan's  
10 economy and way of life. Pristine water is important not only for



1 public health but also for agriculture, commercial and sport  
 2 fishing, boating, recreation, and tourism in Michigan and  
 3 throughout the region; and

4       Whereas; The age of the existing pipeline has pushed the state  
 5 to look for a long-term solution that will allow for the continued  
 6 delivery of fuel while also protecting the Great Lakes far into the  
 7 future. Numerous studies and negotiations resulted in the state and  
 8 Enbridge agreeing that a tunnel beneath the Straits of Mackinac was  
 9 the best solution for all parties; and

10       Whereas, The Legislature passed and former Governor Rick  
 11 Snyder signed into law Public Act 359 of 2018 to implement this  
 12 agreement on December 11, 2018. Public Act 359 established the  
 13 Mackinac Straits Corridor Authority and authorized it to "acquire,  
 14 construct, operate, maintain, improve, repair, and manage a utility  
 15 tunnel"; and

16       Whereas, The Mackinac Straits Corridor Authority approved the  
 17 construction of a utility tunnel on December 19, 2018, in  
 18 conjunction with the agreements between the state and Enbridge. The  
 19 construction of the multi-use utility tunnel beneath the Straits of  
 20 Mackinac—the Mackinac Straits Utility Corridor—will allow for the  
 21 replacement of a segment of the Line 5 pipeline that currently sits  
 22 on the bottom of the Mackinac Straits; and

23       Whereas, On January 1, 2019, Governor Gretchen Whitmer sought  
 24 the opinion of Attorney General Dana Nessel on several questions of  
 25 law related to Public Act 359 of 2018; and

26       Whereas, On March 28, 2019, Attorney General Nessel issued  
 27 Opinion No. 7309, finding, in part, that Section 14d(1), (4), and  
 28 (5) of Public Act 359 of 2018 violate Article IV, Section 24 of the  
 29 *Constitution of the State of Michigan of 1963* and cannot be severed



1 from the remainder of the act; and

2       Whereas, In response to Opinion No. 7309, Governor Whitmer  
3 issued Executive Directive No. 2019-13, directing, in part, that  
4 state departments and autonomous agencies "shall not take any  
5 action authorized by, in furtherance of, or dependent upon Act  
6 359"; and

7       Whereas, The Attorney General's opinion comes to legally  
8 questionable conclusions and is not in the best interests of the  
9 people of Michigan. The Mackinac Straits Utility Corridor is vital  
10 for the health and well-being of the people of this state and  
11 taking steps to block its construction will put the safety and  
12 security of the residents of the Upper Peninsula in jeopardy; and

13       Whereas, The Governor is responsible for ensuring that the  
14 laws of this state are faithfully executed. Directing state  
15 departments and agencies to not carry out Public Act 359 is not in  
16 keeping with that duty given the likelihood that the courts of this  
17 state would come to a different conclusion than the Attorney  
18 General regarding the constitutionality of Public Act 359; now,  
19 therefore, be it

20       Resolved by the House of Representatives (the Senate  
21 concurring), That we urge the Attorney General to reverse her  
22 opinion on the constitutionality of Public Act 359 of 2018 and urge  
23 the Governor to follow the law as enacted and proceed with the  
24 Mackinac Straits Utility Corridor; and be it further

25       Resolved, That copies of this resolution be transmitted to the  
26 Governor and Attorney General.

