RECEIVED by MSC 12/8/2025 3:54:29 PM

STATE OF MICHIGAN
IN THE SUPREME COURT

MICHIGAN SENATE and MICHIGAN SENATE MAJORITY LEADER WINNIE BRINKS, in her official capacity,

Plaintiffs-Appellees

v

MICHIGAN HOUSE OF REPRESENTATIVES, MICHIGAN HOUSE CLERK SCOTT STARR, in his official capacity,

Defendants-Appellants

and

MICHIGAN HOUSE SPEAKER MATT HALL, in his official capacity,

Defendant

Supreme Court Case No. _______

Court of Appeals Case No. 374786

Court of Claims Case No. 25-000014-MB

This appeal involves a ruling that a state governmental action is invalid.

Mark Brewer (P35551)
Goodman Acker P.C.
17000 W. Ten Mile Rd.
Southfield, MI 48075
(248) 483-5000
mbrewer@goodmanacker.com

Attorney for Plaintiffs-Appellees

Kyle M. Asher (P80359)
Steven C. Liedel (P58852)
DYKEMA GOSSETT PLLC
201 Townsend Street, Suite 900
Lansing, MI 48933
(517) 374-9151
kasher@dykema.com

Attorneys for Defendants-Appellants

DEFENDANTS-APPELLANTS MICHIGAN HOUSE OF REPRESENTATIVES AND MICHIGAN HOUSE CLERK SCOTT STARR'S APPLICATION FOR LEAVE TO APPEAL

<u>ORAL ARGUMENT REQUESTED</u>

RECEIVED by MSC 12/8/2025 3:54:29 PM

TABLE OF CONTENTS

ORDER APPEALED FROM AND RELIEF SOUGHT vii

QUESTIONS PRESENTED FOR REVIEW viii

INTRODUCTION 1

STATEMENT OF FACTS 4

I. MICHIGAN'S SEPARATE AND DISTINCT BIENNIAL LEGISLATURES 4

II. THE PRESENTMENT CLAUSE AND PAST PRACTICES 5

III. THE 102ND LEGISLATURE 7

IV. THE 103RD LEGISLATURE 9

V. THIS LAWSUIT AND ITS PROCEDURAL HISTORY 9

VI. THE COURT OF CLAIMS' OPINION 11

VII. LEGISLATIVE DEVELOPMENTS FOLLOWING THE COURT OF CLAIMS' OPINION 12

VIII. APPELLATE PROCEEDINGS 13

A. The Majority Opinion 14

B. The Dissent 17

STANDARD OF REVIEW 18

ARGUMENT 19

I. The Issues Involve the Validity of Legislative Actions, are of Significant Public Interest and Major Significance to the State's Jurisprudence, and Involve a Ruling Inconsistent with this Court's Precedents. 19

II. The Court of Appeals' Decision is Clearly Erroneous and Will Cause Material Injustice. 21

A. The Court of Appeals Erred In Finding This Case Is Justiciable. 21

1. This Case Involves Resolution of Questions Committed to the Legislature. 22

2. Intervening Moves Beyond Areas of Judicial Expertise and Conflicts With Prudential Considerations....25

B. The Court of Appeals Erred in Finding the Senate and the Majority Leader Have Standing. 27

C. The Court of Appeals Erred When Holding that Article 4, Section 33 "Clearly Imposes the Mandatory Duty of Presentment on the Legislature for Every Bill Passed by the Legislature." 29

1. The Court's Interpretation Conflicts with Constitutional Text, Will Upend Past Practices, and Intrudes on the Legislature's Plenary Authority....29

2. A Passing Remark at the Constitutional Convention Does Not Change the Analysis....31

3. Any Duty to Present Does Not Extend to a New and Different Legislature. 33

4. This Lack of a Duty to Present Bills Also Disposes of the Senate's Declaratory Judgment Claim, Which the Court of Appeals Declined to Rule On. 37

D. The Court of Appeals Erred When Directing the Court of Claims to Issue a Writ of Mandamus....39

1. Any Duty to Present is Not Ministerial....39

2. The Only Remedy Available is a Legislative Remedy....41

CONCLUSION AND RELIEF REQUESTED 44

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

TABLE OF AUTHORITIES

Cases

ABATE of Ill, Inc. v Quinn,
2011 IL 110611; 957 NE2d 876, 884 (2011).. 36

Baines v New Hampshire Senate President,
152 NH 124; 876 A2d 768 (2005).. 36

Baker v Carr,
369 US 186; 82 S Ct 691; 7 L Ed 2d 663 (1962).. 22, 24, 26

Bauserman v Unemployment Ins Agency,
509 Mich 673; 983 NW2d 855 (2022).. passim

Berry v Garrett,
316 Mich App 37; 890 NW2d 882 (2016).. 29, 38

Blank v Dep't of Corrections,
462 Mich 103; 611 NW2d 530 (1999).. 4

Blue Cross & Blue Shield v Hodurski,
899 So2d 949 (Ala, 2004).. 36

Brewer v Burns,
222 Ariz 234; 213 P3d 671 (2009).. 2, 6, 25, 28

City of Huntington Woods v City of Detroit,
279 Mich App 603; 761 NW2d 127 (2008).. 40

Co Rd Ass'n of Mich v Governor,
474 Mich 11; 705 NW2d 680 (2005).. 18, 29, 31

Courser v Mich House of Representatives,
831 F Appx 161 (CA 6, 2020).. 19

El-Shifa Pharm Indus Co v United States,
378 F3d 1346 (CA Fed, 2004).. 23

Ferency v Secretary of State,
139 Mich App 677; 362 NW2d 743 (1984).. 38

Gilbert v Gladden,
87 NJ 275; 432 A2d 1351 (1981).. 2

Grabow v Macomb Twp,
270 Mich App 222; 714 NW2d 674 (2006) 39

House Speaker v State Admin Bd,
441 Mich 547; 495 NW2d 539 (1993) 21, 27

Howard Jarvis Taxpayers Ass'n v Padilla,
62 Cal 4th 486; 363 P3d 628 (2016) 5

Iowa-Nebraska Light & Power Co v Villisca,
220 Iowa 238; 261 NW 423 (1935) 36

Kennedy v Secretary of State,
__ Mich __; 10 NW3d 632 (2024) 31

Killeen v Wayne County Rd Comm'n,
137 Mich App 178; 357 NW2d 851 (1984) 27

King v Cuomo,
81 NY2d 247; 613 NE2d 950 (1993) 3, 5, 35

Koontz v Ameritech Servs,
466 Mich 304; 645 NW2d 34 (2002) 29

League of Women Voters v Sec'y of State,
331 Mich App 156; 952 NW2d 491 (2020) 27

League of Women Voters of Mich v Secretary of State,
506 Mich 561; 957 NW2d 731 (2020) 38

LeRoux v Sec'y of State,
465 Mich 594; 640 NW2d 849 (2002) 3, 36

Makowski v Governor,
495 Mich 465; 852 NW2d 61 (2014) 22

Marbury v Madison,
5 US 137; 2 L Ed 2d 60 (1803) 39

Nixon v United States,
506 US 224; 113 S Ct 732; 122 L Ed 2d 1 (1993) 23

Pego v Karamo,
__ Mich App __, 2024 Mich App LEXIS 9435 (Nov 22, 2024) 22

RECEIVED by MSC 12/8/2025 3:54:29 PM

People ex rel Sutherland v Governor,
29 Mich 320 (1874) 3, 21, 41, 42, 43

People v Tanner,
496 Mich 199; 853 NW2d 653 (2013).. 29, 32, 33

Regents of Univ of Mich v Michigan,
395 Mich 52; 235 NW2d 1 (1975).. 32

Rental Props Owners Ass'n v Kent County Treasurer,
308 Mich App 498; 866 NW2d 817 (2014).. 18

State ex rel Stenberg v Moore,
249 Neb 589; 544 NW2d 344 (1996) 36

Taxpayers of Mich Against Casinos v State,
471 Mich 306; 685 NW2d 221 (2004)... passim

Vieth v Jubelirer,
541 US 267; 124 S Ct 1769; 158 L Ed 2d 546 (2004).. 42

Warren City Council v Buffa,
346 Mich App 528; 12 NW3d 681 (2023).. 18

Statutes

MCL 168.22(2) 39

MCL 168.822(3) 39

MCL 4.44... 4, 9

MCL 4.82.. 4

Other Authorities

Michigan Democrats anger allies, advocates as lame duck ends, Detroit Free Press
(December 23, 2024) <https://www.freep.com/story/news/politics/2024/12/23/michigan-house-democrats-lame-duck-adjourn/77105539007/> (last visited December 3, 2025)........................... 8

Rules

MCR 7.305(B) 18, 19

MCR 7.305(H)(1) 44

Constitutional Provisions

Const 1908, art 5, § 13 34

RECEIVED by MSC 12/8/2025 3:54:29 PM

Const 1963, art 3, § 2 .... 3, 23, 26

Const 1963, art 4, § 1 .... 3, 23, 24

Const 1963, art 4 § 10(5) 23

Const 1963, art 4, § 13 .... passim

Const 1963, art 4, § 16 23

Const 1963, art 4, § 26 30

Const 1963, art 4, § 33 .... passim

Const 1963, Schedule, § 15 39

Ohio Const, art 2, § 15(E) 6

RECEIVED by MSC 12/8/2025 3:54:29 PM

ORDER APPEALED FROM AND RELIEF SOUGHT

The Michigan House of Representatives and Michigan House Clerk Scott Starr (the "103rd House") seek leave to appeal the Court of Appeals' October 27, 2025 published opinion. Majority Op., **Exhibit 1**. That opinion reversed the Court of Claims (Patel, J.) and remanded the case "for the Court of Claims to issue a writ of mandamus ordering" the 103rd House to present nine bills that were passed by Michigan's 102nd Legislature to the Governor by a date to "be determined in the Court of Claims's discretion." *Id.* at 14. The opinion "decline[d] to consider" the Court of Claims' ruling on the Senate's request for a declaratory judgment (which the Court of Claims granted) or permanent injunction (which the Court of Claims denied). *Id.* at 10, n.10. Judge Murray dissented in part from the opinion. Dissenting Op., **Exhibit 2**.

This application is timely filed within 42 days of the Court of Appeals' opinion. Defendants request that this Court grant this application for leave to appeal or, alternatively, enter an order peremptorily reversing the Court of Appeals, and upholding the Court of Claims' denial of the writ of mandamus. If this Court reverses the Court of Appeals' mandamus ruling and is inclined to address the Senate's declaratory judgment claim, which the Court of Appeals declined to rule on, the 103rd House requests that the Court either reverse the Court of Claims' grant of a declaratory judgment or remand that issue to the Court of Appeals for consideration in the first instance.

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

QUESTIONS PRESENTED FOR REVIEW

This case appears to present the first ever lawsuit filed by one body of the Michigan legislature against the other. The 102nd Michigan Legislature, which was elected in 2022, passed nine bills in December 2024 that it failed to present to the Governor before the 103rd Michigan Legislature (elected in November 2024) convened on January 8, 2025. The Michigan Senate immediately sued to compel the 103rd House to present the 102nd Legislature's bills. And in what appears to be the first instance of a Michigan court issuing a writ of mandamus against the Michigan legislature, the Court of Appeals found "that the Court of Claims erred in denying plaintiffs' request for a writ of mandamus" and remanded the case "for issuance of a writ of a mandamus" ordering the House to present the bills by a date to "be determined in the Court of Claims's discretion."

The questions presented in this application for leave to appeal are whether this Court should grant leave to determine whether the Court of Appeals:

1. Incorrectly held that this lawsuit presents a justiciable case that does not implicate the political question doctrine;

2. Incorrectly held that the Senate and its majority leader have standing to sue, and that the Senate's claims are ripe;

3. Incorrectly held that Article 4, Section 33 of the Michigan Constitution—which states that "[e]very bill passed by the legislature shall be presented to the governor before it becomes law"—means, contrary to past practices, that every bill ever passed by the legislature must be presented to the governor, period;

4. Incorrectly held that any duty to present bills extends to a new legislature that did not vote on those bills, despite the dissent's recognition that under Article 4, Section 13 of the Michigan Constitution, "there isn't a provision allowing unfinished business" of a prior legislature "to carryover" to a new legislature; and

5. Incorrectly directed the Court of Claims to issue a writ of mandamus compelling the 103rd House to present the bills, despite the lack of a ministerial duty to present, and despite the "separation-of-powers concerns" the Court of Appeals recognized were raised by the House "with respect to the judiciary compelling legislative action in this case."

To each question:

The 103rd House Answers: Yes
The Senate Answers: No
The Court of Appeals Answered: No
This Court Should Answer: Yes

If this Court agrees with the 103rd House on any of the above grounds, and is inclined to consider the Court of Claims' declaratory judgment ruling (which the Court of Appeals did not reach), rather than remand to the Court of Appeals for consideration in the first instance, then the additional questions presented are whether the Court of Claims incorrectly:

6. Declared that the 103rd House has a duty to present bills passed by the 102nd Legislature; and

7. Held that the Senate met MCR 2.605's case or controversy requirement.

To each question:

The 103rd House Answers: Yes
The Senate Answers: No
The Court of Appeals: Did Not Address the Issue
This Court Should Answer: Yes

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

INTRODUCTION

Earlier this year, the Senate put it best. The issues in this case "involve a substantial question about the validity of legislative actions"; "have significant public interest and . . . involve[] both legislative branches"; and "involve legal principles of major significance to the state's jurisprudence." Senate's Bypass Application at 12, **Ex. 3**. The Court of Claims agreed that "a thoroughly considered opinion from the state's top court would be to everyone's benefit." Stay Order at 2, **Ex. 4**. And that is all the more so following the Court of Appeals' divided, published opinion, which reversed the Court of Claims and directed that court to issue a writ of mandamus compelling the 103rd House to present bills passed by the 102nd Legislature.

The Court of Appeals broke new ground in Michigan's jurisprudence in several ways. It opened the door for Michigan courts to referee internal disputes over legislative processes between the two houses of the legislature. It brushed past the House's "separation-of-powers concerns with respect to the judiciary compelling legislative action in this case," Majority Op. at 13, and issued what appears to be the first ever writ of mandamus against the Michigan legislature. Its ruling hinged on an issue of constitutional interpretation that the court acknowledged was subject to two reasonable interpretations, and that will blur the lines between Michigan's separate biennial legislatures and restrict their plenary authority going forward. And its stated reason for granting relief—to ensure that all asserted constitutional violations can be remedied—implicates open and important questions in this State's jurisprudence. See *Bauserman v Unemployment Ins Agency*, 509 Mich 673, 712; 983 NW2d 855 (2022) (WELCH, J., concurring) (urging the Court to confine holding to "claims arising from a violation of a right enumerated in Michigan's Declaration of Rights, Const 1963, art 1"); *id.* at 708-09, 709 n 13 (majority op.) (declining to take a position on the issue as it would require the Court to "opine on hypothetical cases not before this Court").

Along the way, the court committed several errors that require reversal. *First*, diverging from the New Jersey Supreme Court's detailed analysis of identical issues, the court held that this dispute between the two bodies of the Michigan legislature, over an alleged failure to carry out a legislative process that has no deadline, presents a justiciable dispute that does not implicate the political question doctrine. See *Gilbert v Gladden*, 87 NJ 275, 288; 432 A2d 1351 (1981) (declining to order presentation of bills as the issue is "a nonjusticiable political question the resolution of which is constitutionally committed to the Legislature").

Second, the court erred in finding that both the Senate and its Majority Leader have standing. Other courts (and the Senate itself) have framed the asserted harm from a failure to present bills <u>to the executive</u> as affecting the <u>executive</u> branch. And here, the executive has sensibly claimed no such harm. Indeed, past gubernatorial attempts to compel presentation of bills have failed. *Brewer v Burns*, 222 Ariz 234, 242-43; 213 P3d 671 (2009) (denying request for mandamus in presentation challenge filed by Arizona governor that "unnecessarily involved the Court further in this dispute among the political branches"). And defects in some of the bills at issue here would prevent them from becoming law even if presented.

Third, the court erred in finding that "Const 1963, art 4, § 33, clearly imposes the mandatory duty of presentment for '[e]very bill passed by the legislature[.]'" Majority Op. at 10 (alterations in original). Read in full, that provision states that "[e]very bill passed by the legislature shall be presented to the governor <u>before it becomes law</u>[.]" Const 1963, art 4, § 33 (emphasis added). This language simply means that a bill cannot "become law" until the predicate act of presentment occurs. Indeed, the legislature has never interpreted Section 33 to require presentment of every bill that has ever been passed. The Joint Rules have long provided a mechanism for the return and vacatur of bills that have passed both chambers, resulting in numerous bills that have

RECEIVED by MSC 12/8/2025 3:54:29 PM

passed both houses of the legislature without ever being presented to the governor. The Court of Appeals' novel interpretation of Section 33 will effectively bar this process and, in doing so, infringe on the legislature's plenary authority. Const 1963, art 4, § 1 ("[T]he legislative power of the State of Michigan is vested in a senate and a house of representatives.").

Fourth, over Judge Murray's dissent, the court erred in finding that any duty to present bills is "not session-dependent" and extends to a new legislature that had no involvement in the passage of those bills. This holding conflicts with Const 1963, art 4, § 13, which makes clear that "[a]ny <u>business</u>, bill or joint resolution" that is pending at the end of an even-numbered year does not "carry over" to a new legislature. It conflicts with courts that have recognized that bills not presented to a governor "lapse" and cannot be "resuscitated" once the legislature that passed (but failed to present) the bills no longer exists. See *King v Cuomo*, 81 NY2d 247, 256; 613 NE2d 950 (1993). And it conflicts with settled law in Michigan and elsewhere that the "act of one legislature is not binding on, and does not tie the hands of, future legislatures." *LeRoux v Secretary of State*, 465 Mich 594, 615-16; 640 NW2d 849 (2002).

Finally, the court erred in taking the drastic step of directing the Court of Claims to issue a writ of mandamus against the 103rd House. As the House has argued, this relief poses serious separation of powers concerns. Indeed, this Court has previously stated that "no court can compel the Legislature to . . . to take any action whatsoever, though the duty to take it be made ever so clear by the constitution or the laws." *People ex rel Sutherland v Governor*, 29 Mich 320, 326 (1874). And although mandamus is improper unless the "duty to be performed" leaves "nothing to the exercise of discretion," the court wrested a matter of discretion away from the legislature when it directed the Court of Claims to "determine[]" a "deadline for presentment" in the court's own "discretion." Majority Op. at 14; contra *Gilbert*, 87 NJ at 283 ("the timing of such presentment is

RECEIVED by MSC 12/8/2025 3:54:29 PM

discretionary, and a rule or practice delaying presentment is well within the legislative prerogative"); Const 1963, art 3, § 2 (the judiciary cannot "exercise powers properly belonging to" the legislature "except as expressly provided in" the Constitution).

In short, the issues presented in this application are of extreme importance and, if left standing, will have significant adverse impacts on this State's jurisprudence and separation of powers. This Court should thus grant leave to appeal and, ultimately, reverse the Court of Appeals.

STATEMENT OF FACTS

I. MICHIGAN'S SEPARATE AND DISTINCT BIENNIAL LEGISLATURES

Michigan's legislatures are not continuing bodies. Each legislature exists for two years (broken into two, one-year sessions). And each biennial legislature is separate and distinct from the next legislature.[1] As relevant here, Michigan's 102nd Legislature existed from January 11, 2023 until noon on January 1, 2025. The 103rd Legislature convened at noon on January 8, 2025 and will exist through the final adjournment of its second regular session in 2026.

Michigan's Constitution makes clear that "[a]ny business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session" in an even numbered year. Const 1963, art 4, § 13 (emphasis added). That is, business or bills from one legislature's first regular session carry into

---

[1] Longstanding Michigan laws recognize separate and distinct biennial legislatures. For example, MCL 4.44, enacted in 1877, requires "the clerk of the next preceding house of representatives to call to order and preside over the house until a speaker, or speaker pro tempore, is elected . . . ." (emphasis added). Likewise, MCL 4.82, enacted in 1846, allows each house to impose a punishment of contempt on its members, but states that "the term of imprisonment which such house may impose for any contempt specified in this section shall not extend beyond the same session of the legislature." *Id.*; see also *Blank v Dep't of Corrections*, 462 Mich 103, 148-49; 611 NW2d 530 (1999) (Markman, J., concurring) (action or inaction "by a different Legislature, whether it be silence or the rejection of an alternative proposal, cannot properly serve as an indicator of what a prior Legislature intended") (emphasis in original).

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

that same legislature's second regular session. But the same is not true of business or "[b]ills pending upon a final adjournment in an even-numbered year[.]" OAG, 1981-1982, No. 6,114, p 779 (December 22, 1982). In other words, the business or bills from a prior legislature's second session do not "carry over" to the new and distinct legislature's first session. *Id.*

Rather, as other courts have recognized, the business and bills "lapse" when the legislature that voted on or passed the bills ceases to exist. See *King*, 81 NY2d at 256; *Howard Jarvis Taxpayers Ass'n v Padilla*, 62 Cal 4th 486, 512; 363 P3d 628 (2016) (recognizing that "the Legislature was not a continuing body, that it ceased to exist between sessions, [and] that its express powers ceased to exist at the same time").

II. THE PRESENTMENT CLAUSE AND PAST PRACTICES

With this background in mind, when addressing presentation of bills to a governor, Michigan's Constitution provides, in its entirety, that "[e]very bill passed by the legislature shall be presented to the governor before it becomes law[.]" Const 1963, art 4, § 33. Once a bill is presented, "the governor shall have 14 days measured in hours and minutes" to "consider it." *Id.*

As both the Court of Claims and Court of Appeals recognized, Article 4, Section 33 does not specify who must present a bill to the governor. Court of Claims Op. at 2, **Ex. 5** ("The Constitution does not specify which person or entity is responsible for such presentment and, therefore, neither will the Court."); Majority Op. at 11 (recognizing that "the specific *individual* designated to act on behalf of the Legislature is not defined by the constitutional provision") (emphasis in original). And as both the Court of Claims and Court of Appeals also recognized, "[w]ith respect to timing, Section 33 [also] provides no mandate." Court of Claims Op. at 17; Majority Op. at 9 ("[I]t is true that there is no express deadline for presentment provided in the constitutional language."). This framework is similar to the "[m]any state constitutions" that "say

RECEIVED by MSC 12/8/2025 3:54:29 PM

nothing about the timing of presentment other than indicating it must occur sometime after passage."[2] See *Brewer*, 222 Ariz at 241. As the New Jersey Supreme Court found when interpreting language similar to Michigan's presentment clause, the lack of a constitutional deadline to present means "the timing of such presentment is discretionary, and a rule or practice delaying presentment is well within the legislative prerogative." *Gilbert*, 87 NJ at 283.

Past legislatures have exercised that discretion. It is common practice for the legislature to vacate enrollment of and amend bills that have already passed both chambers and been ordered enrolled. See, e.g., House Bills 4004, 4084, 4696, 4356, 4926, and 5429 of 2023. Indeed, the Joint Rules of the Senate and House of Representatives have long provided that, if the house having last passed a bill requests its return, and such request is granted, the enrollment printing of that bill shall not occur. See Rule 16 of the 2023-24 Joint Rules of the Senate and House of Representatives.

Moreover, bills that are not vacated, amended, or returned, have historically been presented at varying times. During the 102nd Legislature, for example, the House held a bill for 132 days before presentment. See 2023 HB 5048. And the Senate (while under its current majority leader), held at least 24 bills for 27 days or longer, including holding a set of bills for 84 days before presentment a year ago:

Bill Number	Ordered Enrolled	Date of Presentation	Days Held	Senate Journal Citations
205	9/26/2024	12/19/2024	84	2024 Senate Journal 1557 & 2024 Senate Journal 2273
206	9/26/2024	12/19/2024	84	2024 Senate Journal 1559 & 2024 Senate Journal 2273
207	9/26/2024	12/19/2024	84	2024 Senate Journal 1560 & 2024 Senate Journal 2273
513	11/2/2023	12/6/2023	34	2023 Senate Journal 2320 & 2023 Senate Journal 2594
174	11/7/2023	12/6/2023	29	2023 Senate Journal 2417 & 2023 Senate Journal 2594

[2] In contrast, other states do include temporal requirements, and have required prompt presentment of passed legislation based on the textual support for a presentment deadline. See, e.g., Ohio Const, art 2, § 15(E), requiring that bills "be presented forthwith to the governor[.]"; *Brewer*, 222 Ariz at 241 (distinguishing language in Arizona's Constitution from those that "say nothing about the timing of presentment").

280	11/7/2023	12/6/2023	29	2023 Senate Journal 2420 & 2023 Senate Journal 2594
133	11/9/2023	12/6/2023	27	2023 Senate Journal 2513 & 2023 Senate Journal 2594
148	11/9/2023	12/6/2023	27	2023 Senate Journal 2562 & 2023 Senate Journal 2594
149	11/9/2023	12/6/2023	27	2023 Senate Journal 2563 & 2023 Senate Journal 2594
418	11/9/2023	12/6/2023	27	2023 Senate Journal 2515 & 2023 Senate Journal 2594
421	11/9/2023	12/6/2023	27	2023 Senate Journal 2515 & 2023 Senate Journal 2594
425	11/9/2023	12/6/2023	27	2023 Senate Journal 2515 & 2023 Senate Journal 2594
426	11/9/2023	12/6/2023	27	2023 Senate Journal 2515 & 2023 Senate Journal 2594
428	11/9/2023	12/6/2023	27	2023 Senate Journal 2516 & 2023 Senate Journal 2594
429	11/9/2023	12/6/2023	27	2023 Senate Journal 2516 & 2023 Senate Journal 2594
432	11/9/2023	12/6/2023	27	2023 Senate Journal 2516 & 2023 Senate Journal 2594
435	11/9/2023	12/6/2023	27	2023 Senate Journal 2516 & 2023 Senate Journal 2594
436	11/9/2023	12/6/2023	27	2023 Senate Journal 2516 & 2023 Senate Journal 2594
464	11/9/2023	12/6/2023	27	2023 Senate Journal 2516 & 2023 Senate Journal 2594
466	11/9/2023	12/6/2023	27	2023 Senate Journal 2564 & 2023 Senate Journal 2594
613	11/9/2023	12/6/2023	27	2023 Senate Journal 2519 & 2023 Senate Journal 2594
614	11/9/2023	12/6/2023	27	2023 Senate Journal 2521 & 2023 Senate Journal 2594
615	11/9/2023	12/6/2023	27	2023 Senate Journal 2522 & 2023 Senate Journal 2594
616	11/9/2023	12/6/2023	27	2023 Senate Journal 2522 & 2023 Senate Journal 2594

III. THE 102ND LEGISLATURE

The 102nd Michigan Legislature's first session convened at noon on January 11, 2023. 2023 Journal of the House 1 (No. 1, January 11, 2023). That same day, the 102nd Legislature adopted the Joint Rules of the Senate and the House of Representatives applicable to the 102nd Legislature ("Joint Rules"). *Id.* at 26-30. Joint Rule 16 provided, as relevant, that "every bill passed . . . by both houses and returned to the house of origin shall forthwith be enrolled and signed by the Secretary of the Senate and the Clerk of the House of Representatives. Enrolled bills shall be presented to the Governor . . . ." *Id.* It also provided that "[i]f the house having last passed the bill . . . requests its return and such request is granted or a motion is made in the house of origin to amend errors in the bill . . . or to give the bill immediate effect, the enrollment printing shall not occur." *Id.* (emphasis added). These joint rules applied to the 102nd Legislature and its sessions held in 2023 and 2024. The 103rd Legislature has yet to agree on Joint Rules.

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

The first regular session of the 102nd Legislature finally adjourned on November 14, 2023. 2023 House Journal 2549 (No. 98, November 14, 2023). With 2023 being an odd-numbered year, any business, bill, or joint resolution pending at adjournment of the first regular session in 2023 carried over with the same status to the next regular session in 2024. See Const 1963, art 4, § 13.

The second regular session of the 102nd Legislature convened at noon on January 10, 2024. 2024 House Journal 1 (No. 1, January 10, 2024). Toward the end of the 102nd Legislature's second session, several bills stalled in the House.[3] Many bills considered were never passed. And many bills that passed did so at the last minute. The House Journal indicates that several bills, including the nine bills at issue here, were "referred to the Clerk [of the 102nd House] for enrollment[,] printing and presentation to the Governor on December 23, 2024." 2024 House Journal 2080-2092, 2094 (No. 89, December 31, 2024).

On December 30, 2024, the Senate adjourned without day. 2024 Senate Journal 2278 (No. 111, December 30, 2024). The next day, the Speaker Pro Tempore of the House declared the House adjourned without day given the lack of a quorum. 2024 House Journal 2095 (No. 89, December 31, 2024). As of that time, the 102nd Legislature had failed to send several bills that had passed both bodies of the legislature to the Governor for consideration. And with the 102nd Legislature finally adjourned, and 2024 being an even numbered year, "any business, bill or joint resolution" pending at adjournment of the second regular session in 2024 failed to carry over to the first session of the 103rd Legislature in 2025. See Const 1963, art 4, § 13.

---

[3] The end of the 102nd Legislature's term involved a "lame-duck" Democratic majority in the House for most of November and December 2024, which was marked by "infighting and finger-pointing in the Democratic caucus" and, ultimately, resulted in the failure to pass or present the bills. See Lobo, *Michigan Democrats anger allies, advocates as lame duck ends*, Detroit Free Press (December 23, 2024) <https://www.freep.com/story/news/politics/2024/12/23/michigan-house-democrats-lame-duck-adjourn/77105539007/> (last visited December 3, 2025).

IV. THE 103RD LEGISLATURE

During the morning of January 8, 2025, the Clerk of the 102nd House ("102nd Clerk"), who had been directed by the 102nd House to present the bills on December 23, 2024, sent several bills to the Governor. Starr Aff. ¶¶ 3-6, **Ex. 6**. This was done before the 103rd Legislature had convened, organized, and elected a new speaker and clerk. *Id.* ¶¶ 4-6; see also 2024 House Journal 2098 (No. 90, December 31, 2024) (bills sent "to the Governor on Wednesday, January 8" were "[d]elivered to the Office of the Governor prior to the convening of the 103rd Legislature").

The first session of the 103rd Legislature then convened at noon on January 8, 2025. 2025 House Journal 1 (No. 1, January 8, 2025). At that time, "there remained nine (9) outstanding bills passed by the 102nd Michigan Legislature that had not yet been sent to the governor." Starr Aff. ¶ 6. The members-elect of the House were called to order by the 102nd Clerk. *Id.* And a short time later, Scott Starr was elected as the new clerk of the newly organized 103rd House.

"No bills passed during the 102nd Michigan Legislature were presented by the House" to "the governor after the 103rd Michigan Legislature convened." Starr Aff. ¶ 7.

V. THIS LAWSUIT AND ITS PROCEDURAL HISTORY

After the 103rd Legislature convened, questions arose about the nine bills left unpresented by the 102nd Legislature. The 103rd House was conducting "a very thorough legal review" of its abilities or obligations to present these bills." See Durnbaugh, *Despite Senate Lawsuit, Hall Hopeful Deal On Minimum Wage, Earned Sick Leave Possible Before Feb. 21*, Gongwer News Service (February 6, 2025), **Ex. 7**. But while that review was ongoing, and after recently waiting 84 days to present a set of bills in its possession, the Senate authorized litigation to "immediately" force the 103rd House to present the bills on January 22, 2025—just two weeks after the 103rd House convened. Senate Resolution No. 3, **Ex. 8**

RECEIVED by MSC 12/8/2025 3:54:29 PM

The Senate filed its Complaint on February 3, 2025, naming the "Michigan House of Representatives, Michigan House Speaker Matt Hall,[4] and Michigan House Clerk Scott Starr" as Defendants. Compl., **Ex. 9**. The Complaint included three causes of action: (1) a request for a writ of mandamus compelling "Defendants" to "immediately present the nine bills to the Governor"; (2) a request for a declaration "that Plaintiffs have a constitutional right to presentment of these nine bills and Defendants have [] a constitutional duty to present them"; and (3) a "permanent injunction enjoining Defendants from failing to present the nine bills to the Governor[.]" *Id.* ¶¶ 40, 44, 48, p 17. The Senate also moved for summary disposition on its own claims that same day.[5] Senate's Mot. Summ. Disp., **Ex. 10**. The court then set a hearing on the Senate's motion for summary disposition for February 24, 2025.

At the hearing, the court repeatedly recognized that "there isn't a time limit or a time put into the language of the constitutional provision" that requires presentment by a certain date. 2/24/25 Hr'g Tr. at 55:11-14, **Ex. 13**; *id.* at 55:24-25 ("[W]e have the issue of the fact that there is no time limit within it."). As the court stated, "we're talking about words that don't exist, right? We all agree that Section 33 doesn't have a time [requirement] – it doesn't have who, and it doesn't have what, correct?" *Id.* at 56:16-19; see also *id.* at 56:22-57:6 ("[I]t doesn't say specifically who" must present and "it doesn't have a time requirement."). But the court expressed concerns that if it declined to take action and order presentment, it would turn Article 4, Section 33 into "a ghost provision of the Constitution that has absolutely no teeth[.]" *Id.* at 23:16-20; *id.* at 53:17-19 ("[H]ow do we make sure that this constitutional provision isn't rendered meaningless?"). To add

[4] Speaker Hall was never properly served, and was immune from civil process regardless. He was dismissed on that basis, and the Senate did not appeal that ruling.

[5] The House also moved for summary disposition before the Court of Claims, and responded to the Senate's motion for summary disposition. See House's Mot. Summ. Disp., **Ex. 11**; House's Response to Mot. Summ. Disp., **Ex. 12**.

RECEIVED by MSC 12/8/2025 3:54:29 PM

"teeth" into the constitutional language, the Court questioned, for example, whether it would "have the authority to read a reasonableness requirement into the Constitution that's silent as to time[.]" *Id.* at 28:1-3. And after discussing potential "problems with reading a reasonableness requirement into" the Constitution, it asked if that "maybe militate[s] to an interpretation that says it should be immediate, there shouldn't be any delay[.]" *Id.* at 55:14-18.

VI. THE COURT OF CLAIMS' OPINION

Ultimately, the court denied the Senate's request for a writ of mandamus and injunctive relief, but granted the Senate's request for a declaratory judgment. Court of Claims Op. at 19.

The court first found that both the Senate and its majority leader have standing to sue. Court of Claims Op. at 7-9. Next, the court turned to justiciability and the political question doctrine. The court recognized that "Michigan courts have declined to interpret and enforce internal rules of the Legislature in the past," and that the procedures of presentment are "a legislative function in which the Court will not interfere." *Id.* at 2. The court also stated that "the political nature of this dispute cannot be ignored. The lawsuit was filed by a body within our bicameral Legislature, alleging a failure of the other body to carry out a legislative process." *Id.* at 18. Still, the court found that the "political-question doctrine does not counsel against the Court fulfilling its functions here." *Id.* at 10. Thus, without addressing the House's argument that the Senate's claims were not ripe, the court proceeded to the merits of the Senate's claims.

There, the court denied the Senate's request for a writ of mandamus that would compel the House to present the bills. It stated that "[w]hile the language of Section 33 leaves no question that a bill passed by the Legislature must be presented to the Governor, it does not provide sufficient detail to be a ministerial task warranting a writ of mandamus." Court of Claims Op. at 14, 15.

RECEIVED by MSC 12/8/2025 3:54:29 PM

As to the Senate's request for injunctive relief, the court stated that "the political nature of this dispute cannot be ignored[,]" and that the "Court cannot say that the hardships fall disproportionately on one party vis-à-vis the other, or the interests of third persons and of the public are served by injunctive relief." Court of Claims Op. at 18. "Moreover, the injunction plaintiffs seek is an order that 'prohibits Defendants from failing to present the nine bills.' Such a negative command would be impractical, if not impossible, to enforce." *Id.*

After denying the Senate's requests for mandamus and injunctive relief, the court "enter[ed] a judgment declaring that Article 4, § 33, of Michigan's 1963 Constitution requires that all bills passed by the Legislature be presented to the Governor in sufficient time to allow her 14 days to review the bills prior to the earliest date that the legislation may take effect under Article 4, § 27, of Michigan's 1963 Constitution. This includes the nine bills that are currently under defendants' control." Court of Claims Op. at 19. In doing so, the court interpreted Article 4, Section 33 to "require[] presentment of all bills passed by both legislative houses[.]" *Id.* at 12. It held that this requirement extends to a new legislature who had no involvement in the passage of the bills at issue. *Id.* at 14. And after stating that the Constitution includes no "time requirement" for presentment, the court effectively created one, stating the bills must "be presented to the Governor with sufficient time to allow her 14 days for review before the end-date of the 90-day period on which the bills could take effect." *Id.* at 17.

VII. LEGISLATIVE DEVELOPMENTS FOLLOWING THE COURT OF CLAIMS' OPINION

Following the Court of Claims' Opinion, the 103rd House passed a resolution on March 12, 2025. See House Resolution No. 41, **Ex. 14**. The resolution set forth the 103rd House's position that "any business pending at the final adjournment of a regular session held in an even-numbered year does not carry over to the next regular session of a new Legislature[,]" and that "[t]he business

RECEIVED by MSC 12/8/2025 3:54:29 PM

of a Legislature includes the presentation to the Governor of enrolled bills that have passed both houses of that Legislature[.]" *Id.* at 2. The resolution also explained that "[n]othing in the Standing Rules" of the 103rd Legislature permits the 103rd House "or any other officer of" the 103rd House "to conduct the business of" the 102nd Legislature "by presenting to the Governor a bill that passed both houses of a prior Legislature but that has not passed both houses of" the 103rd Legislature. *Id.* at 3-4. "Given the accountability of this House of Representatives to the voters who elected its members," the 103rd House found it "imperative that its rules of procedure" are "administered in a manner that reflects the will of a majority of the members of this House of Representatives[.]" *Id.* at 4. It thus directed the 103rd House Clerk to "only present to the Governor enrolled House bills finally passed by both houses of the One Hundred Third Legislature[.]" *Id.*

Five days later, the Senate demanded that the bills either be presented to the Governor, or "to the Secretary of the Senate, who will present them to the Governor." Brinks Letter, **Ex. 15**. The next day, the Senate introduced Senate Resolution No. 20. This Resolution amended the Standing Rules of the Senate to provide that "[i]f a House bill has passed both houses, if the House previously enrolled that bill, and if the House provides that bill to the Senate for the purpose of presentation to the Governor, the Secretary of the Senate shall present the enrolled bill to the Governor and obtain a receipt verifying the exact date and time the bill was deposited in the Executive Office." Senate Resolution No. 20, **Ex. 16**.

VIII. APPELLATE PROCEEDINGS

The House then filed a Claim of Appeal as to the Court of Claims' declaratory ruling, and the Senate filed a Cross-Appeal as to the Court of Claims' mandamus and injunction rulings. The Senate also filed an Emergency Bypass Application to this Court, which urged this Court to hear

RECEIVED by MSC 12/8/2025 3:54:29 PM

the case because "[i]t is a virtual certainty that any decision by the Court of Appeals will be appealed to this Court by the losing party." Senate's Bypass Application at 12, **Ex. 3**.

In the meantime, the Senate also moved to "enforce" the Court of Claims' declaratory judgment and compel presentment. The Court of Claims denied that motion and stayed its ruling "until the appellate courts reach a final resolution." Stay Order at 2, **Ex. 4**. When doing so, the court stated that "[t]he issues in this case are extremely important and affect every resident of this state. The parties have diligently sought appellate review of this Court's order and a thoroughly considered opinion from the state's top court would be to everyone's benefit." *Id.*

On April 2, this Court denied the Senate's Emergency Bypass Application. The Court was "not persuaded that the questions presented should be reviewed . . . before consideration by the Court of Appeals." Bypass Denial, **Ex. 17**. This Court directed the Court of Appeals "to expedite its consideration and resolution of this case." *Id.*

A. <u>The Majority Opinion</u>

The Court of Appeals did so. On October 27, 2025, the Court of Appeals issued a published opinion, which Judge Murray dissented from in part. The court framed the issues in the case as "whether: (1) plaintiffs had standing; (2) the issue was a nonjusticiable political question; (3) our Constitution mandated that defendants present the bills to the Governor; and (4) the Court of Claims had authority to enter a declaratory judgment or to issue a writ of mandamus or permanent injunction." Majority Op. at 2, **Ex. 1**.

The Opinion first found that the Senate and its Majority Leader have standing because the House's "decision to not present the bills, when the legislative rules establish it was their burden to do so, interfered with their own, unique right to fulfill their duty as legislators. This was a special

RECEIVED by MSC 12/8/2025 3:54:29 PM

injury different from the public at large." Majority Op. at 4. It also found that the Senate's votes "were nullified" by the House's "refusal to present the bills to the Governor." *Id.*

Turning to justiciability, the court found that the political question doctrine did not bar its consideration of the case. Majority Op. at 4-6. It stated that the "issue in this case is the *interpretation* of Const 1963, art 4, § 33." *Id.* at 5 (emphasis in original). Because Section 33 did not expressly "delegate the resolution of a dispute arising under its language to the Legislature," the court found "the interpretation . . . falls to the judiciary." *Id.*

Third, the court interpreted Article 4, Section 33's language, which provides that "[e]very bill passed by the legislature shall be presented to the governor before it becomes law[.]" Const 1963, art 4, § 33. The court stated that the parties "provide different interpretations of what the word 'shall' modifies." Majority Op. at 7. "Plaintiffs contend the word applies to the language that immediately follows: 'be presented to the governor[,]' while defendants contend it applies to the final part of the sentence: 'before it becomes law[.]'" *Id.* "In this respect, plaintiffs contend . . . this provision means that every bill passed by the Legislature <u>must</u> be presented to the governor." *Id.* at 7-8 (emphasis in original). "Defendants, on the other hand, argue" this "merely addresses the prerequisite that, before a bill can become law, it must be presented to the Governor for approval." *Id.* at 8. The court stated that "defendants' interpretation has arguable merit standing alone[.]" *Id.* But relying on a "hypothetical scenario" discussed at the Constitutional Convention, which was "predominately concerned with the time in which the Governor would have to consider each bill" rather than whether every bill must be presented, the Court agreed with the Senate's interpretation. *Id.* at 8, 8 n 8. It concluded that "Const 1963, art 4, § 33, clearly imposes the mandatory duty of presentment on the Legislature for '[e]very bill passed by the legislature[.]'" *Id.* at 9-10 (alterations in original).

RECEIVED by MSC 12/8/2025 3:54:29 PM

Next, the court rejected the House's argument that any duty to present bills rests solely with the legislature that voted on and passed the bills. The House had cited to Article 4, Section 13, which makes clear that "[a]ny business, bill or joint resolution" that is pending at the end of an even-numbered year does not "carry over" to a new legislature. And it argued that requiring a new legislature to present a prior legislature's bills would require that new legislature to "carry out the business of a prior legislature." House Appeal Br. at 3; House Resolution No. 41, at 2 ("The business of a Legislature includes the presentation to the Governor of enrolled bills that have passed both houses of that Legislature[.]"). The court stated that "this provision concerns pending bills, not passed bills . . . which are the bills at issue in the case." Majority Op. at 9 (emphasis in original). Thus, it found that Article 4, Section 13 did not impact the analysis. The court did not address the House's position that presentation involved the prior legislature's pending "business."

Finally, the Court of Appeals agreed "there is no express deadline for presentment provided in the constitutional language" of Article 4, Section 33. Majority Op. at 9. Even without an "express deadline," it found the "discourse at the 1961 Constitutional Convention suggests that presentment is the next, immediate step after a bill is passed by both chambers." Majority Op. at 10 (emphasis added). And it found the House had violated this provision because it "failed to present the bills despite being able to do so." *Id.* at 9.

After making these findings, the court held that the "clear legal duty of presentment rests with the Legislature as a whole, and plaintiffs have a right to have defendants perform that duty because defendants' actions have rendered plaintiffs unable to perform their duty themselves." Majority Op. at 11. It then found this duty was ministerial, even though "the specific individual designated to act on behalf of the Legislature is not defined" and "the provision does not provide a time frame for performance." *Id.* at 11-12. Thus, it found the mandamus standards were satisfied.

RECEIVED by MSC 12/8/2025 3:54:29 PM

From there, the court "recognize[d] that defendants raise separation-of-powers concerns with respect to the judiciary compelling legislative action in this case." *Id.* at 13; see also *id.* at 13 n 14 ("Defendants argue that any remedy in this case is not for the judiciary to impose; that this is a matter concerning a legislative process that must be resolved by the Legislature."). But citing to *Bauserman*, the court stated that "a right must have a remedy" and that "the requirement that rights must have remedies . . . would be violated if resolution were left to the Legislature." *Id.* at 12-14, n 14. Thus, the court "conclude[d] that the Court of Claims erred in denying plaintiffs' request for a writ of mandamus." *Id.* at 13. And it remanded the case to the Court of Claims "for issuance of a writ of mandamus ordering defendants to present the bills to the Governor." *Id.*

Because Section 33 "does not indicate a specific time" for presentment, the court stated that "the deadline for presentment may be determined in the Court of Claims's discretion." *Id.*

B. The Dissent

Judge Murray issued a separate opinion concurring in part, and dissenting in part. He agreed "the Legislature has a clear constitutional duty to present bills to the Governor that were passed by both houses[.]" Dissenting Op. at 1. But he noted that "once the two-year Legislature ends, it has no further power to work on bills or other unfinished business." *Id.* at 2, citing Const 1963, art 4, § 13. "Although there is a carryover provision for business or bills pending at final adjournment in an odd-numbered year, there isn't a provision allowing unfinished business to carryover from an even-numbered year." *Id.* And "[p]roviding that the Legislature can continue business at the end of one calendar year, but not allowing it to do so at the end of another, should be treated as having a meaning." *Id.* Thus, Judge Murray explained, "it seems apparent" that bills must be presented before the legislature that passed the bills adjourns. *Id.* at 3-4. Because the 102nd Legislature failed to do so, and the "time" for presentment had passed, "imposing any time frames

RECEIVED by MSC 12/8/2025 3:54:29 PM

now would be inconsistent with the provisions of Const 1963, art 4, §§ 3, 13, and 33." *Id.* at 4-5. He would have held "there is no remedy that the trial court can constitutionally impose." *Id.*

STANDARD OF REVIEW

Whether to grant leave to appeal is within this Court's discretion. Under MCR 7.305(B) applications for leave to appeal must show that the case meets certain criteria necessary for this Court's review. These criteria include whether "the issue involves a substantial question about the validity of a legislative act"; "the issue has significant public interest and the case is one by or against the state or one of its agencies or subdivisions"; "the issue involves a legal principle of major significance to the state's jurisprudence"; "the decision [of the Court of Appeals] is clearly erroneous and will cause material injustice"; or "the decision conflicts with a Supreme Court decision[.]" See MCR 7.305(B)(1), (2), (3), (5)(a), (5)(b).

Should this Court grant leave, the Court of Claims' denial of the Senate's request for a writ of mandamus will be reviewed for abuse of discretion. *Warren City Council v Buffa*, 346 Mich App 528, 539; 12 NW3d 681 (2023).[6] The "constitutional issues" will be reviewed de novo. *Co Rd Ass'n of Mich v Governor*, 474 Mich 11, 14; 705 NW2d 680 (2005).

[6] Although the ultimate decision on a writ of mandamus is reviewed for abuse of discretion, the "first two elements required for issuance of a writ of mandamus – that the defendants have a clear legal duty to perform and the plaintiffs have a clear legal right to performance of the requested act – are reviewed de novo as a question of law." *Rental Props Owners Ass'n v Kent Co Treasurer*, 308 Mich App 498, 518; 866 NW2d 817 (2014). The Court of Claims' denial of the writ centered on the third element, finding that any duty to present the bills was not ministerial. Court of Claims Op. at 14 ("Mandamus is denied because the duty to present is not ministerial.").

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

ARGUMENT

I. The Issues Involve the Validity of Legislative Actions, are of Significant Public Interest and Major Significance to the State's Jurisprudence, and Involve a Ruling Inconsistent with this Court's Precedents.

The 103rd House's application for leave to appeal meets several grounds specified in MCR 7.305(B), and it should be granted. Indeed, the Senate has already urged this Court to grant leave to consider these issues. See Emergency Bypass Application, **Ex. 3** (stating that the standards under MCR 7.305(B)(1), (2), and (3) are satisfied). And the Court of Claims has stated that "a thoroughly considered opinion from the state's top court would be to everyone's benefit." Stay Order at 2, **Ex. 4**.

First, the Senate's Complaint, which the caption frames as an "Urgent State Constitutional Matter," centers on its claim that the 103rd House failed to fulfill its "constitutional duty to present to the Governor nine bills that passed the Legislature in 2024." Compl. ¶ 1, **Ex. 9**. And it sought relief that would "enjoin[] Defendants from failing to present the nine bills to the Governor." *Id.* ¶ 47. Thus, the case involves claims that the 103rd House's act of failing to present the bills is invalid and unconstitutional. See Senate Bypass Application at 12 ("the issues involve a substantial question about the validity of legislative actions"). MCR 7.305(B)(1) is therefore satisfied.

Second, the issues are "of significant public interest" and are brought by one arm of the state against another. See MCR 7.305(B)(2); *Courser v Mich House of Representatives*, 831 F Appx 161, 171 (CA 6, 2020) ("the House of Representatives is an arm of the State"). They also involve legal principles of major significance to the state's jurisprudence. See MCR 7.305(B)(3). Again, the Senate has recognized as much. Bypass Application at 12. And for good reason. The Court of Appeals' ruling implicates "separation-of-powers concerns with respect to the judiciary compelling legislative action in this case," Majority Op. at 13, in what appears to be the first ever

RECEIVED by MSC 12/8/2025 3:54:29 PM

instance of a Michigan court issuing a writ of mandamus against the Michigan legislature. It involves novel issues of justiciability, in what appears to be the first ever instance of one body of the Michigan legislature suing the other body of the Michigan legislature over issues concerning legislative processes. And the court's ruling hinged on an issue of first impression when interpreting Article 4, Section 33—which, the court acknowledged, was subject to two reasonable interpretations. *Id.* at 7-8.

Third, the court "recognize[d] that defendants raise separation-of-powers concerns with respect to the judiciary compelling legislative action in this case." *Id.* at 13; see also *id.* at 13 n 14 ("Defendants argue that any remedy in this case is not for the judiciary to impose; that this is a matter concerning a legislative process that must be resolved by the Legislature."). But citing to *Bauserman*, the court stated that "a right must have a remedy" and that "the requirement that rights must have remedies . . . would be violated if resolution were left to the Legislature." *Id.* at 12-14, n 14. Judge Murray would have held that "there is no remedy that the trial court can constitutionally impose." Dissenting Op. at 5.

Judge Murray was correct. *Bauserman*'s discussion of monetary remedies for the state's violation of the due process clause did not categorically hold that the judiciary has authority or obligation to impose a remedy for every asserted constitutional violation. Indeed, Justice Welch concurred in that opinion to urge the majority to expressly confine its holding to "claims arising from a right violation of a right enumerated in Michigan's Declaration of Rights, Const 1963, art 1." 509 Mich at 713 (WELCH, J., concurring). The majority "decline[d] to opine" on that issue. *Id.* at 708 n 13. But in doing so, the majority expressly recognized that "there may be nonjusticiable questions courts cannot decide" and grant relief for. *Id.* at 693 n 3. Nor did *Bauserman* disturb past rulings from this Court, which have made clear that a writ of mandamus cannot issue against the

Governor (and, thus, courts lack authority to grant a remedy in that instance), and which have stated that "no court can compel the Legislature to . . . to take any action whatsoever, though the duty to take it be made ever so clear by the constitution or the laws." *Sutherland*, 29 Mich at 326. (emphasis added). Thus, the relief granted by the Court of Appeals, which directed that a writ of mandamus issue to compel the 103rd House to take action, also conflicts with this Court's precedent, and satisfies MCR 7.305(B)(5)(b).

II. The Court of Appeals' Decision is Clearly Erroneous and Will Cause Material Injustice.

This Court should also grant leave to correct several errors in the Court of Appeals' opinion that intrude on the legislature's authority and will cause material injustice. See MCR 7.305(B)(5)(a).

A. The Court of Appeals Erred In Finding This Case Is Justiciable.

As a starting point, the Court of Appeals erred in finding this dispute between two bodies within the legislature, concerning a legislative process, is justiciable and does not implicate the political question doctrine. This case appears to be the first time in Michigan's nearly 200-year history that one body of the legislature has asked a court to intervene in a dispute with the other body of the legislature. That is not due to a lack of disputes between the chambers over the years. Rather, it's because "[c]ourts are reluctant to hear disputes that may interfere with the separation of powers between the branches of government." *House Speaker v State Admin Bd*, 441 Mich 547, 555; 495 NW2d 539 (1993) ("*Dodak*"); see also, e.g., *League of Women Voters of Mich v Secretary of State*, 506 Mich 561, 607; 957 NW2d 731 (2020) (CLEMENT, J., concurring in part and dissenting in part) (application of the political question doctrine "may help explain why the Legislature does not provide a single example of a legislative body maintaining a declaratory-judgment action against an executive officer").

RECEIVED by MSC 12/8/2025 3:54:29 PM

This Court applies a "three-part test to determine whether" an issue is "a nonjusticiable political question." *Makowski v Governor*, 495 Mich 465, 472; 852 NW2d 61 (2014). This is a "prudential test" that "ultimately derived from the United States Supreme Court's decision in" *Baker v Carr*, 369 US 186; 82 S Ct 691; 7 L Ed 2d 663 (1962). See *Pego v Karamo*, __ Mich App __, (2024) (Docket No. 371299); slip op at 10-11. The test asks (i) "Does the issue involve resolution of questions committed by the text of the Constitution to a coordinate branch of Government"?; (ii) "Would resolution of the question demand that a court move beyond areas of judicial expertise"?; and (iii) "Do prudential considerations for maintaining respect between the three branches counsel against judicial intervention?" *Id.* at 11 (cleaned up). Only one factor needs to support the doctrine's application. *Baker*, 369 US at 217; *Gilbert*, 87 NJ at 282 ("To justify dismissal based on nonjusticiability, one of these criteria must be inextricable from the facts and circumstances of the case in question.").

1. ***This case involves resolution of questions committed to the legislature.***

In addressing the first factor, the Court of Appeals confined the "issue in this case" solely to "the interpretation of Const 1963, art 4, § 33[.]" Majority Op. at 5 (emphasis in original). "Because Const 1963, art 4, § 33 does not" expressly "delegate the resolution of a dispute arising under its language to the Legislature," the court found "this necessarily means that the interpretation of Const 1963, art 4, § 33 falls to the judiciary." *Id.*

Respectfully, the court erred in doing so. Courts interpreting this factor have "reject[ed] the notion that the test of textual commitment requires [] an explicit statement in the Constitution committing the issue to" another branch. *El-Shifa Pharm Indus Co v United States*, 378 F3d 1346, 1362 (CA Fed, 2004). Indeed, "there are few, if any, explicit and unequivocal instances in the Constitution of this sort of textual commitment." *Nixon v United States*, 506 US 224, 240; 113 S

RECEIVED by MSC 12/8/2025 3:54:29 PM

Ct 732; 122 L Ed 2d 1 (1993) (WHITE, J., concurring). "The courts therefore are usually left to infer the presence of a political question from the text and structure of the Constitution." *Id.*

The text and structure of Article 4, Section 33 support the political question doctrine's application here. Section 33 centers on a legislative process described under the Article of the Constitution titled "Legislative Branch." Article 4, Section 1 makes clear that, "except to the extent limited or abrogated by article IV, section 6 or article V, section, the legislative power of the State of Michigan is vested in a senate and a house of representatives." Const 1963, art 4, § 1 (emphasis added). Article 4, Section 16 provides that "[e]ach house, except as otherwise provided in this constitution, shall . . . determine the rules of its proceedings." Const 1963, art 4, § 16. And this Court has recognized that our "Constitution does not grant authority to the Legislature, but instead limits the Legislature's plenary authority." *Taxpayers of Mich Against Casinos v State*, 471 Mich 306, 333; 685 NW2d 221 (2004) (emphasis in original); see also *id.* ("The legislative power, under the Constitution of a state, is as broad, comprehensive, absolute, and unlimited as that of the Parliament of England, subject only to the Constitution of the United States and the restraints and limitations imposed by the people upon such power by the Constitution of the state itself.").

Thus, absent language to the contrary, Michigan's Constitution commits issues concerning the legislative process to the legislature, and not the courts. Const 1963, art 3, § 2 ("No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.").[7] That's why, in a similar challenge to compel the presentation of bills that had been held for 18 months, the New Jersey Supreme Court concluded

[7] Elsewhere, for instance, the Constitution makes clear when providing for judicial enforcement of legislative duties by specific deadlines. Const 1963, art 4 § 10(5) ("If legislation implementing this section is not enacted by December 31, 2023, a resident of this state may initiate a legal action against the legislature and the governor in the Michigan supreme court to enforce the requirements of this section."). Article 4, Section 33 includes no such deadline or enforcement mechanism.

RECEIVED by MSC 12/8/2025 3:54:29 PM

that the case was nonjusticiable. *Gilbert*, 87 NJ at 288. There, members of the Senate and the General Assembly challenged the legislature's practice of withholding passed legislation from the governor. *Id.* at 278-79. Similar to this case, they argued that, because "the Constitution does not expressly permit discretion regarding the timing of the presentment of bills, neither the Governor nor the Legislature may forestall presentment." *Id.* at 280. The defendants argued, in contrast, "that questions concerning the manner and time in which passed bills are presented to the Governor are essential to the workings of the legislative process[.]" *Id.* Thus, "absent any express constitutional or statutory criteria regulating the procedure," they claimed the "case presents a nonjusticiable political question." *Id.*

New Jersey's Supreme Court looked to the same test that Michigan courts do, and agreed with the defendants. *Gilbert*, 87 NJ at 282. The court found that "the first criterion of *Baker v Carr* provides the basis for our determination that plaintiffs' complaint presents a nonjusticiable political question." *Id.* Just like Michigan's, New Jersey's Constitution did "not [] grant," but instead provides a "limitation of legislative power," meaning "the Legislature is invested with all powers not constitutionally forbidden." *Id.* at 282-83. Just like Michigan's, New Jersey's Constitution "grants each house of the Legislature the power 'to determine the rules of its proceedings[.]'" *Id.* And just like Michigan's, the New Jersey Constitution's presentment clause did not "limit[] the time within which presentment may be accomplished." *Id.* As *Gilbert* explained, "[i]n the absence of constitutional or statutory standards, it is not the function of this Court to substitute its judgment for that of the Legislature with respect to the rules it has adopted or the procedures followed[.]" *Id.*

That is the case here, too. By failing to include any "constitutional or statutory standards" governing presentment, the issue was left to the legislature. Const 1963, art 4, § 1; *Taxpayers of*

RECEIVED by MSC 12/8/2025 3:54:29 PM

Mich Against Casinos, 471 Mich at 333. And it is not the judiciary's role "to substitute its judgment for that of the Legislature with respect to the rules it has adopted or the procedures followed[.]" *Gilbert*, 87 NJ at 282.

Still, without explaining why, the Court of Appeals rejected *Gilbert*'s analysis. Majority Op. at 5-6. Instead, it noted that the Arizona Supreme Court "held that the issue of presentment was justiciable" in *Brewer*, and found "*Brewer*'s analysis more persuasive than *Gilbert*'s."[8] *Id.* at 6. But notably, Arizona's Constitution included the exact "constitutional or statutory standards" on presentment that are lacking in Michigan's and New Jersey's constitutions. Indeed, *Brewer* went out of its way to distinguish Arizona's constitution from the "[m]any state constitutions" that "say nothing about the timing of presentment," noting that "Arizona's constitution, in contrast, specifies that measures shall be presented 'when finally passed.'" 222 Ariz at 241. Thus, the reasoning underlying *Brewer*'s justiciability analysis—that Arizona's constitution "does not by its terms commit to the Legislature the decision on the timing of presentment of finally passed bills"—is inapplicable. *Id.* at 238. Rather, as in *Gilbert*, Michigan's Constitution is silent on the matter. And as a Constitution that does not grant, but instead limits legislative authority, this issue concerning the legislative process should have been left to the legislature. *Taxpayers of Mich Against Casinos*, 471 Mich at 333 (the "Constitution's silence regarding the form of approval" means "the form of the approval is within the discretion of the Legislature").

2. ***Intervening Moves Beyond Areas of Judicial Expertise and Conflicts With Prudential Considerations.***

The Court of Appeals stated that the second two factors—whether resolving the case

[8] The Court of Appeals did not address *Brewer*'s ultimate holding, which "decline[d] to grant the relief the Governor requested" because the "case involves a good-faith dispute between the political branches of government" and the governor "unnecessarily involved the Court further in this dispute among the political branches." 222 Ariz at 242-43.

RECEIVED by MSC 12/8/2025 3:54:29 PM

requires the court to "move beyond areas of judicial expertise," and whether "prudential considerations . . . counsel against judicial intervention"—support justiciability because, in the court's view, resolving the case "does not require [it] to stray beyond the judicial expertise of constitutional interpretation." Majority Op. at 6.

The House does not dispute that constitutional interpretation is a judicial function. But determining whether the political question doctrine applies is itself a threshold "delicate exercise in constitutional interpretation." *Baker*, 369 US at 211. And here, the Senate asked the court to not only interpret the Constitution, but to then "order Defendants to immediately present the nine bills to the Governor." Compl., p 17, **Ex. 9**.

The Court of Appeals did just that. After interpreting Article 4, Section 33's text, it took the extra step of ordering the 103rd House to attend to the business of a prior legislature, and to present the 102nd Legislature's bills, even though the Constitution's silence on this point shows that "the timing of such presentment is discretionary[.]" *Gilbert*, 87 NJ at 283. Indeed, because Article 4, Section 33 "does not indicate a specific time frame" for presentment, the Court of Appeals' remand order direct the Court of Claims to "determine[]" a "deadline for presentment" in the court's own "discretion." Majority Op. at 14. Effectively, the court went beyond its expertise and shifted a matter of legislative discretion to one of judicial discretion. *Taxpayers of Mich Against Casinos*, 471 Mich at 329 ("It is one of the necessary and fundamental rules of law that the judicial power cannot interfere with the *legitimate discretion* of any other department of government.") (emphasis added); Const 1963, art 3, § 2 (the judiciary cannot "exercise powers properly belonging to" the legislature "except as expressly provided in" the Constitution).

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

B. The Court of Appeals Erred in Finding the Senate and the Majority Leader Have Standing.

The Court of Appeals also erred in determining that both the Senate and the Senate Majority Leader had standing to file the Complaint. As the court recognized, "as it pertains to the Legislature, standing is a . . . 'complicated issue.'" Majority Op. at 3 (quoting *League of Women Voters*, 506 Mich at 592). Individual legislators and the legislature itself "must overcome a heavy burden" to "establish standing" because "'courts are reluctant to hear disputes that may interfere with the separation of powers between the branches of government.'" *League of Women Voters v Secretary of State*, 331 Mich App 156, 172-73; 952 NW2d 491 (2020), quoting *Dodak*, 441 Mich at 555. To meet this heavy burden, they must "establish that they have been deprived of a personal and legally cognizable interest peculiar to them individually, rather than assert a generalized grievance that the law is not being followed." *Id.* at 172; see also *id.* at 173 ("There is no dispute that the Legislature would be a vigorous advocate, as it asserts. The question, however, is whether it has an interest that is distinct from that of the general public.").

The Court of Appeals found the Senate and its majority leader met this burden because the Senate's "votes, which were sufficient to enact a specific legislative act, were nullified by defendants' refusal to present the bills to the Governor." Majority Op. at 4. But as Michigan courts have previously recognized, "once votes which lawmakers are entitled to make have been cast and duly counted, their interest as legislators ceases." *Killeen v Wayne Co Rd Comm*, 137 Mich App 178, 189; 357 NW2d 851 (1984) (cleaned up); *Dodak*, 441 Mich at 558-64. That is what happened here. Senator Brinks' vote counted and the bills passed, marking the end of any special interest she may have asserted. *Killeen*, 137 Mich App at 189. She fulfilled her duty as a legislator serving in the 102nd Legislature. From there, she was in the same position as members of the public who

RECEIVED by MSC 12/8/2025 3:54:29 PM

elected the 103rd Legislature, who may (or may not) wish that the 102nd Clerk presented the bills as directed, and may (or may not) wish that, if presented, the governor would sign them.

Given that the "interest as legislators ceases" once votes are "cast and duly counted," it is no surprise that other courts have framed any asserted harm from lack of presentation as "effectively blocking *executive action* in approving or vetoing" the bills. *Campaign for Fiscal Equity v Marino*, 87 NY2d 235, 238; 661 NE2d 1372 (1995) (emphasis added). Nor is it a surprise that other presentment challenges have been brought *by the executive branch*. See *Brewer*, 222 Ariz at 236. Indeed, the Senate itself seems to recognize that this purported "harm" flows to the executive. Bypass Application at 1, **Ex. 3** ("[T]he Governor will lose her exclusive constitutional authority to veto bills."); *id.* at 30 ("The right to veto legislation is the sole constitutional prerogative of the Governor and it cannot be usurped[.]").

Here, the executive branch has claimed no harm from a lack of presentment. And there is good reason for that. Past attempts to compel presentment by executives have failed. *Brewer*, 222 Ariz at 242-43 (finding that the "case involves a good-faith dispute between the political branches of government," that the governor "unnecessarily involved the Court further in this dispute among the political branches[,]" and "declin[ing] to grant the relief the Governor requested"). And given defects in some bills,[9] it is unclear whether the Governor would sign them upon presentment.

In short, if anyone has a unique interest in bills being presented to the Governor, it is the Governor. But the Governor has not moved to compel presentation. And it is unclear whether she would even sign these bills if presented. Thus, any such harm asserted by the Senate is not only being asserted by the wrong party, but is purely speculative.

[9] For instance, 2024 HB 5818 is tiebarred to 2024 HB 5317. See 2024 HB 5818, enacting § 1. But HB 5317 never passed the House, died with the adjournment of the 102nd Legislature, and can never take effect. 2024 House Journal 17 (No. 3, January 17, 2024). Thus, neither can HB 5818.

RECEIVED by MSC 12/8/2025 3:54:29 PM

C. The Court of Appeals Erred When Holding that Article 4, Section 33 "Clearly Imposes the Mandatory Duty of Presentment on the Legislature for Every Bill Passed by the Legislature."

As to the merits, "[t]o obtain the extraordinary remedy of a writ of mandamus," the Senate bore the burden of "show[ing] that (1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result." *Berry v Garrett*, 316 Mich App 37, 41; 890 NW2d 882 (2016) (cleaned up).

Addressing the first two factors, the Court of Appeals held that Article 4, Section 33 "clearly imposes the mandatory duty of presentment on the Legislature for '[e]very bill passed by the legislature[.]'" Majority Op. at 10. For several reasons, it erred in doing so.

1. ***The Court's Interpretation Conflicts with Constitutional Text, Will Upend Past Practices, and Intrudes on the Legislature's Plenary Authority.***

This Court's "first inquiry, when interpreting constitutional provisions, 'is to determine the text's original meaning to the ratifiers, the people, at the time of ratification.'" *Co Rd Ass'n of Mich v Governor*, 474 Mich at 15 (citation omitted). "This is accomplished by 'applying each term's plain meaning at the time of ratification.'" *Id.*; *People v Tanner*, 496 Mich 199, 223-24; 853 NW2d 653 (2013) ("The first rule a court should follow in ascertaining the meaning of words in a constitution is to give effect to the plain meaning of such words as understood by the people who adopted it.") (citation omitted). The constitutional text about presentation provides, in full:

> Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it." [Const 1963, art 4, § 33.]

The Court of Appeals held that this language "clearly imposes the mandatory duty of presentment on the Legislature for '[e]very bill passed by the legislature[.]'" Majority Op. at 10

(alterations in original). But in doing so, the court omitted the rest of the presentment clause, which states: "Every bill passed by the legislature shall be presented to the governor *before it becomes law*[.]" Const 1963, art 4, § 33 (emphasis added). This Court must give effect to every word of the Constitution. *Koontz v Ameritech Servs*, 466 Mich 304, 312; 645 NW2d 34 (2002). And the only way to do so is to give meaning to the term "before it becomes law," which the Court of Appeals declined to do. By requiring that every bill "passed by the legislature shall be presented to the governor *before it becomes law*," the Constitution is best read to mean only that a bill cannot become law unless presented to the governor. That is, presentment is a precondition to a bill becoming law. It is not an affirmative obligation to present every bill, whether or not the legislature ultimately wishes for it to become law. Indeed, Article 4, Section 33's textual structure is no different than Article 4, Section 26's, which provides that "[e]very bill shall be read three times in each house *before the final passage thereof*." Const 1963, art 4, § 26 (emphasis added). This does not mean that every bill must be read three times whether or not it will receive a floor vote or has any chance at becoming law (nor does that occur). Like Section 33, it means final passage cannot occur until this predicate act is complete, without imposing any duty on anyone to perform an action by a specified time.

In holding otherwise, the court conducted no textual analysis, gave no meaning to the words "before it becomes law," and did not consider which "legislature" is referenced by "bill passed by the legislature." Nor did the court address the fact that past legislatures have not understood Article 4, Section 33 to "clearly impose[] the mandatory duty of presentment on the Legislature for '[e]very bill passed by the legislature[.]'" Majority Op. at 10. As explained above, the Joint Rules have long allowed for the return and vacatur of bills that have passed both chambers. See Rule 16 of the 2023-24 Joint Rules. This has resulted in many bills that have passed

RECEIVED by MSC 12/8/2025 3:54:29 PM

both chambers of the legislature, but have never been presented to the governor. See, e.g., SB 6 of 2023; SB 117 of 2019; HB 4506 of 2007; HB 5468 of 2001; and SB 386 of 1997.[10]

Thus, both the text and past practice make clear that there is no mandatory duty to present each and "every bill passed by the legislature." The Court of Appeals' holding that there is a mandatory duty to present every bill that is ever passed is not only inconsistent with constitutional text, but it will prohibit longstanding legislative practices, and intrude on the legislature's plenary authority. See Const 1963, art 4, § 1.

2. *A Passing Remark at the Constitutional Convention Does Not Change the Analysis.*

The Court of Appeals recognized that the House's textual interpretation "has arguable merit standing alone." Majority Op. at 8. It also noted that "Const 1963, art 4, § 33, does not indicate any time requirement for the duty of presentment it provides." *Id.* at 8 n 8. The analysis should have ended there. See *Gilbert*, 87 NJ at 283 (lack of a deadline means "the timing of such presentment is discretionary"); *Taxpayers of Mich Against Casinos*, 471 Mich at 333 (the "Constitution's silence regarding the form of approval needed for tribal-state gaming compacts" means "the form of the approval is within the discretion of the Legislature"); *Co Rd Ass'n*, 474 Mich at 17 (stating that "the Court should have looked no further than the plain language of art 9, § 9" when determining constitutional meaning instead of "unnecessarily consider[ing] its history and purpose and the circumstances under which it was written and later amended").[11]

---

[10] The legislature's authority to vacate an enrolled bill has long been recognized in Michigan. OAG, 2003-2004, No 7,139 (Oct 2, 2003) (citing Attorney General's advice "relating to the effect to be given legislative requests to return enrolled bills" and to "vacate the action of enrollment").

[11] Indeed, because the Court of Appeals was addressing a mandamus claim, any ambiguity as to the interpretation should have weighed against the writ. *Kennedy v Secretary of State*, __ Mich __; 10 NW3d 632, 635 (2024) (WELCH, J., concurring) ("Although I doubt that the Court of Appeals' statutory interpretation is correct, the statutory ambiguity makes it impossible to conclude that defendant had a *clear* legal duty to remove plaintiff from the ballot.") (emphasis in original).

RECEIVED by MSC 12/8/2025 3:54:29 PM

But rather than give meaning to the lack of a textual deadline, the court looked to a "hypothetical scenario" posed by a delegate at the Constitutional Convention, which was made "[w]hen discussing the amount of time that the Governor would have to consider each bill." Majority Op. at 8, citing 1 Official Record, Constitutional Convention 1961, p 1719. That colloquy made a passing reference to a "duty of secretary of the senate, since it was a senate bill, to present that bill to the governor." *Id.* This "hypothetical" did not involve a secretary presenting a bill from a prior legislature. But based solely on this remark from a single delegate when discussing a "hypothetical scenario" concerning a different topic, the Court of Appeals found a mandatory duty exists to present every bill passed by the legislature, even though the House's textual interpretation "ha[d] arguable merit." Majority Op. at 8.

That was improper. Courts should "turn to the committee debates only in the absence of guidance in the constitutional language." *Regents of Univ of Mich v Michigan*, 395 Mich 52, 60; 235 NW2d 1 (1975); *League of Women Voters*, 508 Mich at 549 n 12 ("[T]he language of the Constitution controls[.]"). And even then, the "debates must be placed in perspective" as they "are individual expressions of concepts as the speakers perceive them (or make an effort to explain them)" rather than "decisive as to the intent of the general convention (or of the people) in adopting the measures." *Id.* Thus, when looking to the Convention, "[t]he primary focus should be on any statements the delegates may have made that would have shed light on why they chose to employ the particular terms they used in drafting the provision[.]" *Tanner*, 496 Mich at 226-27 (citation omitted); *League of Women Voters*, 508 Mich at 549 n 12 (references to the Convention debates may be "particularly helpful and illuminating 'when we find in the debates a recurring thread of explanation binding together the whole of a constitutional concept.'").

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

Here, "the language of the Constitution controls." *League of Women Voters*, 508 Mich at 549 n 12. Consistent with the legislature's past practices, this language shows there is no mandatory duty to present "every bill passed by the legislature," let alone a duty for a current legislature to present a bill passed by a prior legislature. One stray remark from a single delegate when discussing a different topic is not the type of "helpful and illuminating," "recurring thread of explanation" that can override constitutional text or explain "why they chose to employ the particular terms they used in drafting the provision." *Tanner*, 496 Mich at 226-27; *League of Women Voters*, 508 Mich at 549 n 12. The Court of Appeals erred in finding otherwise and upending longstanding legislative processes.

3. ***Any Duty to Present Does Not Extend to a New and Different Legislature.***

Even if this Court were to find that Article 4, Section 33 imposes a general duty on the legislature that passed the bills to present them, the Senate's mandamus claim would still fail because that duty does not extend to a new legislature that was not involved in the bills' passage.

Again, Michigan's legislatures, unlike this Court, are not continuing bodies. Each legislature exists for two years. "Any <u>*business*</u>, <u>*bill*</u> or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session." Const 1963, art 4, § 13 (emphasis added). But the Constitution omits any similar language for "business" or bills pending at final adjournment in an even-numbered year. Thus, the House argued, <u>business</u> or bills from the second regular session of the 102nd Legislature did not carry over into the 103rd Legislature. OAG, 1981-1982, No. 6,114.

When addressing this argument, the Court of Appeals acknowledged "there is no carryover provision mentioned for <u>business</u> or bills pending at a final adjournment in an even-numbered year." Majority Op. at 9 (emphasis added). But it held that Article 4, Section 13 did not impact the

analysis because "this provision concerns pending bills, not passed bills. The provision is silent about passed bills, which are the bills at issue in this case." *Id.*

While that may be true, the bills were not pending before the 103rd Legislature and have not been passed by the 103rd Legislature. And the Court of Appeals ignored the word "business." Const 1963, art 4, § 13 ("Any *business*, *bill or* joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session."). Notably, before 1963, Article 4, Section 13 did not include the word "business." See Const 1908, art 5, § 13 ("No motion, bill or resolution pending in one session of any term shall carry over into a later regular session."). But an express choice was made to add that term in the 1963 Constitution. As was explained at the debates, "this amendment does only one thing, and . . . it's a useful thing. *It makes it possible for business which was begun in one session to be finished in the next session in the same term*." 1 Official Record, Constitutional Convention 1961, p 2376 (emphasis added). Previously, a bill that was not enacted would have to "go through all the same mechanics in the same house" and "retrace all of those steps a second time" in a new session of the same term. *Id.* But this amendment allowed the bills to "stay right where they have arrived during that session, and then they go from there. There is tremendous saving in this and tremendous duplication of effort if you don't do it this way." *Id.* at 2377. The framers declined, however, to extend this "carryover" to a new session of a different legislature, meaning unenacted bills would still have to "retrace all of those steps." Cf. OAG, 1989-1990, No. 6629, p 326 at 328 (April 27, 1990) (an enrolled bill presented to the Governor at the end of the legislative session in an even-numbered year, which was subjected to a pocket veto, could "become law only be being re-introduced as an original bill, re-enacted, and either approved by the Governor or passed over a veto made by the Governor while the Legislature is still in session").

RECEIVED by MSC 12/8/2025 3:54:29 PM

As Judge Murray recognized, "[p]roviding that the Legislature can continue business at the end of one calendar year, but not allowing it to do so at the end of another, should be treated as having a meaning." Dissenting Op. at 2. That meaning is simple: "once the two-year Legislature ends, it has no further power to work on bills or other unfinished business." *Id.* And as stated by the 103rd House, "[t]he business of a Legislature includes the presentation to the Governor of enrolled bills that have passed both houses of that Legislature." House Resolution 41 at 2, **Ex. 14**.

Consistent with this, New York's courts have recognized that a bill passed by one legislature "lapses" when that legislature ceases to exist before presenting the bills. *King*, 81 NY2d at 256 ("[T]he bill in question lapsed when the 1990 session of the Legislature ended, and resuscitation by judicial decree in the fashion requested would be a disproportionate remedy[.]"). Applying this basic principle, New York's courts have declined to do exactly what the Senate asks here: compel a new legislature to present bills passed by a prior legislature. See *Campaign for Fiscal Equity*, 87 NY2d at 239 (citing *King* when declining to issue "retroactive" relief requiring a new legislature to present a prior legislature's lapsed bills).

That makes perfect sense. Even if this Court were to find that the 102nd Legislature should have presented the bills passed by the 102nd Legislature, all business of the 102nd Legislature lapsed when the 103nd Legislature convened. The rules of the 102nd Legislature have expired and no longer apply, and its officers no longer possess any authority. A new legislature (the 103rd Legislature) has been elected by the People of the State of Michigan. If anyone had a duty to present bills to the Governor, it was a person in the prior legislature.[12] The remedy is not to

[12] And that duty does not come from the Constitution itself. Rather, the most plausible source of any "duty" to present derives from either the House Rules, which can freely be set aside and are not justiciable, or from the 102nd Legislature's directive to the 102nd Clerk to present the bills on December 23, 2024. 2024 House Journal 2080-2092, 2094 (No. 89, December 31, 2024). The Senate points to no similar directive to the 103rd Clerk, the 103rd Speaker, or the 103rd House.

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

judicially "resuscitate" the lapsed bills and order a new legislature to complete lapsed "business" of the old legislature. It is to recognize that the ability to obtain a remedy from the 102nd Legislature no longer exists because the 102nd Legislature no longer exists. The Senate's failure to seek relief while the 102nd Legislature was still in session renders their claims either moot or barred by laches. There is simply no clear legal duty for a new legislature to present bills that a prior legislature passed.

Consistent with this, forcing the 103rd Legislature to finish the 102nd Legislature's "business" would violate the longstanding recognition in Michigan and elsewhere that "an act of one legislature is not binding on, and does not tie the hands of, future legislatures." *LeRoux*, 465 Mich at 615-16.[13] It would create absurd results and the potential for political gamesmanship. Consider, for example, the passage of a controversial bill by a lame duck Democratic majority in the legislature. If a recently defeated Republican governor threatened to veto the bill before her term expired, then under the Court of Appeals' view that the duty to present is not "session-dependent," the lame duck majority could deliberately delay presentation of the bill until a new Democratic governor takes office, and then sue the new legislature to compel presentment once the new legislature convenes. In addition, as Judge Murray recognized, the Court of Appeals'

---

[13] See also *State ex rel Stenberg v Moore*, 249 Neb 589, 594; 544 NW2d 344 (1996) ("The authority of a legislature is limited to the period of its own existence. One general assembly cannot bind a future one."); *Iowa-Nebraska Light & Power Co v Villisca*, 220 Iowa 238, 247; 261 NW 423 (1935) ("The power of the Legislature is derived from the Constitution and thereunder one *Legislature* cannot bind a *succeeding Legislature*.") (emphasis in original); *Blue Cross & Blue Shield v Hodurski*, 899 So2d 949, 956-57 (Ala, 2004) (recognizing "settled principles of law dealing with the power of the Legislature to bind subsequent legislatures to a specific course of conduct"). It is "'axiomatic' that one legislature cannot bind a future legislature," and "it is for each elected legislature to express the will of the people as it sees fit . . . The will of a particular Congress does not impose itself upon those to follow in succeeding years." *ABATE of Ill, Inc v Quinn*, 2011 IL 110611, ¶ 34; 957 NE2d 876, 884 (2011); *Baines v New Hampshire Senate President*, 152 NH 124, 131; 876 A2d 768 (2005).

ruling creates other significant questions as well. For instance, can "the current Legislature . . . override any veto" by the Governor of bills passed by a prior legislature? Dissenting Op. at 4-5. "Or even more fundamentally, can the Governor exercise her constitutional veto power" now that "the Legislature that passed these bills has not continued in session"? *Id.*

These issues are only possible under the Court of Appeals' improper determination that all bills must be presented, and that this "duty is not session-dependent." If there is any duty at all to present a bill to the governor, that duty must begin and ends with the legislature that passed the bill—not a subsequent and distinct legislative body, which cannot be legally bound by its predecessor or forced to carry out that prior legislature's unfinished business.

4. *This Lack of a Duty to Present Bills Also Disposes of the Senate's Declaratory Judgment Claim, Which the Court of Appeals Declined to Rule On.*

As a final matter, because the Court of Appeals "conclude[d] that the Court of Claims erred" in denying the Senate's request for a writ of mandamus, the court did "not address the parties' arguments regarding the court's denial of plaintiffs' request for a permanent injunction or the propriety of the declaratory judgment." Majority Op. at 10 n 10.

If this Court agrees with the House that there is no duty for the 103rd House to present the 102nd Legislature's bills, then any remand to the Court of Appeals to address the declaratory judgment claim would be futile. The declaratory relief sought by the Senate was a declaration "that Plaintiffs have a constitutional right to presentment of these nine bills and Defendants have a constitutional duty to present them and all bills in the future that pass both houses of the Legislature." Compl. ¶ 44, **Ex. 9**. If this Court finds no such duty exists, then that will necessarily dispose of the declaratory judgment claim as well.

RECEIVED by MSC 12/8/2025 3:54:29 PM

If this Court reverses the Court of Appeals' mandamus ruling on other grounds that do not impact the declaratory judgment ruling, then this case should be remanded to the Court of Appeals to address the issues that the Court of Appeals has yet to rule on. Alternatively, if the Court is inclined to reach the issue, the Court should still hold that the Senate's declaratory judgment claim lacks merit. On top of the 103rd House lacking any duty to present the 102nd Legislature's bills, MCR 2.605 permits declaratory actions only when there is a "case of actual controversy," which "exists when a declaratory judgment is needed to guide a party's future conduct in order to preserve that party's legal rights." *League of Women Voters*, 506 Mich at 586. Here, as the House argued below, because the bills are in the House's possession, nothing is needed to guide the Senate's future actions. Indeed, the Senate is not seeking a ruling to guide the Senate's future conduct. It is asking this Court to order the House to take action. That does not create an actual controversy requiring declaratory relief. As the Court of Appeals recognized, mandamus is the proper lens to view this case through: "any attempted enforcement of the declaratory judgment in this case would effectively be mandamus" as it "would necessarily compel defendants to act in accordance with their duty." Majority Op. at 12; *Ferency v Secretary of State*, 139 Mich App 677, 683-84; 362 NW2d 743 (1984) ("Although declaratory relief was requested . . . the type of relief requested would have forced the court to direct state officials to perform statutorily mandated duties" meaning the mandamus standards apply no matter how the claim is labeled).

Put simply, if the Senate cannot meet the mandamus standards, then it cannot sidestep those standards and seek the same relief of compelling the 103rd House to take action and present the bills by attempting to couple a declaratory judgment claim with a request for injunctive relief.

RECEIVED by MSC 12/8/2025 3:54:29 PM

D. <u>The Court of Appeals Erred When Directing the Court of Claims to Issue a Writ of Mandamus.</u>

The Court of Appeals also erred when addressing the remaining mandamus factors—whether the "clear legal duty" is ministerial, and whether other remedies exist.

1. ***Any Duty to Present is Not Ministerial.***

A ministerial act is one in "which the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment." *Berry*, 316 Mich App at 42 (citation omitted). As evidenced by the relief fashioned by the Court of Appeals, presentment is a discretionary act. Majority Op. at 14 ("Because . . . the provision does not indicate a specific time frame, <u>the deadline for presentment may be determined in the Court of Claims's discretion</u>.") (emphasis added).

Indeed, as the Court of Appeals recognized, "the specific <u>individual</u> designated" to present bills is "not defined by the constitutional provision." Majority Op. at 11 (emphasis in original). And as courts have long recognized, "[t]o render the mandamus a proper remedy, the officer to whom it is directed must be one to whom, on legal principles, such writ must be directed." *Marbury v Madison*, 5 US 137, 169; 2 L Ed 2d 60 (1803); *Grabow v Macomb Twp*, 270 Mich App 222, 230 n 4; 714 NW2d 674 (2006) ("[T]he proper defendant in an action for a writ of mandamus is the officer who has the duty of performance.").

Lacking any individual who could be directed to carry out the writ, the Court of Appeals noted that "[c]ourts have the authority to issue writs of mandamus against individuals <u>or bodies</u>, and the fact that a writ directed at a body will require discretion as to which individual within that body performs the task is not dispositive."[14] Majority Op. at 11 (emphasis added). But there are

[14] The Senate had repeatedly argued that it was the *Clerk*'s duty to present bills. Compl. ¶ 7 ("Michigan House Clerk Scott Starr is the duly elected House Clerk who has the ministerial duty

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

many instances in Michigan's constitution and statutes where duties are clearly allocated to bodies or individuals. See, e.g., Const 1963, schedule, § 15 ("It *shall be the duty of the secretary of state forthwith* to give notice of such submission to all other officers required . . ."); MCL 168.22(2) ("The board of state canvassers has the duties prescribed in section 841."); MCL 168.822(3) ("It is the ministerial, clerical, and nondiscretionary duty of each board of county canvassers, and each of the members of the board of county canvassers, to certify election results based solely on the statements of returns from the election day precincts, early voting sites, and absent voter counting boards in the county and any corrected returns."). This simply is not one of them. See Const 1963, art 4, § 33 (stating, in entirety, that "[e]very bill passed by the legislature shall be presented to the governor before it becomes law", without imposing a duty or specifying who must present).

Adding to the lack of Article 4, Section 33's precision and certainty is the lack of a deadline to present bills. Other provisions of Article 4, Section 33 include very explicit temporal deadlines. For instance, "the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider" a bill. Const 1963, art 4, § 33 (emphasis added). But as to presentation, Section 33 states only that a bill must be presented "before it becomes law." *Id.*

This lack of temporal precision also renders mandamus inappropriate. As the New Jersey Supreme Court explained, the lack of a deadline to present bills means "*the timing of such presentment is discretionary*[.]" *Gilbert*, 87 NJ at 283 (emphasis added). The Court of Appeals

---

of presenting bills passed by the Legislature[.]"); Senate's Mot. Summ. Disp. at 19 ("[B]ut for the unconstitutional action of Speaker Hall, Clerk Starr would have performed his ministerial duty to present them to the Governor[.]"); Court of Claims Op. at 15 (citing "plaintiffs' position that responsibility for this mandate falls on Clerk Starr"). But the Court of Appeals found that the "duty at issue here lies squarely with the Legislature" as a body and issued a writ of mandamus against the legislature. Majority Op. at 11 ("[T]he clear legal duty of presentment rests with the Legislature as a whole, and plaintiffs have a right to have defendants perform that duty because defendants' actions have rendered plaintiffs unable to perform their duty themselves.").

recognized this. But it shifted the discretion of the legislature to a matter of judicial discretion. Majority Op. at 14 ("Because . . . the provision does not indicate a specific time frame, *the deadline for presentment may be determined in the Court of Claims's discretion.*") (emphasis added). That was improper. It "obtrude[s] the judiciary into the legislative process" and "requires courts to make political value judgments regarding the priority of bills[.]" *Gilbert*, 87 NJ at 283 n 4. Courts now must consider (among other things) the reasons for and length of delay in presentment on a case-by-case to determine whether and when to compel a specific legislature to present a specific bill are apparent. *Id.* ("A more blatant breach of the separation of powers is difficult to imagine.").

As the House also argued, the lack of any deadline means the lack of any violation. And the lack of any violation means there is no valid claim or, at the least, that any claim is not ripe. See *City of Huntington Woods v City of Detroit*, 279 Mich App 603, 615-16; 761 NW2d 127 (2008) ("Ripeness prevents the adjudication of hypothetical or contingent claims before an actual injury has been sustained.").

2. ***The Only Remedy Available is a Legislative Remedy.***

As a final matter, the court held that no adequate remedy other than mandamus was available. The House agrees, and has argued throughout this case that the Senate has no *legal remedy* available to it. See House's Cross-Appeal Br. at 29-30. But that is because the Senate's claims lack merit, the Senate failed to raise these claims while the 102nd Legislature still existed and could act on the bills, and it would be improper for this Court to intrude on a legislative matter. As the House also argued, though, the lack of an available judicial "remedy does not equate to the lack of a remedy." *Id.* at 30. It just means that this legislative dispute "would be left, as so many matters ought to be left," to the legislative branch, which has "innumerable means" to resolve it. *League of Women Voters*, 506 Mich at 606 (CLEMENT, J., concurring in part).

RECEIVED by MSC 12/8/2025 3:54:29 PM

Consistent with this, the Court of Appeals "recognize[d] that defendants raise separation-of-powers concerns with respect to the judiciary compelling legislative action in this case" and that the House had argued "that any remedy in this case is not for the judiciary to impose" but is instead "a matter concerning a legislative process that must be resolved by the Legislature." Majority Op. at 13, 13 n 14. But it read *Bauserman* as now requiring that all "rights must have remedies," and found this principle "would be violated if resolution were left to the Legislature." *Id.* at 14 n 14; see also *id.* at 12 ("a right must have a remedy"). That was improper.

As this Court put it long ago, "*[a]ll wrongs, certainly, are not redressed by the judicial department*." *Sutherland*, 29 Mich at 330 (emphasis added). That is the entire purpose of the political question and justiciability doctrines. *Vieth v Jubelirer*, 541 US 267, 277; 124 S Ct 1769; 158 L Ed 2d 546 (2004) ("Sometimes, however, the law is that the judicial department has no business entertaining the claim of unlawfulness—because the question is entrusted to one of the political branches[.]"). And consistent with the fact that it may not always be *the court's* role to provide a remedy for an asserted constitutional violation, this Court has long held that mandamus cannot lie against the governor. See *Sutherland*, 29 Mich 320. In that same opinion, this Court "*readily conceded that no court can compel the Legislature to make or to refrain from making laws, or to meet or adjourn at its command, or to take any action whatsoever, though the duty to take it be made ever so clear by the constitution or the laws*." *Id.* at 326 (emphasis added). "[T]he exemption of the one department from the control of the other is not only implied in the framework of government, but is indispensably necessary if any useful apportionment of power is to exist." *Id.*; Dissenting Op. at 5 ("[T]here is no remedy that the trial court can constitutionally impose.").

The Court of Appeals' apparent basis for providing relief—that all asserted violations of the Constitution must have a judicial remedy—is thus inconsistent with longstanding Michigan

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

law. It is also inconsistent with *Bauserman* itself. 509 Mich at 693 n 3 ("[T]here may be nonjusticiable questions courts cannot decide[.]").

What's more, presentment is not a constitutional "right" in the first place. *Bauserman* addressed the availability of monetary damages against the State for a violation of the Due Process Clause, which falls under Article 1's "Declaration of Rights." 509 Mich at 681 ("Although we have never specifically held that monetary damages are available to remedy constitutional torts, we now hold that they are."). But "[b]eyond Article 1, much of the balance of our Constitution focuses on the operational mechanics for state and local government, elections, taxation, and public employment, as well as other more technical details[.]" *Bauserman*, 509 Mich at 717-18 (WELCH, J., concurring). And *Bauserman* never reached the question of whether asserted violations of structural provisions require judge-made remedies. *Id.* at 710 n 13 ("Justice Welch asserts we should limit our holding to violations of the Declaration of Rights. Again, we decline to opine on hypothetical cases not before the Court."). This Court should decline to hold that they do, and that, in contrast to *Sutherland*, this legislative dispute requires judicial intervention.[15]

Put simply, *Bauserman* does not displace the House's "separation-of-powers concerns with respect to the judiciary compelling legislative action in this case." Majority Op. at 13. A ruling from this Court that (1) Article 4, Section 33 presents a constitutional right; (2) an asserted violation of that right is justiciable; and (3) the judicial branch can compel the legislature to act in compliance with that constitutional provision will result in a significant intrusion on the legislature's plenary authority, and open the courthouse doors to purely legislative disputes.

[15] *Bauserman* did not overrule the analysis in *Sutherland*. It distinguished the issues in *Sutherland* that may render a case nonjusticiable from the issue in *Bauserman* (whether a monetary remedy against the State is available for a violation of the Due Process Clause). 509 Mich at 693 n 3.

Indeed, the Constitution imposes countless obligations on the legislature that are far clearer than the presentment clause—which never even says that *the legislature* is required to present bills. Const 1963, art 4, § 33 ("Every bill passed by the legislature shall be presented to the governor before it becomes law . . ."). For example, it provides that "[t]he legislature shall meet at the seat of government on the second Wednesday in January of each year at twelve o'clock noon", and that "[e]ach regular session shall adjourn without day, on a day determined by concurrent resolution, at twelve o'clock noon." *Id.* § 13. It requires that "[t]he legislature shall appropriate funds for the [legislative] council's operations and provide for its staff . . . ." *Id.* § 15. And it provides that "[t]he legislature shall pass suitable laws for the protection and promotion of the public health," and "shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction." *Id.* §§ 51, 52.

Under the Court of Appeals' reasoning, this Court will now become the arbiter of disputes between bodies of the legislature, state officials, or the public as to whether a law is "suitable . . . for the protection and promotion of the public health," or whether the legislature is adequately "provid[ing] for the protection of the air, water and other natural resources of the state . . ." And it will now be responsible for policing and compelling legislative action contrary to 150 years of separation of powers precedent that counsels otherwise. That has never been this Court's role. Nor should it be now.

CONCLUSION AND RELIEF REQUESTED

The Court of Appeals erred on three fronts. It first erred in reaching the merits of the Senate's claims against the House, given that the claims are not justiciable and the Senate lacks standing. It compounded that error when interpreting the constitutional text at issue to require the 103rd House to present bills passed by the 102nd Legislature. Last, it erred in the relief it ordered,

RECEIVED by MSC 12/8/2025 3:54:29 PM

by directing the Court of Claims to issue a writ of mandamus against the legislature. Thus, for the reasons explained above, the 103rd House requests that this Court grant this application for leave to appeal or enter an order under MCR 7.305(H)(1) peremptorily reversing the Court of Appeals.

Respectfully submitted,

Dated: December 8, 2025

/s/ Kyle M. Asher
Kyle M. Asher (P80359)
Steven C. Liedel (P58852)
DYKEMA GOSSETT PLLC
201 Townsend St., Suite 900
Lansing, MI 48933
kasher@dykema.com
(517) 374-9151

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

CERTIFICATE OF COMPLIANCE WITH WORD COUNT

I certify that this brief complies with the type-volume limitation set forth in MCR 7.305(A)(1) and MCR 7.212(B). This brief uses a 12-point proportional font (Times New Roman) and the word count, based on the word processing system used to produce this document, is 15,690 words.

Dated: December 8, 2025

/s/ Kyle M. Asher
Kyle M. Asher (P80359)
DYKEMA GOSSETT PLLC
201 Townsend St., Suite 900
Lansing, MI 48933
kasher@dykema.com
(517) 374-9151

RECEIVED by MSC 12/8/2025 3:54:29 PM

INDEX OF EXHIBITS

Exhibit 1 – Court of Appeals' Majority Opinion

Exhibit 2 – Court of Appeals' Dissenting Opinion

Exhibit 3 – Senate's Bypass Application

Exhibit 4 – Court of Claims' Stay Order

Exhibit 5 – Court of Claims' Opinion

Exhibit 6 – Affidavit of Scott Starr

Exhibit 7 – February 6, 2025 Gongwer Article, Quoting Speaker Hall

Exhibit 8 – Senate Resolution No. 3

Exhibit 9 – Complaint

Exhibit 10 – Senate's Motion for Summary Disposition

Exhibit 11 – House's Motion for Summary Disposition

Exhibit 12 – House's Response to Senate's Motion for Summary Disposition

Exhibit 13 – Court of Claims Feb. 24, 2025 Hearing Transcript

Exhibit 14 – House Resolution No. 41

Exhibit 15 – March 17, 2025 Letter of Sen. Brinks

Exhibit 16 – Senate Resolution No. 20

Exhibit 17 – Michigan Supreme Court Bypass Denial

125626.000005 4912-0755-1612.6

Exhibit 1

RECEIVED by MSC 12/8/2025 3:54:29 PM

If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

RECEIVED by MSC 12/8/2025 3:54:29 PM

STATE OF MICHIGAN

COURT OF APPEALS

SENATE and SENATE MAJORITY LEADER,

Plaintiffs-Appellees/Cross-Appellants,

v

HOUSE OF REPRESENTATIVES and HOUSE CLERK,

Defendants-Appellants/Cross-Appellees,

and

HOUSE SPEAKER,

Defendant.

FOR PUBLICATION
October 27, 2025
12:10 PM

No. 374786
Court of Claims
LC No. 25-000014-MB

Before: CAMERON, P.J., and MURRAY and KOROBKIN, JJ.

CAMERON, P.J.

Defendants, the House of Representatives and House Clerk,[1] appeal the order of the Court of Claims granting summary disposition, in part, and denying, in part, as to both defendants' and plaintiffs', the Senate's and Senate Majority Leader's, motions for summary disposition under MCR 2.116(C)(10) (no genuine issue of material fact).[2] Plaintiffs cross-appeal the same order.

[1] The Court of Claims held that the House Speaker was privileged from this lawsuit under Const 1963, art 4, § 11, and this decision is not challenged on appeal. For simplicity, this opinion will refer to defendants-appellees as "defendants."

[2] Defendants also moved for summary disposition under MCR 2.116(C)(8) (failure to state a claim), but the Court of Claims considered both motions under MCR 2.116(C)(10).

RECEIVED by MSC 12/8/2025 3:54:29 PM

For the reasons set forth in this opinion, we reverse and remand for the Court of Claims to issue a writ of mandamus ordering defendants to present the bills at issue to the Governor.

I. FACTUAL AND PROCEDURAL BACKGROUND

The underlying facts giving rise to this case are not in dispute. The Michigan Legislature is made up of two chambers: the House of Representatives and the Senate. Const 1963, art 4, § 1. Legislative sessions are split into two-year increments, with new sessions ending in odd-numbered years following elections in November in even-numbered years. *Id.* Each new legislative session is numbered sequentially after its predecessor. The previous Legislature—the 102nd Legislature—passed various bills in both chambers before ending its term. When the 103rd Legislature convened for its first session, nine bills from the 102nd Legislature had not yet been presented to the Governor for approval. All nine bills originated in the House of Representatives; thus, per legislative rules, they were to be presented to the Governor by the House Clerk. After defendants failed to present the bills to the Governor, the Senate passed a resolution authorizing the initiation of this lawsuit.

In their complaint, plaintiffs sought a declaratory judgment that Const 1963, art 4, § 33, which provides that "[e]very bill passed by the legislature shall be presented to the Governor before it becomes law," required defendants to present the bills to the Governor, and requested the Court of Claims issue a writ of mandamus and permanent injunction compelling defendants to do so. Both parties then moved for summary disposition. The issues before the Court of Claims included whether: (1) plaintiffs had standing; (2) the issue was a nonjusticiable political question; (3) our Constitution mandated that defendants present the bills to the Governor; and (4) the Court of Claims had the authority to enter a declaratory judgment or to issue a writ of mandamus or permanent injunction.

The Court of Claims granted partial summary disposition to each party. It granted plaintiffs relief to the extent that it entered a declaratory judgment "declaring that Article 4, § 33, of Michigan's 1963 Constitution requires that all bills passed by the Legislature be presented to the governor . . . ." Recognizing that the constitutional provision at issue did not indicate a specific time frame, the Court of Claims declared that all passed bills must be presented "in sufficient time to allow [the Governor] 14 days to review the bills prior to the earliest date that the legislation may take effect under Article 4, § 27, of Michigan's 1963 Constitution."[3] The Court of Claims denied plaintiffs' motion to issue a writ of mandamus or permanent injunction, because it concluded that the duty to present the bills was not ministerial, and a permanent injunction was not appropriate. The Court of Claims held that both plaintiffs had standing, concluding that their alleged injuries were "distinct from the public at large" because they voted in favor of the bills that have not been presented to the Governor. It further held that this case was justiciable and did not implicate the political-question doctrine because the issue in this case concerned constitutional interpretation, an area in which Michigan's courts maintain primacy. The parties now appeal.

[3] Const 1963, art 4, § 27 provides, in pertinent part, that "[n]o act shall take effect until the expiration of 90 days from the end of the session at which it was passed[.]"

II. STANDARDS OF REVIEW

This Court reviews de novo a trial court's decision on summary disposition. *Tripp v Baker*, 346 Mich App 257, 272; 12 NW3d 45 (2023). A motion is properly granted pursuant to MCR 2.116(C)(10) "when the proffered evidence fails to establish a genuine question of fact." *Tripp*, 346 Mich App at 262. This Court must review "affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties . . . in the light most favorable to the party opposing the motion." *Id*. (quotation marks and citation omitted). This Court similarly reviews constitutional issues and issues of standing de novo. *Pego v Karamo*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 371299); slip op at 5; *In re Knight*, 333 Mich App 681, 686; 963 NW2d 676 (2020).

Discretionary actions, however, such as a trial court's decision concerning a writ of mandamus or injunctive relief, are reviewed for an abuse of discretion. *Citizens for Higgins Lake Legal Levels v Roscommon Co Bd of Comm'rs*, 341 Mich App 161, 177-178; 988 NW2d 841 (2022); *In re Brosamer Guardianship*, 328 Mich App 267, 275; 936 NW2d 870 (2019). A court "abuses its discretion when it chooses an outcome outside the range of reasonable and principled outcomes." *Brosamer Guardianship*, 328 Mich App at 275. "A trial court necessarily abuses its discretion when it makes an error of law." *Pirgu v United Servs Auto Ass'n*, 499 Mich 269, 274; 884 NW2d 257 (2016).

III. STANDING

Defendants first argue that plaintiffs lack standing. We disagree.

Generally, "standing requires a party to have a sufficient interest in the outcome of litigation to ensure vigorous advocacy and in an individual or representative capacity some real interest in the cause of action, or a legal or equitable right, title, or interest in the subject matter of the controversy." *In re Knight*, 333 Mich App at 688 (citation omitted). But as it pertains to the Legislature, standing is a more "complicated issue." *League of Women Voters of Mich v Secretary of State*, 506 Mich 561, 592; 957 NW2d 731 (2020). As our Supreme Court has explained:

> Views on legislative standing are wide-ranging, with those such as the late Justice Scalia on the one hand, who vehemently opposed expansion of legislative standing as an encroachment on the separation of powers. On the other hand are views such as those of Justice Alito, who would conclude that "in the narrow category of cases in which a court strikes down an Act of Congress and the Executive declines to defend the Act, Congress both has standing to defend the undefended statute and is a proper party to do so." And of course there are views in the middle, such as those expressed by the United States Supreme Court in *Coleman v Miller*,[4] in which the Court held that members of the Legislature had standing when their votes had "been overridden and virtually held for naught[,] although if they are right in their contentions their votes would have been sufficient to defeat ratification." [*League*

[4] *Coleman v Miller*, 307 US 433; 59 S Ct 972; 83 L Ed 1385 (1939).

RECEIVED by MSC 12/8/2025 3:54:29 PM

of *Women Voters*, 506 Mich at 592-594 (citations omitted; second alteration in *League of Women Voters*).]

The United States Supreme Court later held that *Coleman*'s holding gave standing to "legislators whose votes would have been sufficient to defeat (or enact) a specific legislative Act . . . if that legislative action goes into effect (or does not go into effect), on the ground that their votes have been completely nullified." *League of Women Voters*, 506 Mich at 594 n 53, quoting *Raines v Byrd*, 521 US 811, 823; 117 S Ct 2312; 138 L Ed 2d 849 (1997) (quotation marks omitted). Our Supreme Court, however, recognized that this nullification rule only applies in certain circumstances. It reasoned that "[i]t would be imprudent and violative of the doctrine of separation of powers to confer standing upon a legislator simply for failing in the political process[.]" *House Speaker v State Admin Bd*, 441 Mich 547, 555; 495 NW2d 539 (1993) (*House Speaker I*). Therefore, "plaintiffs who sue as legislators must assert more than a generalized grievance that the law is not being followed[;]" instead they "must establish that they have been deprived of a personal and legally cognizable interest peculiar to [them]." *Id.* (quotation marks and citations omitted, second alteration in *House Speaker I*).

We agree with the Court of Claims that plaintiffs demonstrated sufficient, distinct injuries to have standing. Both plaintiffs—the Senate and the Senate Majority Leader—voted in favor of the nine bills at issue. The House of Representatives also voted in favor of these bills, meaning that the next step in the process was presentment to the Governor. Plaintiffs argued that defendants' decision to not present the bills, when the legislative rules establish it was their burden to do so, interfered with their own, unique right to fulfill their duty as legislators. This was a special injury different from the public at large. *In re Knight*, 333 Mich App at 688.

We find defendants' reliance on *Killeen v Wayne Co Rd Comm*, 137 Mich App 178; 357 NW2d 851 (1984), unpersuasive. Unlike this case, *Killeen* concerned a group of plaintiffs whose votes had "been counted, and their legislative work-product enacted[.]" *Id.* at 189. Therefore, the plaintiffs in *Killeen* no longer had any "special interest as lawmakers[,]" because the legislation at issue had passed. *Id.* In this case, plaintiffs' interests had not extinguished, because their votes, which were sufficient to enact a specific legislative act, were nullified by defendants' refusal to present the bills to the Governor. *League of Women Voters*, 506 Mich at 594 n 53. Whether the Governor will sign the bills once presented is irrelevant; defendants' actions have forestalled legislation, supported by plaintiffs and approved by both chambers, from being presented to the Governor. Thus, plaintiffs have standing to sue. See *id.*

IV. JUSTICIABILITY

Defendants next argue the Court of Claims erred by determining that this case was justiciable. We disagree.

"Michigan's courts are limited to deciding actual cases and controversies." *Pego*, ___ Mich App at ___; slip op at 10. "If a dispute is not justiciable, then it is not an actual case or controversy." *Id.* The political-question doctrine "is rooted in the separation of powers inherent in divided government." *Id.* But "[o]ur Supreme Court clarified that the mere fact that a case involves political issues [is] not determinative of the need to defer to the political branches." *Id.* at ___; slip op at 11. This is because the political-question doctrine concerns just that—questions,

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

not cases. *Id*. In Michigan, we evaluate whether a case is nonjusticiable under the political-question doctrine by analyzing three queries:

> (i) Does the issue involve resolution of questions committed by the text of the Constitution to a coordinate branch of Government? (ii) Would resolution of the question demand that a court move beyond areas of judicial expertise? (iii) Do prudential considerations [for maintaining respect between the three branches] counsel against judicial intervention? [*Id*., quoting *House Speaker v Governor*, 443 Mich 560, 574; 506 NW2d 190 (1993) (*House Speaker II*) (quotation marks omitted; alteration in *House Speaker II*).]

The first inquiry—whether "the issue involve[s] resolution of questions committed by the text of the Constitution to a coordinate branch of government[,]"—examines "whether the Constitution or other law clearly delegates resolution of the dispute to a different branch." *Pego*, ___ Mich at ___; slip op at 11 (quotation marks and citation omitted). In other words, we must consider whether the constitutional provision at issue specifies that a branch other than the judiciary is responsible for resolving issues that arise under its language; in this case, the Legislature. This is because the judiciary "has not only the authority, but also the primary responsibility of interpreting and enforcing our Constitution." *Bauserman v Unemployment Ins Agency*, 509 Mich 673, 692; 983 NW2d 855 (2022).

The specific provision at issue here is Const 1963, art 4, § 33. It provides, in relevant part: "Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it." The Court of Claims reasoned that this section did not commit its interpretation to another branch of government. Defendants argue that while the provision does not commit its interpretation to another branch, "the opposite is also true." That is, defendants contend that the provision's silence means it does not commit its interpretation to a branch *other than* the Legislature, because the provision itself involves legislative activity. It is certainly true that our Constitution authorizes each legislative chamber to "choose its own officers and determine the rules of its proceedings[,]" Const 1963, art 4, § 16, and prohibits individual branches of government from "exercis[ing] powers properly belonging to another branch[,]" Const 1963, art 3, § 2. But these provisions are not implicated here. The issue in this case is the *interpretation* of Const 1963, art 4, § 33, not a challenge to defendants' power to legislate or set their own rules. Because Const 1963, art 4, § 33, does not delegate the resolution of a dispute arising under its language to the Legislature, this necessarily means that the interpretation of Const 1963, art 4, § 33 falls to the judiciary. See *Pego*, ___ Mich at ___; slip op at 11; see also *Bauserman*, 509 Mich at 692.

Defendants rely on *Gilbert v Gladden*, 87 NJ 275, 278-279; 432 A2d 1351 (1981), a case in which the New Jersey Supreme Court held that an almost identical constitutional provision presented a nonjusticiable political question. *Gilbert* determined that the issue of presentment fell entirely to the Legislature because there was no time frame provided in the constitutional provision at issue. While we recognize the reasoning in *Gilbert*, however, we are not bound by it. See *Lewis v Farmers Ins Exch*, 315 Mich App 202, 214; 888 NW2d 916 (2016) (cases from other jurisdictions are not binding, but may be considered for their persuasive value). Indeed, other jurisdictions have reached the opposite conclusion. For example, in *Brewer v Burns*, 222 Ariz 234, 238-239; 213

RECEIVED by MSC 12/8/2025 3:54:29 PM

P3d 671 (2009), the Arizona Supreme Court held that the issue of presentment was justiciable, because, while the Arizona constitution provided that each legislative chamber could set their own rules and procedures, this did not "limit or otherwise qualify the directive" that "every measure when finally passed shall be presented to the Governor." *Id.* at 238 (quotation marks, brackets, and citation omitted). We find *Brewer*'s analysis more persuasive than *Gilbert*'s. While it is true that Const 1963, art 4, § 33, does not provide a specific time frame within which a bill must be presented, the absence of a specific time frame does not undermine the requirement that "[e]very bill passed by the legislature shall be presented to the governor before it becomes law[.]" *Id.*[5]

The second inquiry—whether "resolution of the question [would] demand that a court move beyond areas of judicial expertise," examines "whether there are judicially discoverable and manageable standards for resolving the dispute or whether the dispute is impossible to resolve without an initial policy determination of the kind clearly for nonjudicial discretion." *Pego*, ___ Mich App at ___; slip op at 11 (quotation marks and citation omitted). Defendants contend that the issue in this case necessarily strays beyond judicial expertise because plaintiffs "asked the court to not only interpret the Constitution, but to then order Defendants to immediately present the nine bills to the governor." But the enforcement of a trial court's order is not what the political-question framework considers. The inquiry concerns whether resolving the *question* would require the Court of Claims to stray beyond its area of expertise.[6] The *question* here is whether defendants are required to present the bills to the Governor under Const 1963, art 4, § 33. We agree with the Court of Claims that resolving this question does not require us to stray beyond the judicial expertise of constitutional interpretation.

The third and final inquiry concerns whether "prudential considerations [for maintaining respect between the three branches] counsel against intervention[.]" *Pego*, ___ Mich App at ___; slip op at 11. The Court of Claims recognized that the political nature of this case "urges caution[,]" but this, alone, does not preclude judicial intervention. This is not a situation in which the judiciary is interpreting legislative rules and procedures—such matters inherently fall within the sole discretion of the Legislature. See *LeRoux v Secretary of State*, 465 Mich 594, 609; 640 NW2d 849 (2002) ("The courts do not review claims that actions were taken in violation of a legislative rule."). Nor are we considering the contents of the bills at issue. The question here involves the interpretation of the rules and requirements imposed by our Constitution. The fact that the entity subject to these rules is the Legislature does not change the fact that the *rule* at issue is one imposed by our Constitution—the interpretation of which, absent exceptions not present here, falls to the judiciary. *Bauserman*, 509 Mich at 692. Therefore, this issue is not a nonjusticiable political question.

---

[5] Defendants' argument that Const 1963, art 4, § 33, does not actually require presentment will be addressed below.

[6] Defendants' enforcement-related challenges, while inappropriate for the issue of justiciability, are addressed below.

RECEIVED by MSC 12/8/2025 3:54:29 PM

V. ARTICLE 4, SECTION 33

Defendants argue that the Court of Claims incorrectly interpreted Const 1963, art 4, § 33, as requiring the Legislature to present all passed bills to the Governor. We disagree.

> When interpreting our Constitution, this Court's primary objective . . . is to realize the intent of the people by whom and for whom the constitution was ratified. Accordingly, we seek to determine the text's original meaning to the ratifiers, the people, at the time of ratification. To do so, we must consider the circumstances leading to the adoption of the provision and the purpose sought to be accomplished. To help discover the common understanding, this Court has observed that constitutional convention debates and the address to the people, though not controlling, are relevant. [*Mothering Justice v Attorney General*, ___ Mich ___, ___; ___ NW3d ___ (2024) (Docket No. 165325); slip op at 11 (quotation marks and citations omitted, ellipses in *Mothering Justice*).]

Const 1963, art 4, § 33, provides, in its entirety:

> Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

The parties provide different interpretations of what the word "shall" modifies in the first sentence. Plaintiffs contend the word applies to the language that immediately follows: "be presented to the governor[,]" while defendants contend it applies to the final part of the sentence: "before it becomes law[.]" In this respect, plaintiffs contend the mandatory word "shall," see *In re Forfeiture of Bail Bond*, 496 Mich 320, 327; 852 NW2d 747 (2014),[7] in this provision means

---

[7] On appeal, defendants argue that " 'shall' does not always mean 'shall.' " But the support defendants provide for this assertion is a treatise, which is not binding authority. *Cadillac Rubber & Plastics, Inc v Tubular Metal Sys, LLC*, 331 Mich App 416, 425 n 2; 952 NW2d 576 (2020). By contrast, binding Michigan caselaw has long recognized the mandatory directive of the word

that every bill passed by the Legislature *must* be presented to the Governor. Defendants, on the other hand, argue the opening sentence of Const 1963, art 4, § 33, merely addresses the prerequisite that, before a bill can become law, it must be presented to the Governor for approval. While defendants' interpretation has arguable merit standing alone, excerpts from the official record of the 1961 Constitutional Convention provide insight into the ratifiers' intent at the time the provision was adopted. *Mothering Justice*, ___ Mich at ___; slip op at 11. When discussing the amount of time that the Governor would have to consider each bill, one delegate provided a hypothetical scenario:

> Then the 2 houses have to agree to it in a conference, but it finally is adopted by both houses in a particular form. Then, it being a senate bill, it becomes the *duty* of the secretary of the senate *to print that bill* in the form in which it was finally adopted and it is the *duty* of the secretary of the senate, since it was a senate bill, *to present that bill to the governor*. Sometimes a bill can be speedily printed, sometimes it takes 2 or 3 weeks to get a bill printed, if it's a great big thick bill and there's an awful lot of other bills also to be printed. [1 Official Record, Constitutional Convention 1961, p 1719 (emphasis added).]

The phrasing of this hypothetical indicates an understanding that, after a bill is adopted by both chambers, it becomes the "duty" of the relevant member of the chamber in which the bill originated to present it to the Governor. This understanding supports the interpretation advanced by plaintiffs and adopted by the Court of Claims.[8]

"shall." See *In re Forfeiture of Bail Bond*, 496 Mich at 329 (concluding that the Legislature, in changing a statute's language from "may" to "shall," necessarily "intended 'shall' to mean what this Court has held that 'shall' means since at least 1850."). This comports with the most "common understanding" of the word "shall" in Michigan jurisprudence. *Mothering Justice*, ___ Mich at ___; slip op at 11 (quotation marks and citation omitted).

[8] Defendants, quoting *Regents of Univ of Mich v Michigan*, 395 Mich 52, 60; 235 NW2d 1 (1975), contend that "convention colloquies are 'not decisive as to the intent of the general convention (or of the people) in adopting the measures.' " We agree. We fully recognize that the discussions at the Convention "must be placed in perspective[,]" *id.* at 59, and we acknowledge that the discussion on which we focus was predominately concerned with the time in which the Governor would have to consider each bill, 1 Official Record, Constitutional Convention 1961, p 1719. But this does not change our analysis. It is the assumptions inherent in the excerpt from the Constitutional Convention that we find persuasive; the ratifiers believed that the duty of presentment immediately followed (with exceptions for reasonable delays in preparation) the passage of a bill. We acknowledge that the statement of one speaker is an "individual expression[] of concepts as the speaker[] perceive[d] them[.]" *Regents of Univ of Mich*, 395 Mich at 59-60. But, as our Supreme Court recognized, such debates are considerable "in the absence of guidance in the constitutional language . . . ." *Id.* at 60. Const 1963, art 4, § 33, does not indicate any time requirement for the duty of presentment it provides. Nor do we have any evidence of the intent of the people, generally, at the time the provision was enacted. Without such guidance, our consideration of the discussion at the Constitutional Convention is instructive.

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

Alternatively, defendants argue that, even if Const 1963, art 4, § 33, imposed a duty on the Legislature to present the bills to the Governor, this duty applies only to the session that passed the bills. They contend that any duty of presentment is extinguished once the next legislative session begins. In other words, if a duty of presentment existed, it belonged to the 102nd Legislature, but does not extend to the current, 103rd Legislature. But as the Court of Claims noted, "there is no exception for bills passed by a prior Legislature[]" noted in Const 1963, art 4, § 33. The provision mandates that "[e]very bill passed by the legislature shall be presented to the governor before it becomes law[,]" and, as the Court of Claims correctly reasoned, "[a] bill passed by the 102nd Legislature is one of '[e]very bill passed by the legislature[.]' " Defendants argue that imposing such a duty on them violates the common understanding that "an act of one legislature is not binding on, and does not tie the hands of, future legislatures." *LeRoux*, 465 Mich at 616 (quotation marks and citation omitted). Defendants overstate the rule, however. This rule is grounded in the "fundamental principle that one Legislature cannot bind a future Legislature or limit its power to amend or repeal statutes. Absent the creation of contract rights, the later Legislature is free to amend or repeal existing statutory provisions." *Id*. at 615. Imposing the duty of presentment on the 103rd Legislature for bills passed in the 102nd Legislature does not "limit its power to amend or repeal" the bills later if they are signed by the Governor. *Id*.

Defendants also rely on Const 1963, art 4, § 13, which provides that "[a]ny business, bill, or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session." They claim that, while this carryover is expressly noted, there is no carryover provision mentioned for business or bills pending at a final adjournment in an even-numbered year. Therefore, defendants argue, the business or bills of the 102nd Legislature did not carry over to the 103rd Legislature. But, as the Court of Claims correctly explained, this provision concerns *pending* bills, not *passed* bills. *Id*. The provision is silent about passed bills, which are the bills at issue in this case.

Defendants lastly contend that, because there is no time frame or deadline for presentment mentioned in Const 1963, art 4, § 33, there was no evidence that defendants ever actually violated the provision. Defendants argue this "means there is no valid claim or, at the least, that any claim is not ripe." The doctrine of ripeness requires that a party must have suffered an actual injury in order to raise a claim; hypothetical injuries and controversies are insufficient. *Van Buren Charter Twp v Visteon Corp*, 319 Mich App 538, 554; 904 NW2d 192 (2017). While it is true that there is no express deadline for presentment provided in the constitutional language, the provision does provide that presentment is the next, mandatory step after a bill is approved by both chambers. We decline to abuse the doctrine of ripeness to override this mandatory directive of our Constitution. Indeed, the discussion at the 1961 Constitutional Convention that "[s]ometimes a bill can be speedily printed, [while] sometimes it takes 2 or 3 weeks to get a bill printed," indicates the ratifiers' understanding that a bill is to be presented to the Governor as soon as it is possible to do so. 1 Official Record, Constitutional Convention 1961, p 1719. There is no dispute that defendants

RECEIVED by MSC 12/8/2025 3:54:29 PM

have failed to present the bills despite being able to do so. Thus, defendants' ripeness argument fails.[9]

In sum, Const 1963, art 4, § 33, clearly imposes the mandatory duty of presentment on the Legislature for "[e]very bill passed by the legislature[.]" This duty is not session-dependent; the Legislature, as a whole, bears the duty of presentment. Additionally, the fact that Const 1963, art 4, § 33, does not provide a deadline for presentment is not dispositive. The discourse at the 1961 Constitutional Convention suggests that presentment is the next, immediate step after a bill is passed by both chambers.

VI. ENFORCEMENT

The parties take issue with the Court of Claims's decisions regarding all three methods of relief plaintiffs sought. We hold that the Court of Claims erred when it declined to issue a writ of mandamus.[10]

A. MANDAMUS

"Mandamus is an extraordinary remedy and it will not lie to review or control the exercise of discretion vested in a public official or administrative body." *Higgins Lake*, 341 Mich App at 178 (quotation marks, brackets, and citation omitted).

---

[9] Defendants also argue that the trial court erred by failing to consider their mootness and laches arguments. However, the entirety of their argument on appeal in this respect is that "[t]he Senate's failure to seek relief while the 102nd Legislature was still in session renders their claims either moot or barred by laches. There is simply no requirement for a new legislature to present bills passed by a prior legislature." Aside from this conclusory statement, with which we, as noted, disagree, defendants provide no support for their mootness or laches assertions. "An appellant may not merely announce his or her position and leave it to this Court to discover and rationalize the basis for his or her claims." *Bill & Dena Brown Trust v Garcia*, 312 Mich App 684, 695; 880 NW2d 269 (2015) (quotation marks and citation omitted). Defendants' failure to brief the merits of their argument or cite any supporting authority renders their mootness and laches arguments abandoned. *Id.*

[10] Because we conclude that the Court of Claims erred in this respect, we need not address the parties' arguments regarding the court's denial of plaintiffs' request for a permanent injunction or the propriety of the declaratory judgment. Because the writ of mandamus fulfills the purpose of the declaratory judgment, and essentially duplicates the relief plaintiffs seek through injunction, the issues surrounding these other forms of relief are moot. See *Adams v Parole Bd*, 340 Mich App 251, 259; 985 NW2d 881 (2022) ("An issue is . . . moot when a judgment, if entered, cannot for any reason have a practical legal effect on the existing controversy.") (Quotation marks and citation omitted). We see no reason to stray from the general rule that "this Court does not address moot questions or declare legal principles that have no practical effect in a case." *Id.* (quotation marks and citation omitted). Thus, we decline to consider the arguments pertaining to the declaratory judgment or plaintiffs' request for a permanent injunction.

RECEIVED by MSC 12/8/2025 3:54:29 PM

> To obtain the extraordinary remedy of a writ of mandamus, the plaintiff must show that (1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result. [*Id*. at 178-179 (quotation marks and citations omitted).]

We conclude that mandamus is the appropriate remedy.

1. PRONGS 1 AND 2: CLEAR LEGAL RIGHT AND DUTY

Prongs 1 and 2 are inextricably intertwined in this case. Plaintiffs' clear, legal right to performance exists because plaintiffs and defendants, as a single entity, have a clear legal duty to perform, and defendants have not only failed to perform the duty themselves, but have, by extension, prevented plaintiffs from doing so as well. As explained, Const 1963, art 4, § 33, requires that "[e]very bill passed by the legislature shall be presented to the governor before it becomes law[.]" The provision necessarily implies that the Legislature has the mandatory duty of presentment described—the Legislature passed the bills at issue, and is therefore the only entity that can subsequently present those bills to the Governor. Thus, the clear legal duty of presentment rests with the Legislature as a whole, and plaintiffs have a right to have defendants perform that duty because defendants' actions have rendered plaintiffs unable to perform their duty themselves.

2. PRONG 3: MINISTERIAL FUNCTION

"A ministerial act is one in which the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment." *Id*. at 179 (quotation marks and citation omitted). The Court of Claims concluded that the duty at issue in this case was not ministerial. It reasoned that Const 1963, art 4, § 33, "does not prescribe and define this duty with sufficient precision and certainty as to leave nothing to the Legislature's discretion or judgment[,]" because, while the legislative rules themselves identify the appropriate individual to perform the duty, prudential concerns weighed against the Court of Claims interpreting or enforcing legislative rules. We conclude, however, that the mere fact that the specific *individual* designated to act on behalf of the Legislature is not defined by the constitutional provision imposing the duty does not, in and of itself, render the act ministerial. As our Supreme Court has explained, "the writ will lie to require a body or an officer charged with a duty to take action in the matter, notwithstanding the fact that the execution of that duty may involve some measure of discretion." *Teasel v Dep't of Mental Health*, 419 Mich 390, 410; 355 NW2d 75 (1984). Courts have the authority to issue writs of mandamus against individuals or bodies, and the fact that a writ directed at a body will require discretion as to which individual within that body performs the task is not dispositive. *Id*. See also MCL 600.4411 (mandamus can be "directed to any public officer, body or board, corporation or corporate officer, commanding them to perform any duty . . . .").

The duty at issue here lies squarely with the Legislature. It is the Legislature that passes bills, and it therefore must be the Legislature that presents them to the Governor. The *act* plaintiffs seek to compel through mandamus is the presentment of these bills to the Governor. Our Constitution leaves no room for discretion in the fact that this act "shall" be performed. Const 1963, art 4, § 33. While there is some discretion as to "the execution of [this] duty[,]" this does

RECEIVED by MSC 12/8/2025 3:54:29 PM

not render the ministerial act of presentment itself discretionary. *Teasel*, 419 Mich at 410. Regardless of what the legislative rules provide, it is beyond dispute that the duty of presentment falls to the Legislature, and that the only chamber of the Legislature capable of presenting these particular bills is the House of Representatives, because the House of Representatives currently possesses them. As such, the ministerial act of presentment must, by the facts of this case, fall on defendants.[11]

3. PRONG 4: NO OTHER ADEQUATE REMEDY AT LAW

The Court of Claims reasoned that mandamus was improper because plaintiffs had an adequate remedy at law in the form of its declaratory judgment. But without a mechanism for enforcement, the declaratory judgment does not provide an enforceable remedy for plaintiffs. See *Bauserman*, 509 Mich at 691-692 (citing various authorities for the proposition that "a right must have a remedy[,]" because, "[i]f not, it is not a right at all but only a voluntary obligation that a person can fulfill or not at his whim, or merely a hope or a wish.") (quotation marks and citation omitted). Therefore, any attempted enforcement of the declaratory judgment in this case would effectively be mandamus, because it would necessarily compel defendants to act in accordance with their duty. See, e.g., *Teasel*, 419 Mich at 410. In other words, the declaratory judgment, alone, is insufficient in light of defendants' prolonged refusal to present the bills to the Governor, see, e.g., *Durant v State*, 456 Mich 175, 206; 566 NW2d 272 (1997) (recognizing that declaratory relief "coupled" with another remedy was appropriate considering the "prolonged recalcitrance" by the defendant-governmental entity),[12] but enforced, is actually mandamus, see *Teasel*, 419 Mich at 410.

Defendants argue that the absence of any express enforcement mechanism provided by Const 1963, art 4, § 33, demonstrates that compelled performative relief is inappropriate even if declaratory relief is insufficient. They attempt to distinguish *Durant* by the fact that *Durant* concerned "a constitutional provision that expressly include[d] an 'enforcement' mechanism that is nowhere to be found in Article 4, Section 33." But our Supreme Court already impliedly rejected this argument in *Bauserman* when it noted that "[g]enerally, enforcing constitutional rights through injunctive [i.e., compulsory] relief is uncontroversial, despite the lack of an explicit constitutional authorization for such a cause of action." *Bauserman*, 509 Mich at 699-700, citing *Brown v Bd of*

---

[11] We note that, while not expressly considered by the Court of Claims, defendants also argue presentment under Const 1963, art 4, § 33, is not ministerial because the provision does not provide a time frame for performance. This argument fails for the same reason defendants' ripeness argument fails. The provision's failure to include a deadline does not change the fact that the act must be done. The provision clearly mandates that every passed bill "shall" be presented to the Governor. If the lack of a deadline were to mean the Legislature has unfettered discretion regarding when to do so, and could, therefore, simply choose to never present a bill, the provision would be stripped of its meaning. Defendants' time frame argument is inconsistent with the plain language of the provision as it is written.

[12] We recognize *Durant* concerned injunctive relief, not mandamus, but the underlying reasoning is applicable here. A declaratory judgment, alone, is insufficient to compel defendants' performance given their prolonged refusal to present the bills to the Governor.

RECEIVED by MSC 12/8/2025 3:54:29 PM

Ed of Topeka, 347 US 483, 486 n 1; 74 S Ct 686; 98 L Ed 873 (1954), and *Brown v Bd of Ed of Topeka*, 349 US 294; 75 S Ct 753; 99 L Ed 1083 (1955). The judiciary has the inherent authority to fashion a remedy to rectify a constitutional violation, even if the remedy chosen is not specifically identified in the constitutional provision at issue. *Bauserman*, 509 Mich at 693, 699-700. To hold that a writ of mandamus cannot be entered in the face of a clear violation of a clear constitutional duty simply because the constitutional provision itself does not provide a deadline for performance would render the provision's mandate nothing more than "a voluntary obligation that a person can fulfill or not at his whim, or merely a hope or a wish." *Id*. at 691.

B. SEPARATION OF POWERS

While not phrased explicitly, we recognize that defendants raise separation-of-powers concerns with respect to the judiciary compelling legislative action in this case. But, again, our Supreme Court has explained that "[t]he recognition and redress of constitutional violations are quintessentially judicial functions, required of us by the Separation of Powers Clause." *Bauserman*, 509 Mich at 687, citing Const 1963, art 3, § 2. It explained:

> The judiciary has the legitimate authority, in the exercise of the well-established duty of judicial review, to evaluate governmental action to determine if it is consistent with the Constitution. This is a first principle, inherent in our tripartite separation of powers. A major function of the judiciary is to guarantee the rights promised in our Constitution. If the rights guaranteed in our Constitution are to be more than words on paper, then they must be enforceable. And if the rights guaranteed in our Constitution are to be enforceable, then enforcement must fall to us, absent an explicit constitutional provision limiting our authority in this regard. [*Bauserman*, 509 Mich at 693 (quotation marks, brackets, and citations omitted).]

As discussed earlier, Const 1963, art 4, § 33, contains no language limiting the judiciary's authority to interpret and enforce its mandates.[13] Absent any such limitations, interpretation and enforcement of this constitutional provision, even in the context of governmental action, falls squarely within the scope of judicial authority.[14]

---

[13] The *Bauserman* Court listed two exceptions to judicial interpretive authority: (1) when the provision itself allocates authority to a different branch, or (2) when the Legislature has undertaken the task of providing the remedy itself, and the judiciary deems that remedy adequate. *Bauserman*, 509 Mich at 705. The second exception exists because the courts are "not required to duplicate the effort[]" of the Legislature in providing the remedy. *Id*. The second exception is inapplicable here, because there is no dispute that the Legislature has not "provided an adequate mechanism" to remedy this situation. *Id*.

[14] Defendants argue that any remedy in this case is not for the judiciary to impose; that this is a matter concerning a legislative process that must be resolved by the Legislature. As we have explained, while this situation does concern legislative behavior, the *rule* that must be enforced is found in our Constitution. Thus, absent any limitations, enforcement of this rule falls to the

We conclude that the Court of Claims erred in denying plaintiffs' request for a writ of mandamus. As such, we reverse and remand to the Court of Claims for issuance of a writ of mandamus ordering defendants to present the bills to the Governor. Because enforcement is required, but the provision does not indicate a specific time frame, the deadline for presentment may be determined in the Court of Claims's discretion. See *Band v Livonia Assoc*, 176 Mich App 95, 105; 439 NW2d 285 (1989) ("A court has the basic responsibility of enforcing its own orders and has considerable discretion in choosing the means to be employed."). We do not retain jurisdiction.

/s/ Thomas C. Cameron
/s/ Daniel S. Korobkin

judiciary. *Bauserman*, 509 Mich at 693. Furthermore, the requirement that rights must have remedies, *id.* at 691-692, would be violated if resolution were left to the Legislature, because, as plaintiffs have explained, the Legislature's inability to come to an agreement is what led to this case in the first place.

RECEIVED by MSC 12/8/2025 3:54:29 PM

Exhibit 2

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN

COURT OF APPEALS

SENATE and SENATE MAJORITY LEADER,

Plaintiffs-Appellees/Cross-Appellants,

v

HOUSE OF REPRESENTATIVES and HOUSE CLERK,

Defendants-Appellants/Cross-Appellees,

and

HOUSE SPEAKER,

Defendant.

FOR PUBLICATION
October 27, 2025
12:10 PM

No. 374786
Court of Claims
LC No. 25-000014-MB

Before: CAMERON, P.J., and MURRAY and KOROBKIN, JJ.

MURRAY, J. (*concurring in part, dissenting in part*).

I concur with the lead opinion that the Legislature has a clear constitutional duty to present bills to the Governor that were passed by both houses, as the text within Const 1963, art 4, § 33 could not be clearer. *Wood v State Admin Bd*, 255 Mich 220, 229; 238 NW 16 (1931) ("The Constitution grants to the Governor the power to veto any and every bill passed by the Legislature . . . ."). As explained below, however, although the Constitution provides a time period during which the Legislature must present enrolled bills to the Governor, because that time frame has passed, there is no constitutionally available remedy for this particular violation.

In the normal course of things, when the Legislature passes a bill, it is enrolled and is presented to the Governor. The Governor then has "14 days measured in hours and minutes from the time of presentation in which to consider it." Const 1963, art 4, § 33. If the Governor signs the bill, it becomes law. *Id*. If she vetoes the bill, it must be returned to the house where it originated, and the Legislature may override the veto by a two-thirds vote of each house. *Id*. "If any bill is not returned by the governor within such 14-day period, *the legislature continuing in*

session, it shall become law as if he had signed it." *Id*. (emphasis added). On the other hand, if the Governor does not approve the bill, and within the 14-day period the Legislature "finally adjourned the session at which the bill was passed," it will not become law. *Id*. This type of veto by inaction, which occurs when the Legislature has ended its two-year term, is referred to as a "pocket veto." *Wood*, 255 Mich at 229. Although § 33 contains time frames on gubernatorial acts after presentment, it does not contain an explicit time frame for presentment.

Because there is no *explicit* time frame for presentment within § 33, defendants argue that to judicially impose a time frame on *when* the Legislature must present an enrolled bill would be a violation of the separation of powers provision of the Constitution, Const 1963, art 3, § 2. There is much appeal to that argument, as the judiciary is not empowered to add language to the constitution—that is the peoples' job. *In re Proposals D & H*, 417 Mich 409, 423; 339 NW2d 848 (1983) ("Fundamental principles of democratic self-government preclude the judiciary from substituting its judgment for that of the people."). And, in fact, some courts from our sister states have held that, in the absence of a time period set out in their state constitution, courts cannot impose one. See e.g., *Zimmerman v State*, 76 Misc2d 193, 198-199; 348 NYS2d 727 (1973). Other courts disagree, with some imposing a "reasonable" time period for presentment. See *Campaign for Fiscal Equality v Marino*, 87 NY2d 235, 238-239; 661 NE2d 1372 (1995).

But Michigan courts need not engage in an unconstitutional act to provide a time frame for presentment, as one can be found through a combination of constitutional provisions, including Const 1963, art 4, §§ 3, 13, and 33. In considering those provisions, it becomes evident that all bills must be submitted to the Governor *no later than* 11:59 a.m. on the second Wednesday of January in odd-numbered years. See *Lapeer Co Clerk v Lapeer Circuit Court*, 469 Mich 146, 156; 665 NW2d 452 (2003) (reasoning that every provision of the Constitution "must be interpreted in the light of the document as a whole, and no provision should be construed to nullify or impair another"), citing *In re Probert*, 411 Mich 210, 232–233 n 17; 308 NW2d 773 (1981).

Turning first to when the Legislature can act, as defendants have argued, the end of a Legislature occurs every two years, as every two years the members of the House of Representatives are re-elected. Const 1963, art 4, § 3 (House members elected every two years). To establish the official last day of the session, the Constitution requires the Legislature to adopt a resolution declaring when the session ends, which cannot be later than the second Wednesday of January. Const 1963, art 4, § 13. And, once the two-year Legislature ends, it has no further power to work on bills or other unfinished business. See *id*. ("Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session."), and *Blank v Dep't of Corrections*, 462 Mich 103, 148-149; 611 NW2d 530 (2000) (MARKMAN, J., concurring) (recognizing that the Legislature changes every two years). Although there is a carryover provision for business or bills pending at final adjournment in an odd-numbered year, there isn't a provision allowing unfinished business to carryover from an even-numbered year. Providing that the Legislature can continue business at the end of one calendar year, but not allowing it to do so at the end of another, should be treated as having a meaning. *League of Women Voters of Mich v Secretary of State*, 508 Mich 520, 584 n 32; 975 NW2d 840 (2022) (ZAHRA, J., concurring in part and dissenting in part) ("We must presume that when language is included in one provision but omitted in another, that omission is intentional; therefore, because the language in Article 12, § 2 expressly calls for legislative action regarding the manner of circulation and the same or similar language is absent from Article 2, § 9,

RECEIVED by MSC 12/8/2025 3:54:29 PM

we must presume the Legislature lacks the authority to impose geographic restrictions on the manner of petition circulations for matters under Article 2, § 9.").

Consequently, the Constitution itself at least implicitly provides a deadline by which the Legislature's duty of presentment must be performed: 11:59 a.m. on the second Wednesday of January of every odd-numbered year. Const 1963, art 4, § 13 (providing that the new Legislature is to be sworn in at noon on the second Wednesday of January in the odd-numbered year).[1] And, importantly, Const 1963, art 4 § 33 explains what can occur if presentment occurs at the last minute of that final day, as the Governor can, after the legislative session has ended, either (1) sign the bill, which then becomes law, or (2) veto the bill, or take no action on it, by which the bill does not become law and the Legislature has no opportunity to override the veto or inaction. The *Wood* Court explained this process under the predecessor to Const 1963, art 4, § 33, which contained the same language:

> The Constitution grants to the Governor the power to veto any and every bill passed by the Legislature, except in the single instance of where the Legislature, by adjournment, prevents an essential of veto, return of the bill to the originating house. In the excepted instance, the Governor has a right or option similar to power of veto (which he may exercise by inaction), because the bill fails of passage unless he approves and signs it. This right is commonly called a 'pocket veto.' As a matter of fact, its effect to defeat a bill is greater than that of a veto, because the Legislature may pass a bill and make it law in spite of a veto, while the 'pocket veto' is final and the bill cannot be made law without being reintroduced, re-enacted, and approved by the executive or passed over his veto, as an original bill. [*Wood*, 255 Mich at 229.]

As the *Wood* Court explained, this "pocket veto" does not arise during temporary adjournments of the Legislature, but instead only comes into existence under Const 1963, art 4, § 33 when the Legislature adjourns at the end of the two-year legislative session. *Id*. at 232 ("The purpose and object as well as the language of the Constitution justifies and, in our opinion, requires the construction that it is only the adjournment without day of the Legislature which prevents return of a bill to the originating house and calls into operation the provision for 'pocket veto.' ").[2]

In light of these constitutional provisions, it seems apparent that the people themselves have created a deadline for legislative presentment of enrolled bills to the Governor, which is no later than 11:59 a.m. on the second Wednesday of January of odd-numbered years. And, when a

---

[1] It could be earlier if the Legislature by resolution declares an earlier end to the second legislative session.

[2] Based on this same understanding, the Attorney General advised Representative Griffin that an enrolled bill that was presented to the Governor at the end of the legislative session in an even-numbered year, which was subjected to a pocket veto, could "become law only by being re-introduced as an original bill, re-enacted, and either approved by the Governor or passed over a veto made by the Governor while the Legislature is still in session." OAG, 1989-1990, No. 6629, p 326 at 328 (April 27, 1990).

RECEIVED by MSC 12/8/2025 3:54:29 PM

bill is presented at the very end of the legislative term, the people protected the Governor's right to either sign or veto the enrolled bill. Although these provisions prevent the Legislature from overriding an actual veto that occurs after the end of a two-year legislative session (which only results from the Legislature's choice to present the bill at such a late date), they preserve the Governor's right to veto all bills passed by the Legislature. *Wood*, 255 Mich at 229 ("The Constitution grants to the Governor the power to veto any and every bill passed by the Legislature . . . .").

In *Nate v Denney*, 166 Idaho 801, 808; 464 P3d 287 (2017), the Idaho Supreme Court recognized the protections afforded the governor's right to veto all legislation under similar provisions of the Idaho constitution:

> When a bill is presented to the governor and when the legislature adjourns *sine die* are both within the sole control of the legislature. If the legislature could present a bill to the governor after adjournment, it could infringe upon the governor's right to veto the bill by presenting it to him more than ten days after adjournment.
>
> In summary, Article IV, section 10, of the Constitution clearly and necessarily prohibits the legislature from presenting bills to the governor after the legislature has adjourned sine die. It requires that bills must be presented to the governor while the legislature is still in session. That is the only logical interpretation of the section.[3]

As in *Denney*, here, Const 1963, art 4, § 33 lays out a process for presentment and vetoes: presentment commences the time period for the Governor to consider, and either accept or reject, an enrolled bill, and lays out what occurs if she does not approve that bill and the Legislature either "continues" the legislative session or the Legislature "within that time finally adjourned the session at which the bill was passed." Both of these scenarios involve the Legislature making the presentment prior to the end of the final legislative session, meaning either the date and time set forth in the concurrent legislative resolution adjourning the two-year session sine die, Const 1963, art 4, § 13, or no later than 11:59 a.m. of the second Wednesday of January in every odd-numbered year.[4]

Of course, this time for presentment is long past for the enrolled bills at issue, which itself presents a difficult dilemma. For, if on remand the trial court orders the *current* legislature to

---

[3] Art IV, § 10 of the Idaho Constitution is similar to the process in Const 1963, art 4, § 33, though the time frames differ as do some immaterial provisions.

[4] It is true that some courts have held that there is no expiration on the duty of presentment, and the mere adjournment of a legislative session is not a bar to the duty to present. See, e.g., *United States v Kapsalis*, 214 F2d 677, 679-680 (CA 7, 1954), and *Opinion of the Justices*, 106 NH 402, 404-405; 213 A2d 415 (1965). But here, this is not simply an adjournment of short duration, as for a holiday break, but is instead the adjournment sine die in an even-numbered year, ending this particular legislative body. And that is significant, because the Michigan Constitution's procedures for passing and presenting legislation require the Legislature to be in session.

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

present the at-issue bills passed by a *prior* legislature, does that mean that the current Legislature can override any veto of that legislation, which again, was passed by a different Legislature? Or even more fundamentally, can the Governor exercise her constitutional veto power? Because, under § 33, a veto needs to be done during the session of the prior Legislature, as it states that, "If he disapproves, *and* the legislature *continues the session at which the bill was passed*," the veto power can be exercised. Const 1963, art 4, § 33 (emphasis added). But here, the Legislature that passed these bills has not continued in session, which places into question whether the Governor's veto power kicks in. And, with respect to the pocket veto, § 33 states that if the Governor "does not approve, and the legislature *has within that time* finally adjourned the session at which the bill was passed, it shall not become law." Const 1963, art 4, § 33 (emphasis added). "Within that time," of course, means the 14 days since presentment, which if presentment is ordered to occur now, it would be occurring well *after* the prior Legislature adjourned, not "within that time." Again, because this constitutional time has passed, it is questionable whether the Governor has the power to veto or to pocket veto these bills under § 33.

In the end, the Constitution provides the answer to the question of whether and when presentment must occur. But because those time frames have passed, and imposing any time frames now would be inconsistent with the provisions of Const 1963, art 4, § § 3, 13, and 33, there is no remedy that the trial court can constitutionally impose. See e.g., *Nixon v Fitzgerald*, 457 US 731, 754 n 37; 102 S Ct 2690; 73 L Ed 2d 349 (1982); *Webster v Doe*, 486 US 592, 613; 108 S Ct 2047; 100 L Ed 2d 632 (1988) (SCALIA, J., dissenting) ("[I]t is simply untenable that there must be a judicial remedy for every constitutional violation.").

/s/ Christopher M. Murray

Exhibit 3

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM

STATE OF MICHIGAN
IN THE SUPREME COURT

MICHIGAN SENATE and **MICHIGAN SENATE MAJORITY LEADER WINNIE BRINKS,** in her official capacity,

Plaintiffs-Appellees and
Cross-Appellants,

v

MICHIGAN HOUSE OF REPRESENTATIVES, MICHIGAN HOUSE SPEAKER MATT HALL, in his official capacity**,** and **MICHIGAN HOUSE CLERK SCOTT STARR,** in his official capacity**,**

Defendants-Appellants and
Cross-Appellees.
____/

Supreme Court Case No.
Court of Appeals Case No. 374786
Court of Claims Case No. 25-000014-MB
Hon. Sima G. Patel

PLAINTIFFS-APPELLEES AND CROSS-APPELLANTS MICHIGAN SENATE AND MICHIGAN SENATE MAJORITY LEADER'S EMERGENCY APPLICATION FOR LEAVE TO APPEAL BEFORE DECISION BY THE COURT OF APPEALS

EMERGENCY BYPASS APPLICATION

ORAL ARGUMENT REQUESTED

GOODMAN ACKER
Michigan's Trusted Law Firm

GOODMAN ACKER, P.C.
MARK BREWER (P35661)
ROWAN CONYBEARE (P86571)
Attorneys for Plaintiffs-Appellees
and Cross-Appellants
Two Towne Square, Suite 444
Southfield, MI 48076
(248) 483-5000
mbrewer@goodmanacker.com
rconybeare@goodmanacker.com

TABLE OF CONTENTS

Index of Authorities v

Statement Identifying Opinion and Order Appealed From x

Questions Presented for Review xi

Introduction 1

Concise Statement of Material Facts and Proceedings 2

A. Material Facts 2

1. Historical Bill Presentment Practice 2

2. The Events Of January 8, 2025 3

3. The Nine Bills Passed By The Legislature In 2024 That The House Has Failed To Present To The Governor 4

B. Legal Proceedings 9

Argument: The Emergency Bypass Application Should Be Granted 12

I. The Standards To Bypass The Court Of Appeals Are Met 12

II. The Senate's Cross-Appeal Has Merit 13

A. The Senate Is Entitled To Mandamus 13

1. The Court Of Claims' Opinion And Order 13

2. The Standard Of Review 13

3. The Senate Meets The Standards For Mandamus 14

i. The House Has A Clear Legal Duty To Present The Nine Bills 15

ii. The Senate Has A Clear Legal Right To Presentation Of The Nine Bills 19

iii. The Senate Has No Other Adequate Legal Or Equitable Remedy That Might Achieve The Same Results As Mandamus 20

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM

iv. Presentation Is Ministerial ... 20

B. The Senate Is Entitled To A Permanent Injunction ... 23

1. The Court Of Claims' Opinion And Order ... 23

2. The Standard Of Review ... 23

3. Proper Analysis Of Injunctive Relief On Remand Must Include These Principles ... 26

III. The House's Appeal Lacks Merit ... 28

A. The Senate And Senate Majority Leader Have Standing ... 28

1. The Court Of Claims' Opinion And Order ... 28

2. The Standard Of Review ... 29

3. The Senate And Senate Majority Leader Meet The Standards For Standing ... 29

i. The Senate ... 30

ii. The Senate Majority Leader ... 32

B. This Case Is Justiciable ... 34

1. The Court Of Claims' Opinion And Order ... 34

2. The Standard Of Review ... 34

3. The Court Of Claims Abused Its Discretion In Denying A Permanent Injunction ... 24

4. The Issues Presented Meet The Standards For Justiciability ... 35

C. The Senate Is Entitled To A Declaratory Judgment ... 38

1. The Court Of Claims' Opinion And Order ... 38

2. The Standard Of Review ... 39

3. The Senate Meets The Standards For A Declaratory Judgment ... 39

D. The House's Defenses Are Meritless ... 43

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2023 3:54:29 PM

1. The Alleged Lack Of *Sine Die* Adjournment Of The Previous Legislature Does Not Bar Presentation 43

2. "Technical Problems" In The Nine Bills Do Not Bar Presentation 44

Conclusion and Relief Sought 45

Certificate of Compliance 46

RECEIVED by MSC 12/8/2023 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM

RECEIVED by MSC 12/8/2023 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM

INDEX OF AUTHORITIES

Cases

Anderson v Atwood, 273 Mich 316; 262 NW 922 (1935)..*passim*

Baker v Carr, 369 US 186; 82 S Ct 691; 7 L Ed 2d 663 (1962)... 38

Barry Co Probate Court v Mich Dep't of Social Servs, 114 Mich App 312; 319 NW2d 571 (1982).. 23

Bauserman v Unemployment Ins Agency, 509 Mich 673; 983 NW2d 855 (2022) 1, 2, 20, 36

Bay Co Exec v Bay Co Bd of Comm'rs, 129 Mich App 707; 342 NW2d 96 (1983) 40

Berry v Garrett, 316 Mich App 37; 890 NW2d 882 (2016) (*per curiam*)................................... 14

Boards of Co Roads Comm'rs v Bd of State Canvassers, 391 Mich 666; 218 NW2d 144 (1974) (*per curiam*) 16, 20, 42

Brewer v Burns, 222 Ariz 234; 213 P3d 671 (2009) (*en banc*) 15, 18, 22, 37, 42

Campaign for Fiscal Equity v Marino, 87 NY2d 235; 661 NE2d 1372 (1995) 15, 19, 22, 42

Citizens for Protection of Marriage v Bd of State Canvassers, 263 Mich App 487; 688 NW2d 538 (2004) (*per curiam*) 14

Citizens Protecting Michigan's Constitution v Secretary of State, 503 Mich 42; 921 NW2d 247 (2018) (*en banc*) 13

Council of Saginaw v Bd of Trustees, 321 Mich 641; 32 NW2d 899 (1948)............................... 16

Detroit v Chapin, 108 Mich 136; 66 NW 587 (1895).. 2

Detroit Fire Fighters Ass'n v Detroit, 449 Mich 629; 537 NW2d 436 (1995)....................... 30, 38

Durant v Michigan, 456 Mich 175; 566 NW2d 272 (1997) (*per curiam*)................................... 26

Fla ex rel Cunningham v Davis, 123 Fla 41; 166 So 289 (1936) 42

G & V Lounge v Mich Liquor Control Comm, 23 F3d 1071 (CA 6, 1994) 25

Horn & Hardart Co v Nat'l Rail Passenger Corp, 843 F2d 546 (CA Fed, 1988)........................ 26

House of Representatives v Governor, 333 Mich App 325; 960 NW2d 125 (2020) 13, 14, 23, 24, 39

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

House Speaker v Governor, 443 Mich 560; 506 NW2d 190 (1993)........................... 27, 35, 37, 38

House Speaker v State Admin Bd, 441 Mich 547; 495 NW2d 539 (1993) 29, 32, 33

Huntington Woods v Detroit, 279 Mich App 603; 761 NW2d 127 (2008)........... 13, 23, 29, 34, 35

In re Advisory Opinion on Constitutionality of 1978 PA 426, 403 Mich 631;
272 NW2d 495 (1978).. 41

In re Thornhill, 512 Mich 889; 993 NW2d 400 (2023) 24

In re Ferranti, 504 Mich 1; 934 NW2d 610 (2019) (*en banc*)................................... 13, 23, 34, 39

Jones v Dep't of Corrections, 468 Mich 646; 664 NW2d 717 (2003)... 14

Killeen v Wayne Co Road Comm, 137 Mich App 178; 357 NW2d 851 (1984)
(*per curiam*).. 33

Lansing Sch Ed Ass'n v Lansing Bd of Ed, 487 Mich 349; 792 NW2d 686
(2010) 29, 30, 31, 32, 33

League of Women Voters of Mich v Secretary of State, 506 Mich 561;
957 NW2d 731 (2020) (*en banc*) 32

League of Women Voters of Mich v Secretary of State, 331 Mich App 156;
952 NW2d 491 (2020).. 32

League of Women Voters of Mich v Secretary of State, 339 Mich App 257;
981 NW2d 538 (2021).. 39

LeRoux v Secretary of State, 465 Mich 594; 640 NW2d 849 (2002) (*per curiam*) 41, 44

Mich Alliance for Retired Americans v Secretary of State, 334 Mich App 238;
964 NW2d 816 (2020)... 23, 29

Mich Senate v Mich House of Representatives, opinion and order of the Court
of Claims, issued February 27, 2025 (Docket No. 25-000014-MB)................................*passim*

Minarik v State Hwy Comm'r, 336 Mich 209; 57 NW2d 501 (1953).. 40

Moore v Harper, 600 US 1; 143 S Ct 2065; 216 L Ed 2d 729 (2023)... 17

Mothering Justice v Attorney General, ___ Mich ___; ___ NW2d ___ (2024)
(Docket No. 165325) (*en banc*).. 18, 19, 26, 27, 37

Obama for America v Husted, 697 F3d 423 (CA 6, 2012) 24

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

People v Kelly, 317 Mich App 637; 895 NW2d 230 (2016) (*per curiam*) 24

People v Thompson, 424 Mich 118; 379 NW2d 49 (1985) 15, 16, 20

Pillon v Attorney General, 345 Mich 536; 77 NW2d 257 (1956)... 14

Powell v McCormack, 395 US 486; 89 S Ct 1944; 23 L Ed 2d 491 (1969) 28

Promote the Vote 2022 v Bd of State Canvassers, 510 Mich 884; 979 NW2d 188 (2022) 21

Recall Blanchard Comm v Secretary of State, 146 Mich App 117; 380 NW2d 71 (1985) 39

Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer, 308 Mich App 498; 866 NW2d 817 (2014) (*per curiam*) 14, 19, 21

Reproductive Freedom for All v Bd of State Canvassers, 510 Mich 894; 978 NW2d 854 (2022) 21

Richardson v Secretary of State, 381 Mich 304; 160 NW2d 883 (1968) (*per curiam*) 36

Smith v Auditor General, 165 Mich 140; 130 NW 557 (1911).. 17

Stand Up For Democracy v Secretary of State, 492 Mich 588; 822 NW2d 159 (2012) 15

Warren City Council v Buffa, 346 Mich App 528; 12 NW3d 681 (2023) (*per curiam*).. 13, 14, 39

Wayne Co Chief Exec v Governor, 230 Mich App 258; 583 NW2d 512 (1998)......................... 26

Wood v State Admin Bd, 255 Mich 220; 238 NW 16 (1931) 18

Yatooma v Dabish, unpublished per curiam opinion of the Court of Appeals, issued March 21, 2019 (Docket Nos. 340110 & 341423)... 24

Constitutional Provisions

Const 1908, art 5, § 36 .... 15, 19

Const 1963, art 4, § 27 12

Const 1963, art 4, § 33 .... *passim*

Michigan Compiled Laws

MCL 168.476 21

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

MCL 168.552(8) 21

MCL 168.841 21

Legislative Bills

1982 SB 200 3

1982 SB 201 3

1982 SB 530 3

1982 SB 979 3

1996 SB 1102 3

1998 SB 240 3

2023 HB 4177 .... 4, 5

2023 HB 4665 6

2023 HB 4666 7

2023 HB 4667 .... 7, 8

2023 HB 4900 8

2023 HB 4901 .... 8, 9

2024 HB 5817 5

2024 HB 5818 .... 5, 6

2024 HB 6058 9

Legislative Materials

1980 House Journal 3

1980 Senate Journal 3

1983 Senate Journal 3

1996 Senate Journal 3

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

1998 Senate Journal 3

2023–2024 Joint Rule 12........ 44

Attorney General Opinions

1 OAG, 1982, No. 6,114, p 779 (December 22, 1982) 2, 3

1 OAG, 2003, No. 7,139 (October 2, 2003)........ 18

Michigan Court Rules

MCR 2.605 31

MCR 2.605(A)(1)........ 31, 39

MCR 2.605(F) 23, 26, 28

MCR 7.212(B)(1) 46

MCR 7.212(B)(5) 46

MCR 7.303(B)(1) 12

MCR 7.303(B)........ 12, 13

MCR 7.305(C)(1) 12

Other Authorities

1 Cooley, Constitutional Limitations (2d ed)........ 17

1 Official Record, Constitutional Convention 1961........ 16, 17, 33, 42

2 Official Record, Constitutional Convention 1961........ 41

1 Sutherland Statutory Construction, § 16:1 33

Eggert, *New House Speaker Pushes Elimination of Business Tax Credits to Fund Roads, Questions RenCen Plan*, Crain's Detroit Business (January 9, 2025) 43, 44

RECEIVED by MSC 3/17/2025 5:09:02 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

STATEMENT IDENTIFYING OPINION AND ORDER APPEALED FROM AND DATE OF ENTRY

On March 12, 2025, Defendants-Appellants and Cross-Appellees (hereinafter "the House") claimed an appeal from the February 27, 2025, Opinion and Order Granting in Part Plaintiffs' Motion for Summary Disposition. On March 13, 2025, Plaintiffs-Appellees and Cross-Appellants (hereinafter "the Senate") claimed a cross-appeal from the Opinion and Order Granting in Part Defendants' Countermotion for Summary Disposition. The Senate did not appeal the Court of Claims' finding that Michigan House Speaker Matt Hall is privileged from civil process.

The February 27, 2025, Opinion and Order appealed from appears in the Appendix, pp 1–20.

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM

QUESTIONS PRESENTED FOR REVIEW

I. Senate Questions

A. Did the Court of Claims err by denying mandamus relief for the Senate based on its legal conclusion that the duty to present bills is not ministerial?

Court of Claims' Answer: No.

The Senate's Answer: Yes.

The House's Answer: No.

B. Did the Court of Claims err by denying permanent injunctive relief for the Senate based on inadequate analysis?

Court of Claims' Answer: No.

The Senate's Answer: Yes.

The House's Answer: No.

II. House Questions

A. Did the Court of Claims err by holding that the Senate Plaintiffs have standing?

Court of Claims' Answer: No.

The Senate's Answer: No.

The House's Answer: Yes.

B. Did the Court of Claims err by holding that the Senate's claims were justiciable?

Court of Claims' Answer: No.

The Senate's Answer: No.

The House's Answer: Yes.

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

C. Did the Court of Claims err by issuing a declaratory judgment that Article 4, § 33 of the Michigan Constitution requires the Legislature to present all passed bills to the Governor, including the nine bills at issue here?

Court of Claims' Answer: No.

The Senate's Answer: No.

The House's Answer: Yes.

RECEIVED by MSC 12/8/2023 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM

INTRODUCTION

> "[L]egal obligations that exist but cannot be enforced are ghosts that are seen in the law but that are elusive to the grasp."
>
> – *Bauserman v Unemployment Ins Agency*, 509 Mich 673, 692; 983 NW2d 855 (2022) (*en banc*)

The Michigan House has taken a basic constitutional requirement—the presentation of passed bills to the Governor for her consideration—that has been routinely carried out by the Legislature on a bipartisan basis for nearly 200 years and turned it into a constitutional confrontation by refusing to send nine passed bills to the Governor.

If allowed to succeed, this anti-majoritarian scheme will unilaterally and drastically change Michigan government—its separation of powers, its checks and balances, and its majoritarian principles in several ways.

First, the Legislature will no longer be a body in which the majority rules when it comes to passing legislation. Instead, a single legislative leader can simply refuse to send to the Governor any passed bill, even one passed by overwhelming majorities.

Second, the Governor will lose her exclusive constitutional authority to veto bills. It will be shared with every legislative leader who will have their own type of "pocket veto"—pocketing passed bills by refusing to send them to the Governor.

Finally, this scheme will inject an entirely new political calculus into the legislative process as every bill could be turned into a hostage whose release will be bartered over with other legislators and/or the Governor.

The Court of Claims correctly began to partially put a stop to this scheme by declaring it unconstitutional. However, that Court failed to enforce that declaration with either an order of mandamus or a permanent injunction. As a result, the House still holds the nine bills hostage and

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

has announced that it will not obey the Court of Claims' declaratory judgment. Thus, we have the situation that the Court in *Bauserman* sought to avoid—a legal obligation that cannot be enforced.

Time is extremely short to present these bills to the Governor so that she may consider and sign them before their April 2, 2025, effective date.

For all of these reasons, the Senate by this Bypass Application urgently asks this Court to take this matter up directly, affirm the Court of Claims' Declaratory Judgment, and hold that either mandamus should issue or a permanent injunction be entered.

CONCISE STATEMENT OF MATERIAL FACTS AND PROCEEDINGS

A. Material Facts

1. Historical Bill Presentment Practice.

The Presentment Clause of the Michigan Constitution states:

> Every bill passed by the legislature shall be presented to the governor before it becomes law . . . .

Const 1963, art 4, § 33. The Clause imposes a duty to present every bill passed by the Legislature without exception.

Presentment itself is a very simple, clerical, ministerial—indeed, pedestrian—process as it currently involves an employee of the Legislature walking copies of passed bills to the Governor's Legislative Affairs Office in the Capitol. Presentment is literally a walk down the hall. That is it.

For at least 150 years under three state Constitutions—1850, 1908, and 1963—following presentment by the Legislature, Michigan governors have signed bills after the adjournment of the legislative session at which they were passed. *See, e.g.*, *Detroit v Chapin*, 108 Mich 136, 143; 66 NW 587 (1895) ("Our attention is called to instances where the governors of this State have signed bills [after legislative adjournment], one as early as 1873, and many since."); 1 OAG, 1982, No.

GOODMAN ACKER Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 3/17/2025 5:09:02 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM

6,114, p 779, at 780 (December 22, 1982) (*Chapin* "expressly recognized that governors of this state have signed bills [after legislative adjournment] for many years.").

The vast majority of bills passed during a legislative session are presented to the Governor during that session. However, the volume of bills passed in the final days of a legislative session has sometimes caused bill presentation and signing to occur during the next legislative session.

Examples of bills presented by the Senate to the Governor during the next legislative session following passage include but are not limited to:

1) Senate Bill 240 of 1998 was presented to the Governor on January 13, 1999, and signed on January 27, 1999. *See* 1998 Senate Journal 2290, 2309–2310.

2) Senate Bill 1102 of 1996 was presented to the Governor on January 10, 1997, and signed on January 21, 1997. *See* 1996 Senate Journal 2377, 2392.

3) Senate Bills 530, 979, 200, and 201 of 1982 were presented to the Governor on January 4, 1983, and signed by the Governor on January 17, 1983. *See* 1983 Senate Journal 32, 56–57.

4) Between January 4 and 16, 1981 the Senate presented 49 bills to the Governor. *See* 1980 Senate Journal 3767–3768.

Examples of bills presented by the House to the Governor during the next legislative session by the House include but are not limited to:

1) In January 1981, 71 bills from the 1980 session were presented to the Governor between January 7, 1981, and January 16, 1981. *See* 1980 House Journal 3767–3768.

2. The Events Of January 8, 2025.

During the morning of January 8, 2025, 19 bills were presented to the Governor that had passed the 102nd Legislature in 2024. *See* App, p 29. At 12:00 p.m., the 103rd Legislature convened, Representative Matt Hall was elected Speaker, and Scott Starr was elected Clerk. Presentation of bills that had passed the 102nd Legislature in 2024 continued into the afternoon.

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

All told, 69 bills that passed during the 102nd Legislature were presented to the Governor during the afternoon of January 8, 2025. *See* App, pp 29–31.

All nine bills at issue in this litigation had passed both houses of the Legislature in 2024 and were ready for presentation to the Governor on January 8, 2025, along with the other 88 bills. However, in defiance of Article 4, § 33, Michigan Supreme Court precedent, and long-established legislative practice, Speaker Hall ordered Clerk Starr not to present the nine bills to the Governor.

3. The Nine Bills Passed By The Legislature In 2024 That The House Has Failed To Present To The Governor.

House Bill 4177 of 2023

- Brief Description: Enacts the History Museum Authorities Act to allow a county board of commissioners to establish a history museum authority and levy a tax of up to 0.2 mills in a county that established an authority. *See* Senate Fiscal Agency Analysis, HB 4177 (November 25, 2024).
- Process, *see* Michigan Legislature, *House Bill 4177 of 2023: History* (accessed January 28, 2025):
  - Introduced – 3/7/23
  - Reported from the House Committee on Regulatory Reform – 9/19/23
    - Two Committee Hearings, *see* House of Representatives Committee on Regulatory Reform, *Committee Meeting Minutes* (September 12, 2023); House of Representatives Committee on Regulatory Reform, *Committee Meeting Minutes* (September 19, 2023).
  - Passed the House (56–53) – 6/20/24
  - Reported from the Senate Committee on Finance, Insurance, and Consumer Protection – 11/26/24
    - Committee Hearing, *see* Senate Committee on Finance, Insurance, and Consumer Protection, *Committee Meeting Minutes* (November 13, 2024).
  - Passed the Senate (20–18) – 12/20/24
  - Returned to the House – 12/20/24

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

- Ordered Enrolled – 12/31/24

House Bill 5817 of 2024

- Brief Description: Amends the Tax Increment Financing Act to exempt the mills captured under HB 4177, so that money collected goes to the established authority. *See* Senate Fiscal Agency Analysis, HB 5817 (November 25, 2024).

- Process, *see* Michigan Legislature, *House Bill 5817 of 2024: History* (accessed January 28, 2025):

  - Introduced – 6/13/24

  - Reported from the House Committee on Regulatory Reform – 6/18/24

    - Committee Hearing, *see* House of Representatives Committee on Regulatory Reform, *Committee Meeting Minutes* (June 18, 2024).

  - Passed the House (56–54) – 6/27/24

  - Reported from the Senate Committee on Finance, Insurance, and Consumer Protection – 11/13/24

    - Committee Hearing, *see* Senate Committee on Finance, Insurance, and Consumer Protection, *Committee Meeting Minutes* (November 13, 2024).

  - Passed the Senate (20–18) – 12/20/24

  - Returned to the House – 12/20/24

  - Ordered Enrolled – 12/31/24

House Bill 5818 of 2024

- Brief Description: Amends the Brownfield Redevelopment Authority Act to exempt the mills captured under HB 4177, so that money collected goes to the established authority. *See* Senate Fiscal Agency Analysis, HB 5818 (November 25, 2024).

- Process, *see* Michigan Legislature, *House Bill 5818 of 2024: History* (accessed January 28, 2025):

  - Introduced – 6/13/24

  - Reported from the House Committee on Regulatory Reform – 6/18/24

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 3/17/2025 5:09:02 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

        - Committee Hearing, *see* House of Representatives Committee on Regulatory Reform, *Committee Meeting Minutes* (June 18, 2024).

    - Passed the House (56–54) – 6/27/24

    - Reported from the Senate Committee on Finance, Insurance, and Consumer Protection – 11/26/24

        - Committee Hearing, *see* Senate Committee on Finance, Insurance, and Consumer Protection, *Committee Meeting Minutes* (November 13, 2024).

    - Passed the Senate (20–18) – 12/20/24

    - Returned to the House – 12/20/24

    - Ordered Enrolled – 12/31/24

House Bill 4665 of 2023

- Brief Description: Amends the State Police Retirement Act to allow corrections officers, conservation officers, and other law enforcement officers to participate in the Michigan State Police retirement plan. *See* House Fiscal Agency Analysis, HB 4665 (December 13, 2024).

- Process, *see* Michigan Legislature, *House Bill 4665 of 2023: History* (accessed January 28, 2025):

    - Introduced – 5/25/23

    - Reported from the House Committee on Labor – 12/12/24

        - Committee Hearing, *see* House of Representatives Committee on Labor, *Committee Meeting Minutes* (December 12, 2024).

    - Passed the House (56–0) – 12/13/24

    - Discharged from the Senate Committee on Government Operations – 12/20/24

    - Passed the Senate (25–13) – 12/20/24

    - Returned to the House – 12/20/24

    - Ordered Enrolled – 12/31/24

GOODMAN ACKER P.C.
Michigan's Trusted Law Firm

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM

House Bill 4666 of 2023

- Brief Description: Amends the State Employees' Retirement Act to allow certain individuals who are qualified participants in the State Employees' Retirement System to elect to join the Michigan State Police retirement plan. *See* House Fiscal Agency Analysis, HB 4666 (December 13, 2024).

- Process, *see* Michigan Legislature, *House Bill 4666 of 2023: History* (accessed January 28, 2025):

  - Introduced – 5/25/23

  - Reported from the House Committee on Labor – 12/12/24

    - Committee Hearing, *see* House of Representatives Committee on Labor, *Committee Meeting Minutes* (December 12, 2024).

  - Passed the House (56–0) – 12/13/24

  - Discharged from the Senate Committee on Government Operations – 12/20/24

  - Passed the Senate (25–13) – 12/20/24

  - Returned to the House – 12/20/24

  - Ordered Enrolled – 12/31/24

House Bill 4667 of 2023

- Brief Description: Adds three sections to the State Police Retirement Act to allow eligible individuals to purchase service credit for service under the State Employees' Retirement Act. *See* House Fiscal Agency Analysis, HB 4667 (December 13, 2024).

- Process, *see* Michigan Legislature, *House Bill 4667 of 2023: History* (accessed January 28, 2025):

  - Introduced – 5/25/23

  - Reported from the House Committee on Labor – 12/12/24

    - Committee Hearing, *see* House of Representatives Committee on Labor, *Committee Meeting Minutes* (December 12, 2024).

  - Passed the House (56–0) – 12/13/24

  - Discharged from the Senate Committee on Government Operations – 12/20/24

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

- Passed the Senate (25–13) – 12/20/24
- Returned to the House – 12/20/24
- Ordered Enrolled – 12/31/24

House Bill 4900 of 2023

- Brief Description: Modifies the types and value of wages, money, and property exempt from garnishment and execution (debt collection), and modifies Michigan's garnishment and execution process. *See* Senate Fiscal Agency Analysis, HB 4900 (December 18, 2024).
- Process, *see* Michigan Legislature, *House Bill 4900 of 2023: History* (accessed January 28, 2025):
  - Introduced – 7/18/23
  - Discharged from the House Committee on Insurance and Financial Services – 12/13/24
  - Passed by the House (56–0) – 12/13/24
  - Discharged from the Senate Committee on Government Operations – 12/20/24
  - Passed by the Senate (22–16) – 12/20/24
  - Returned to the House – 12/20/24
  - Ordered Enrolled – 12/31/24

House Bill 4901 of 2023

- Brief Description: Amends the bankruptcy section of the Revised Judicature Act to modify the value of types of property and expand the types of property exempt from inclusion in a debtor's estate. *See* Senate Fiscal Agency Analysis, HB 4901 (December 18, 2024).
- Process, *see* Michigan Legislature, *House Bill 4901 of 2023: History* (accessed January 28, 2024):
  - Introduced – 7/18/23
  - Discharged from the House Committee on Insurance and Financial Services – 12/13/24

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM
GOODMAN ACKER Michigan's Trusted Law Firm

- Passed the House (56–0) – 12/13/24
- Discharged from the Senate Committee on Government Operations – 12/20/24
- Passed the Senate (21–17) – 12/20/24
- Returned to the House – 12/20/24
- Ordered Enrolled – 12/31/24

House Bill 6058 of 2024

- Brief Description: Amends the Publicly Funded Health Insurance Contribution Act to mandate that public employers contribute at least 80% of the costs for employee health plans and permit employers to contribute up to the full cost. *See* Senate Fiscal Agency Analysis, HB 6058 (December 19, 2024).
- Process, *see* Michigan Legislature, *House Bill 6058 of 2024: History* (accessed January 28, 2025):
  - Introduced – 11/12/24
  - Reported from the House Committee on Labor – 12/5/24
    - Committee Hearing, *see* House of Representatives Committee on Labor, *Committee Meeting Minutes* (December 5, 2024).
  - Passed by the House (56–0) – 12/13/24
  - Discharged from the Senate Committee on Government Operations – 12/20/24
  - Passed the Senate (20–18) – 12/20/24
  - Returned to the House – 12/20/24
  - Ordered Enrolled – 12/31/24

B. Legal Proceedings

On February 3, 2025, the Senate filed a Verified Complaint asking the Court of Claims for the following relief: (1) to grant a writ of mandamus and order the House to immediately present the nine bills to the Governor; (2) to enter a declaratory judgment that the House has a constitutional duty to present the nine bills to the Governor; and (3) to issue a permanent injunction

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM
GOODMAN ACKER Michigan's Trusted Law Firm

enjoining the House from failing to immediately present the nine bills to the Governor. Concurrently, the Senate filed Motions for Immediate Consideration, Expedited Consideration, and Summary Disposition.

On February 24, 2025, a hearing on the Senate's Motion for Summary Disposition was held before the Honorable Sima G. Patel. Following the hearing, the House filed its own Countermotion for Summary Disposition.

On February 27, 2025, the Court issued its Opinion and Order finding the following: (1) Speaker Hall is privileged from civil process; (2) the Senate and Senate Majority Leader have standing; (3) the case presents a justiciable question; (3) Article 4, § 33 requires presentment of all bills passed by both Legislative houses, even after adjournment; and (4) the Senate is entitled to a declaratory judgment, but not mandamus or injunctive relief at that time. The Court held that "all bills passed by the Legislature must be presented to the Governor within time to allow 14 days for the Governor's review prior to the first date that they could take effect." *Mich Senate v Mich House of Representatives*, opinion and order of the Court of Claims, issued February 27, 2025 (Docket No. 25-000014-MB), p 2 (App, p 2). As such, the Court ordered the following: (1) the Senate's Motion for Summary Disposition be granted to the extent that it requests a declaratory judgment; (2) the Senate's Motion for Summary Disposition be denied with respect to its request for a writ of mandamus and injunctive relief; (3) the House's Countermotion for Summary Disposition be granted with respect to the Senate's claims for a writ of mandamus and injunctive relief; and (4) the House's Countermotion for Summary Disposition be denied with respect to the Senate's request for a declaratory judgment.

Under the Court of Claims' Declaratory Judgment, the nine bills must be presented to the Governor at least 14 days before they would take effect on April 2, 2025, or by March 19, 2025.

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM
GOODMAN ACKER Michigan's Trusted Law Firm

On March 12, 2025, the House adopted a resolution (App, pp 32–35) indicating that it would not comply with the Court of Claims' Declaratory Judgment. That same day, the House claimed an appeal as of right from the Opinion and Order Granting in Part the Senate's Motion for Summary Disposition.

On March 13, 2025, the Senate claimed a cross-appeal from the Opinion and Order Granting in Part the House's Countermotion for Summary Disposition. The Senate did not appeal the Court of Claims' finding that Michigan House Speaker Matt Hall is privileged from civil process.

The Senate now files this Bypass Application.

RECEIVED by MSC 12/8/2025 5:09:02 PM
RECEIVED by MSC 3/17/2025 3:54:29 PM

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM

ARGUMENT

THE EMERGENCY BYPASS APPLICATION SHOULD BE GRANTED.

I. THE STANDARDS TO BYPASS THE COURT OF APPEALS ARE MET.

Through this Emergency Bypass Application, the Senate asks this Court to grant its Application for Leave to Appeal and bypass consideration of the appeal by the Court of Appeals as permitted under MCR 7.305(C)(1) and MCR 7.303(B)(1). By the concurrently filed Motion for Immediate and Expedited Consideration, the Senate requests expedited consideration of the Bypass Application.

It is a virtual certainty that any decision by the Court of Appeals will be appealed to this Court by the losing party. But with the April 2, 2025, effective date of the nine bills rapidly approaching, there is not time for considered decisions from both the Court of Appeals and this Court. Unless given immediate effect, laws take effect 90 days after the Legislature adjourns. Const 1963, art 4, § 27. None of the nine bills were given immediate effect, so if signed by the Governor, they will take effect on April 2, 2025, 90 days after the 2023–2024 Legislature adjourned. But before their effective date, other events must occur. The Governor has up to 14 days after presentation to consider bills. Const 1963, art 4, § 33. To allow the Governor her constitutionally mandated period of 14 days to consider a bill after presentation but before the April 2, 2025, effective date of the bills she signs, this matter requires immediate and expedited consideration.

The Senate meets several bases required of a bypass application under MCR 7.305(B): (1) the issues involve a substantial question about the validity of legislative actions; (2) the issues have significant public interest and the case involves both legislative branches; (3) the issues involve legal principles of major significance to the state's jurisprudence; and (4) the appeal is from a

Goodman Acker P.C. Michigan's Trusted Law Firm

ruling that delay in final adjudication is likely to cause substantial harm and that an action of a legislative branch is invalid.

For all of these reasons, under these extraordinary circumstances, the Senate requests that this Bypass Application for Leave to Appeal be granted.

II. THE SENATE'S CROSS-APPEAL HAS MERIT.

A. The Senate Is Entitled To Mandamus.

1. The Court Of Claims' Opinion And Order.

The Court of Claims held that, "[w]hile the language of Section 33 leaves no question that a bill passed by the Legislature must be presented to the Governor, it does not provide sufficient detail to be a ministerial task warranting a writ of mandamus." *Mich Senate*, p 14 (App, p 14).

After describing the standard of review and explaining why the Senate meets all of the criteria for mandamus, we will address the errors in the Court of Claims' holding.

2. The Standard Of Review.

Appellate courts review "de novo a trial court's grant or denial of a motion for summary disposition." *Huntington Woods v Detroit*, 279 Mich App 603, 614; 761 NW2d 127 (2008), *lv den* 483 Mich 887; 759 NW2d 875 (2009). De novo review requires an appellate court to "review [an] issue independently, with no required deference to the courts below." *In re Ferranti*, 504 Mich 1, 14; 934 NW2d 610 (2019) (*en banc*).

The standard of review for a trial court's decision regarding a writ of mandamus is abuse of discretion. *Warren City Council v Buffa*, 346 Mich App 528, 539; 12 NW3d 681 (2023) (*per curiam*), citing *Citizens Protecting Michigan's Constitution v Secretary of State*, 503 Mich 42, 59; 921 NW2d 247 (2018) (*en banc*). "A court abuses its discretion when a decision falls outside the range of reasonable and principled outcomes." *House of Representatives v Governor*, 333 Mich

RECEIVED by MSC 12/8/2023 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

App 325, 363; 960 NW2d 125 (2020). "However, whether a plaintiff has a clear legal right to the performance of a duty and whether a defendant has a clear legal duty to perform are questions of law subject to de novo review." *Buffa*, 346 Mich App at 539, citing *Berry v Garrett*, 316 Mich App 37, 41; 890 NW2d 882 (2016) (*per curiam*).

Here, the Court of Claims' legal holding that the duty to present is not ministerial is a question of law subject to de novo review.

3. The Senate Meets The Standards For Mandamus.

A writ of mandamus is issued by a court to compel public bodies and officers to perform a clear legal duty, including public bodies created by the state Constitution. *See, e.g.*, *Jones v Dep't of Corrections*, 468 Mich 646, 658; 664 NW2d 717 (2003); *Citizens for Protection of Marriage v Bd of State Canvassers*, 263 Mich App 487; 688 NW2d 538 (2004) (*per curiam*) (granting mandamus against the Board of State Canvassers); *Pillon v Attorney General*, 345 Mich 536; 77 NW2d 257 (1956) (granting mandamus against the Secretary of State).

To be entitled to a writ of mandamus, a plaintiff must show that: "(1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result." *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518; 866 NW2d 817 (2014) (*per curiam*), *lv den* 498 Mich 853; 865 NW2d 19 (2015).

The Senate is entitled to a writ of mandamus because (1) it has a clear legal right under Article 4, § 33 to have the House present the nine bills to the Governor; (2) the House has a clear legal duty under Article 4, § 33 to present the nine bills to the Governor; (3) the act of presentation

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

is ministerial; and (4) the Senate has no other legal or equitable remedy that might achieve the same result.

i. The House Has A Clear Legal Duty To Present The Nine Bills.

There can be no doubt that the House has a clear legal duty to present the nine bills to the Governor under the text of Article 4, § 33:

> Every bill passed by the legislature *shall* be presented to the governor before it becomes law . . . .

Const 1963, art 4, § 33 (emphasis added).[1] The Presentment Clause contains no exceptions. This Court has held that "shall" means "shall." *See, e.g.*, *Stand Up For Democracy v Secretary of State*, 492 Mich 588, 601; 822 NW2d 159 (2012). This Court has also held that presentation is mandatory under Article 4, § 33's Presentment Clause, and the Legislature cannot interfere with the constitutional mandate in any way:

> "Constitutional provisions regulating the presentation, approval, and veto of bills by the executive are mandatory, and the procedure as thus established cannot be enlarged, curtailed, changed, or qualified, by the legislative body."

Anderson v Atwood, 273 Mich 316, 320; 262 NW 922 (1935), quoting 59 CJ, p 575.[2]

Although *Atwood* was decided under the Presentment Clause of the 1908 Constitution—Article 5, § 36—it still controls. When the drafters of the 1963 Constitution considered the current Presentment Clause, they are "presumed to be aware of existing law and judicial construction and to act in light of that knowledge." *See People v Thompson*, 424 Mich 118, 129; 379 NW2d 49

[1] The legislative history of the nine bills indicates that they have all been "passed by the legislature." *See supra* at 4–9.
[2] *See also, e.g.*, *Campaign for Fiscal Equity v Marino*, 87 NY2d 235, 238–239; 661 NE2d 1372 (1995) (withholding from the governor bills that have passed the legislature violates the New York Constitution's Presentment Clause); *Brewer v Burns*, 222 Ariz 234, 236; 213 P3d 671 (2009) (*en banc*) (the legislature violates the Arizona Constitution's Presentment Clause when it withholds from the governor bills that have passed).

RECEIVED by MSC 12/8/2025 5:09:02 PM
RECEIVED by MSC 3/17/2025 3:54:29 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

(1985), *reh den* 424 Mich 1206; ___ NW2d ___ (1986); *see also, e.g.*, *Council of Saginaw v Bd of Trustees*, 321 Mich 641, 647; 32 NW2d 899 (1948) ("The framers of a Constitution are presumed to have a knowledge of existing laws, . . . and to act in reference to that knowledge. . . . A constitutional provision must be presumed to have been framed and adopted in the light and understanding of prior and existing law and with reference to them." (internal quotation marks omitted)).

Thus, when the drafters of the 1963 Constitution adopted the identically worded 1908 Presentment Clause and simply moved it to Article 4, § 33 of the 1963 Constitution with no change in wording, they were carrying forward *Atwood*'s interpretation of it:

> The delegates to the 1961 Constitutional Convention are presumed to have known and to have understood the meaning ascribed in these earlier decisions to the language of the 1908 Constitution. This language was retained by them in the 1963 Constitution without modification in response to the earlier decisions. Under well-established principles, it is not open to us to place a new construction on this language.

Boards of Co Road Comm'rs v Bd of State Canvassers, 391 Mich 666, 676; 218 NW2d 144 (1974) (*per curiam*); *see also* 1 Official Record, Constitutional Convention 1961, p 1718 (only change in the Presentment Clause was the length of time for the Governor to consider bills after presentment).

For all of these reasons, *Atwood* controls the interpretation of Article 4, § 33, requiring the presentation of the nine bills to the Governor, and forbidding the House from "enlarg[ing], curtail[ing], chang[ing], or qualify[ing]" presentment in any way. All nine bills have been "passed by the legislature" and must be presented to the Governor.

That the Constitutional Convention delegates understood that Article 4, § 33 imposed a duty on the Legislature is confirmed by a delegate's description of the presentment process as a duty, even if it takes a few weeks to present a bill or there is a long queue of bills:

RECEIVED by MSC 12/8/2023 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM
GOODMAN ACKER Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 5:09:02 PM
RECEIVED by MSC 3/17/2025 3:54:29 PM

> What happens is this: let us assume that we have a senate bill, a bill originally introduced into the senate. It passes the senate and it passes the house and presumably in a different form. Then the 2 houses have to agree to it in a conference, but it finally is adopted by both houses in a particular form. Then, it being a senate bill, it becomes the *duty* of the secretary of the senate to print that bill in the form in which it was finally adopted and it is the *duty* of the secretary of the senate, since it was a senate bill, *to present that bill to the governor*. Sometimes a bill can be speedily printed, sometimes it takes 2 or 3 weeks to get a bill printed, if it's a great big thick bill and there's an awful lot of other bills also to be printed.

1 Official Record, Constitutional Convention 1961, p 1719 (emphasis added). The duty to present never abates, and that duty devolves onto officials in the house where a bill originated.

While the Legislature's conduct cannot change the clear text of the Presentment Clause, the text's interpretation by *Atwood*, or the text's meaning as interpreted by the Constitutional Convention delegates, legislative conduct can confirm that the Legislature agrees with the Clause's requirement. *Compare, e.g.*, *Smith v Auditor General*, 165 Mich 140, 144; 130 NW 557 (1911) ("[C]ontemporaneous and subsequent construction[] of the legislature[] . . . [is] entitled to weight in determining the proper construction of the constitutional provisions."); 1 Cooley, Constitutional Limitations (2d ed), p 67 (writing that "a practical construction, which has been acquiesced in for a considerable period" has "a plausibility and force which it is not easy to resist"); *Moore v Harper*, 600 US 1, 32; 143 S Ct 2065; 216 L Ed 2d 729 (2023) ("We have long looked to 'settled and established practice' to interpret the Constitution.").

Under the Presentment Clause of the 1963 Constitution, both houses of the Legislature have demonstrated by their practices over several decades that they agree that they have a duty to present bills that were passed during the prior legislative session. *See supra* at 3 (105 bills presented in the 1980's and 1990's in the sessions after they were passed). On January 8, 2025, alone—the day Speaker Hall unconstitutionally obstructed presentation of the nine bills—the

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

House presented at least 88 bills to the Governor that had passed in the 2023–2024 legislative session. *See* App, pp 29–31. Thus, the House itself has consistently interpreted the Presentment Clause to mandate that it present all passed bills to the Governor whether during the session in which they passed or during the next session.

Permitting the House to block presentation here would destroy the integrity of the joint bicameral lawmaking process mandated by Article 4 of the state Constitution, including § 33, because it would allow one house and one legislator to essentially veto the bills passed by the Legislature during a previous legislative session that has ended. The right to approve or veto legislation is vested solely in the Governor by Article 4, § 33, and it cannot be usurped by a legislative body or a single legislator. This Court has held that the state Constitution cannot be construed to allow the Legislature to impair the Governor's veto power:

> A [constitutional] construction which permits the legislature to impair the executive power of veto, whether active or "pocket," or which gives rise to a situation concerning a bill as to which the effect of either executive or legislative action or inaction is not stated in the Constitution, manifestly is untenable.

Wood v State Admin Bd, 255 Mich 220, 229; 238 NW 16 (1931); *see also, e.g.*, 1 OAG, 2003, No. 7,139 (October 2, 2003) ("[O]ne house of the Legislature may not vacate the enrollment of a bill."). By blocking presentation of the nine bills, the House is infringing on the Governor's Article 4, § 33 authority to approve or veto the nine bills. *Wood* forbids that. *See also, e.g.*, *Brewer v Burns*, 222 Ariz 234, 237; 213 P3d 671 (2009) (*en banc*) (the legislature's refusal to present "violates the constitutionally established procedure for lawmaking and undermines [the governor's] express authority to veto or approve bills").

Finally, allowing the House to block presentation is anti-majoritarian, violating one of the core principles embodied in the state Constitution: democracy. *See, e.g.*, *Mothering Justice v

RECEIVED by MSC 12/8/2025 5:09:02 PM
RECEIVED by MSC 3/17/2025 3:54:29 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM

Attorney General, ___ Mich ___, ___; ___ NW2d ___ (2024) (Docket No. 165325) (*en banc*); slip op at 14 n 10 ("'[D]emocracy' itself is core to our Constitution . . . ."); *see also Campaign for Fiscal Equity*, 87 NY2d 235, 238–239; 661 NE2d 1372 (1995) (refusing to allow withholding of bills by the legislature because it would "sanction a practice where one house or one or two persons, as leaders of the Legislature, could nullify the express vote and will of the People's representatives"). The nine bills were passed by majorities in both houses. The anti-democracy conduct of the House cannot stand.

For all of these reasons, the House has a clear legal duty to present the nine bills to the Governor.

ii. The Senate Has A Clear Legal Right To Presentation Of The Nine Bills.

To obtain mandamus, a plaintiff must have a "clear, legal right to performance of the specific duty sought." *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518; 866 NW2d 817 (2014) (*per curiam*). That right must be one "not possessed by citizens generally." *Id* at 519. A "clear, legal right" is

> "one clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided."

Id (citation omitted).

As demonstrated, the House has a clear legal duty to present the nine bills. The Senate has a concomitant constitutional right to enforce the duties to present through mandamus. In *Anderson v Atwood*, 273 Mich 316; 262 NW 922 (1935), this Court recognized the right to bring a mandamus action to remedy an alleged violation of Article 5, § 36 of the 1908 Constitution—the location of the Presentment Clause today found in Article 4, § 33. Although the Court denied the writ, it did so based on the legal question presented, not because the plaintiff lacked the right to seek

GOODMAN ACKER Michigan's Trusted Law Firm

mandamus to enforce his rights under Article 5, § 36. The Constitutional Convention is presumed to have been aware of *Atwood*, *see, e.g.*, *People v Thompson*, 424 Mich 118, 129; 379 NW2d 49 (1985), *reh den* 424 Mich 1206; ___ NW2d ___ (1986), and to have carried forward *Atwood*'s right to enforce the Presentment Clause by mandamus, *see, e.g.*, *Boards of Co Road Comm'rs v Bd of State Canvassers*, 391 Mich 666, 676; 218 NW2d 144 (1974) (*per curiam*). Thus, the Senate has the right to enforce Article 4, § 33 through mandamus. This Court's decisions support the principle that a legal obligation must be enforceable. *See Bauserman v Unemployment Ins Agency*, 509 Mich 673, 692; 983 NW2d 855 (2022) (*en banc*) ("[L]egal obligations that exist but cannot be enforced are ghosts that are seen in the law but that are elusive to the grasp." (internal quotation marks and citation omitted)).

The Senate has a well-established right to enforce the House's duty to present through mandamus.

iii. The Senate Has No Other Adequate Legal Or Equitable Remedy That Might Achieve The Same Results As Mandamus.

The legislative session at which the nine bills passed is over. The Senate has no other legal or equitable remedy that might achieve the same result as mandamus.

iv. Presentation Is Ministerial.

The Court of Claims found that the House had a duty to present the bills, and that the Senate had a right to presentment, *Mich Senate*, pp 12–15 (App, pp 12–15), but that the act of presentment was not ministerial because it left the Legislature discretion and judgment as to who makes the presentment:

> Section 33 requires that all bills passed by the Legislature be presented to the Governor, but does not prescribe and define this duty with sufficient precision and certainty as to leave nothing to the Legislature's discretion or judgment. While the House Rules support plaintiffs' position that responsibility for this mandate falls on Clerk Starr, these

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 5:09:02 PM
RECEIVED by MSC 3/17/2025 3:54:29 PM

> rules are not law, and prudential concerns counsel against an order from the Court interpreting or enforcing them. Plaintiffs' request for a writ of mandamus is DENIED.

Id at 15 (App, p 15).

The Court of Claims made several errors in reaching this conclusion.

First, it conflated whether "the *act* is ministerial" with who *performs* the act. The law requires only that the act of presentment be ministerial, nothing more. *See, e.g.*, *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518–519; 866 NW2d 817 (2014) (*per curiam*). Article 4, § 33 is crystal clear on the act to be performed: presentment.

> Every bill passed by the legislature *shall be presented* to the governor . . . .

Const 1963, art 4, § 33 (emphasis added). It is equally clear who has the duty to perform that ministerial act: the Legislature, here the House as the originator of the bills.

Second, and more fundamentally, the Court of Claims' analysis fails to recognize that the duty to present is a collective, institutional duty, *not* the duty of a single individual. Mandamus actions against collective bodies, such as boards, do not fail because the Constitution or statutes fail to specify which individual on the board has to carry out the duty.

The principal example is boards of canvassers. They have myriad, collective duties under the state Constitution and election laws. *See, e.g.*, MCL 168.841 (canvass of elections); MCL 168.476 (canvass of ballot proposal petitions); MCL 168.552(8) (canvass of nominating petitions). Those duties have been enforced many times for decades by mandamus despite the fact that the election laws do not name a specific individual to carry out any of those duties. *See, e.g.*, *Reproductive Freedom for All v Bd of State Canvassers*, 510 Mich 894; 978 NW2d 854 (2022) (mandamus issued compelling the Board of State Canvassers to place an issue on the ballot); *Promote the Vote 2022 v Bd of State Canvassers*, 510 Mich 884; 979 NW2d 188 (2022) (same).

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

The Court of Claims recognized at oral argument that the Legislature is an institution that can only act through its human agents, *see* Mot Hr'g Tr, p 41 (App, p 94), but failed to apply that insight to its analysis of the ministerial task of presentment. The fact that Article 4, § 33 does not specify which human agent must perform the ministerial act of presentment does not obviate the duty to present or its ministerial nature. In other words, the Legislature—here, the House—is free to choose the individual that performs the duty of presentment on its behalf as its agent (and historically it has chosen its clerk), but the mere fact that the House chooses the messenger does not change the nature of the task—presentment remains a ministerial task.

If the Court of Claims' analysis is correct—and it is not—mandamus relief in dozens of election cases against boards of canvassers should not have been granted because the constitutional and statutory language creating enforceable duties did not name a specific human being to carry them out. It also means that none of those duties are prospectively enforceable by mandamus. That is a prescription for chaos in the election field and in any other field of law where bodies have duties enforceable by mandamus.

Finally—and consistent with the fact that the ministerial duty to present is an institutional, collective duty of a Legislature and not an individual one—no court in any other state that has considered whether mandamus is a remedy for a failure to present has held that that right foundered because a state constitution failed to specify which human being has to carry out the Legislature's duty to present. *See, e.g.*, *Campaign for Fiscal Equity v Marino*, 87 NY2d 235; 661 NE2d 1372 (1995); *Brewer v Burns*, 222 Ariz 234; 213 P3d 671 (2009) (*en banc*).

For all of these reasons, the Court of Claims erred when it found that the Legislature's constitutional duty to present the nine bills was not ministerial.

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MSC 3/17/2026 5:09:02 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2023 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM

B. The Senate Is Entitled To A Permanent Injunction.

1. The Court Of Claims' Opinion And Order.

As the Court of Claims correctly held, the Senate is entitled to a declaratory judgment that it has a constitutional right to presentment of these nine bills and the House has a constitutional duty to present them and all bills in the future that pass both houses of the Legislature. Other relief may be granted based on that declaratory judgment under MCR 2.605(F). *See, e.g.*, *Barry Co Probate Court v Mich Dep't of Social Servs*, 114 Mich App 312, 319; 319 NW2d 571 (1982) ("After entry of judgment for declaratory relief, further relief, such as an injunction, may be granted, if necessary . . . .").

However, despite the authority of MCR 2.605(F) and its broad equitable authority, the Court of Claims held that "[t]he declaratory judgment is sufficient to resolve the parties' dispute, and both prudential concerns and Michigan law counsel against coupling this with a permanent injunction." *Mich Senate*, p 17 (App, p 17). It erred in doing so.

2. The Standard Of Review.

Appellate courts review "de novo a trial court's grant or denial of a motion for summary disposition." *Huntington Woods v Detroit*, 279 Mich App 603, 614; 761 NW2d 127 (2008), *lv den* 483 Mich 887; 759 NW2d 875 (2009). De novo review requires an appellate court to "review [an] issue independently, with no required deference to the courts below." *In re Ferranti*, 504 Mich 1, 14; 934 NW2d 610 (2019) (*en banc*).

The standard of review for a trial court's decision regarding injunctive relief is abuse of discretion. *Mich Alliance for Retired Americans v Secretary of State*, 334 Mich App 238, 262; 964 NW2d 816 (2020). "A court abuses its discretion when a decision falls outside the range of

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

reasonable and principled outcomes." *House of Representatives v Governor*, 333 Mich App 325, 363; 960 NW2d 125 (2020).

A court abuses its discretion when it makes an error of law, *see, e.g.*, *In re Thornhill*, 512 Mich 889, 890; 993 NW2d 400 (2023), or fails to perform a thorough analysis in its decision-making process, *see, e.g.*, *People v Kelly*, 317 Mich App 637, 643; 895 NW2d 230 (2016) (*per curiam*) ("An abuse of discretion may occur when 'the trial court operates within an incorrect legal framework.'" (citation omitted)); *Yatooma v Dabish*, unpublished per curiam opinion of the Court of Appeals, issued March 21, 2019 (Docket Nos. 340110 & 341423), p 11 (App, p 46) ("Failure to properly engage in a legally mandated analysis is necessarily an abuse of discretion.").

3. The Court Of Claims Abused Its Discretion In Denying A Permanent Injunction.

The Court of Claims abused its discretion by making errors of law and failing to perform a thorough analysis on the issue of permanent injunctive relief. In a 19-page opinion, the Court of Claims devoted barely one and a half pages to injunctive relief and most of that was a recitation of the legal standards. *See Mich Senate*, pp 17–19 (App, pp 17–19). Its analysis and conclusion consisted of a single paragraph that failed to even mention all of the seven factors the Court held it had to consider, let alone properly analyze them.

For example, the Court never mentioned, let alone considered, that a constitutional violation is presumptively irreparable. *See, e.g.*, *Obama for America v Husted*, 697 F3d 423, 436 (CA 6, 2012). That is not only a lack of analysis, but also an error of law.

Next, the Court's hardship analysis was conclusory. It works no hardship on the House to require it to walk nine bills down the hall to the Governor's Legislative Affairs Office in the Capitol. On the other hand, hundreds of thousands of public employees are harmed if their collective bargaining and pension rights are denied because several of these bills are not signed.

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 5:09:02 PM
RECEIVED by MSC 3/17/2025 3:54:29 PM

The same is true of tens of thousands of debtors who will obtain bankruptcy relief if some of these bills are signed. Several *Amicus Curiae* briefs were filed detailing the harm that the failure to present these bills causes.[3] Instead of taking this extensive evidence of irreparable harm and hardship into account, the Court specifically stated that the "substance of the bills is not relevant to the Court's analysis." *Mich Senate*, p 4 (App, p 4). Their content was irrelevant only to the *constitutional* analysis, but that content is a vital part of the *injunctive* analysis that the Court improperly ignored.

Further, the same shortcomings of the Court's hardship/harm analysis are found in its conclusory statement that "the Court cannot say that . . . the interests of third persons and of the public are served by injunctive relief." *Id* at 18 (App, p 18). Every resident of Michigan is served by enforcing the state Constitution and as described above, hundreds of thousands of public employees, poor people, and others are served by requiring that the nine bills be presented to the Governor for her signature. It is in the public interest to enforce the state Constitution. *See, e.g.*, *G & V Lounge v Mich Liquor Control Comm*, 23 F3d 1071, 1079 (CA 6, 1994) ("[I]t is always in the public interest to prevent the violation of a party's constitutional rights."). So, again, the Court of Claims' analysis was not thorough and contained an error of law.

The Court of Claims' inadequate analysis of the injunctive relief claim and the errors of law it contained were abuses of discretion. The Court's denial of that relief should be reversed and that issue remanded for a proper, thorough, and lawful analysis.

[3] *See* SEIU, AFSCME, AFT Michigan, MEA, MNA, & UAW *Amicus Curiae* Mot & Br; National Association of Consumer Bankruptcy Attorneys, National Consumer Rights Bankruptcy Center, & the National Consumer Law Center *Amicus Curiae* Mot & Br; Registered Voters of State of Michigan, Michigan Voices, Fems for Dems, & Indivisible Fighting 9 *Amici Curiae* Mot & Br.

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM

4. *Proper Analysis Of Injunctive Relief On Remand Must Include These Principles.*

On remand, the Court of Claims must consider these principles in its analysis of injunctive relief.

First,

> [t]he "further relief" provisions of both state and federal declaratory judgment [law] clearly anticipate ancillary or subsequent coercion to make an original declaratory judgment effective.

Horn & Hardart Co v Nat'l Rail Passenger Corp, 843 F2d 546, 548 (CA Fed, 1988). Based on this premise, Michigan courts have enforced declaratory judgments against "recalcitrant" parties in a wide variety of ways under MCR 2.605(F), including using injunctive relief. *See, e.g.*, *Wayne Co Chief Exec v Governor*, 230 Mich App 258, 267; 583 NW2d 512 (1998) (injunction available to enforce declaratory relief); *Durant v Michigan*, 456 Mich 175, 206; 566 NW2d 272 (1997) (*per curiam*) (awarding damages to enforce declaratory relief due to defendants' "recalcitrance").

As the Court observed in *Durant* when it awarded relief enforcing a declaratory judgment, so, too, here:

> Any other remedy, particularly one that would grant declaratory relief alone, would authorize the state to violate constitutional mandates with little or no consequence.

Id. There must be consequences for the House's violation of Article 4, § 33, and MCR 2.605(F) authorizes the Court of Claims to impose consequences in the form of an injunction.

Second, MCR 2.605(F) is not the only source of authority for the Court to craft a remedy here. In *Mothering Justice v Attorney General*, ___ Mich ___; ___ NW2d ___ (2024) (Docket No. 165325) (*en banc*), this Court confronted the unprecedented unconstitutional conduct of the Legislature in 2018 when it adopted two ballot proposals to keep them off the ballot, only to gut them in its lame duck session.

RECEIVED by MSC 12/8/2025 5:09:02 PM
RECEIVED by MSC 3/17/2025 3:54:29 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

After declaring the "adopt and amend" scheme unconstitutional, this Court turned to the novel problem of a remedy, particularly for a minimum wage law whose implementation had been delayed for over five years. In fashioning a remedy, this Court drew on its deep well of equitable powers, enabling it to be "pragmatic" and "flexible," able to "mould each decree to the necessities of the particular case":

> [C]ourts possess broad equitable powers to right statutory and constitutional wrongs. Those powers are defined by pragmatic flexibility. See, e.g., *Hecht Co v Bowles*, 321 U.S. 321, 329-330; 64 S Ct 587; 88 L Ed 754 (1944) ("The essence of equity jurisdiction has been the power of the Chancellor to do equity and to mould each decree to the necessities of the particular case. Flexibility rather than rigidity has distinguished it. The qualities of mercy and practicality have made equity the instrument for nice adjustment and reconciliation between the public interest and private needs as well as between competing private claims."); *Brown v Bd of Ed of Topeka*, 349 U.S. 294, 300; 75 S Ct 753; 99 L Ed 1083; 71 Ohio Law Abs. 584 (1955) ("In fashioning and effectuating the decrees, the courts will be guided by equitable principles. Traditionally, equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs.") (citations omitted).

Id at 35. This Court drew on these broad, pragmatic, and flexible powers to adjust the minimum wage law for inflation since 2018 and order a new phased-in schedule of minimum wage increases. The extensive equitable powers exercised by this Court in *Mothering Justice* are also at the disposal of the Court of Claims on remand and should be used in fashioning an injunctive remedy for the House's unconstitutional conduct.

Finally, in its Opinion and Order denying injunctive relief, the Court of Claims expressed concern about the "political nature of this dispute." *Mich Senate*, p 18 (App, p 18). The "political" nature of disputes over constitutional interpretation and enforcement has not prevented this Court or the United States Supreme Court from doing its duty to enforce the state or federal Constitutions. *See, e.g.*, *House Speaker v Governor*, 443 Mich 560; 506 NW2d 190 (1993), *overruled in part as*

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

to standing by Rohde v Ann Arbor Pub Sch, 479 Mich 336; 737 NW2d 158 (2007) (*en banc*), *overruled as to standing by Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349; 792 NW2d 686 (2010); *Powell v McCormack*, 395 US 486; 89 S Ct 1944; 23 L Ed 2d 491 (1969).

In *Powell*, the United States Court confronted an intensely political dispute over the seating of an elected Member of Congress and resolved it in favor of the Member. *Powell* is relevant here in several regards, particularly for its holding that while the Speech or Debate Clause may insulate legislators, "legislative employees who participated in the unconstitutional activity are responsible for their acts" even when "acting pursuant to express orders of the House." *Id* at 504.

In this case, the Court of Claims can and should, based on MCR 2.605(F), its flexible equitable authority, and *Powell*, craft an injunction requiring Clerk of the House Starr to present the nine bills. The House Resolution is unconstitutional and does not protect him. That injunction is the least intrusive and least political remedy available because Clerk Starr is not a partisan, is but an employee of the House, and he can be ordered by the Court of Claims to perform the ministerial act of walking the nine bills down the hall to the Governor's office.

The Senate is entitled to a permanent injunction.

III. THE HOUSE'S APPEAL LACKS MERIT.

A. The Senate And Senate Majority Leader Have Standing.

1. The Court Of Claims' Opinion And Order.

The Court of Claims correctly found that "the interests alleged by the Senate and Senator Brinks in the context of this lawsuit authorize their standing to litigate this case." *Mich Senate*, p 7 (App, p 7). Specifically, the Court of Claims held the following:

> Both the Senate and Senator Brinks allege injuries that are distinct from the public at large and sufficient to endow standing. . . . [T]he Senate and Senator Brinks voted in favor of the nine bills that have not yet been presented to the Governor. Indeed, a resolution was passed by the

GOODMAN ACKER Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM

Senate to file this lawsuit in defense of their work. This is sufficient to warrant standing on appeal and the Court finds it equally applicable here.

> Federal and state courts have also recognized legislator-standing with respect to Senator Brinks' claim that her vote on these bills has been rendered ineffectual by defendants' actions.
>
> This lawsuit is not a "generalized grievance" about the conduct of government, or an attempt to force another branch of government to carry out an enacted law. Rather, plaintiffs seek to vindicate their interest in the legislative processes and to ensure their votes are effectuated as mandated by our Constitution with respect to the nine bills that have passed both the House and Senate and await presentment.

Id at 8–9 (citations omitted) (App, pp 8–9).

2. *The Standard Of Review.*

Appellate courts review "de novo a trial court's grant or denial of a motion for summary disposition." *Huntington Woods v Detroit*, 279 Mich App 603, 614; 761 NW2d 127 (2008). De novo review requires an appellate court to "review [an] issue independently, with no required deference to the courts below." *In re Ferranti*, 504 Mich 1, 14; 934 NW2d 610 (2019) (*en banc*).

The standard of review for a trial court's decision regarding standing "is a question of law subject to review de novo." *Mich Alliance for Retired Americans v Secretary of State*, 334 Mich App 238, 249; 964 NW2d 816 (2020).

3. *The Senate And Senate Majority Leader Meet The Standards For Standing.*

Only one plaintiff needs to have standing in order for a complaint to proceed. *See, e.g.*, *House Speaker v State Admin Bd*, 441 Mich 547, 561; 495 NW2d 539 (1993). Both the Senate and Senate Majority Leader have standing on several bases under Michigan Supreme Court precedent.

In *Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349; 792 NW2d 686 (2010), the Court held that "consistent with Michigan's long-standing historical approach to standing," judicial standing analyses are "limited" and "prudential." *Id* at 352–353. The sole "purpose of the

RECEIVED by MSC 12/8/2025 5:09:02 PM
RECEIVED by MSC 3/17/2025 3:54:29 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

standing doctrine," the Court held, "is to assess whether a litigant's interest in the issue is sufficient to 'ensure sincere and vigorous advocacy.'" *See id* at 355, quoting *Detroit Fire Fighters Ass'n v Detroit*, 449 Mich 629, 633; 537 NW2d 436 (1995).

Lansing Schools held that plaintiffs can establish standing in any one of several ways: (1) "whenever there is a[n explicit] legal cause of action"; (2) "if the statutory scheme" or some other source implies a cause of action; (3) when the plaintiff *either* "has a special injury *or* right, *or* substantial interest, that will be detrimentally affected in a manner different from the citizenry at large"; or (4) "whenever a litigant meets the requirements of MCR 2.605 . . . to seek a declaratory judgment." *Lansing Sch Ed Ass'n*, 487 Mich at 372 (emphasis added).

The Senate and Senate Majority Leader have standing under a number of the *Lansing Schools* standards.

i. The Senate.

First, the Senate has a special right that will be detrimentally affected in a manner different from the citizenry at large by the House's failure to do its duty to present the nine bills. The House's unilateral refusal to present the nine bills to the Governor violates the constitutionally established bicameral lawmaking process under Article 4 generally, and § 33 specifically. As an integral part of the bicameral lawmaking body, the Senate has the institutional right under Article 4, § 33 to have bills passed by both houses presented to the Governor. To permit the House to withhold presentation would undermine the integrity of the bicameral lawmaking process mandated by Article 4, § 33 by allowing one house and one legislator to veto the work of both houses after a legislative session has ended. The right to veto legislation is the sole constitutional prerogative of the Governor and it cannot be usurped by a legislative body or a legislator after a legislative session

RECEIVED by MSC 12/8/2025 5:09:02 PM
RECEIVED by MSC 3/17/2025 3:54:29 PM
GOODMAN ACKER Michigan's Trusted Law Firm

is over. This institutional right is unique to the Senate, not shared with the citizenry at large, and is plainly detrimentally affected by the House's conduct here.

The Senate also has a special injury caused by the House's failure to do its duty to present—an injury not shared by the citizenry at large. The Senate expended considerable time and resources considering, performing bill analyses, holding committee hearings, debating, and finally passing the nine bills at issue here. *See supra* at 4–9. No other person or organization performed or can perform these innately legislative tasks of the Senate. Thus, the Senate is uniquely injured by having spent its time and resources on these nine bills only to have them unconstitutionally blocked from presentment by the House.

In addition, the Senate has a substantial interest that will be detrimentally affected in a manner different from the citizenry at large by the House's failure to do its duty to present. The text of Article 4, § 33 specifically references the Legislature and the legislative process. *See Lansing Sch Ed Ass'n*, 487 Mich at 374 (text can demonstrate "a substantial and distinct interest"). While citizens can influence the legislative process, only the Senate and House can pass legislation and present it to the Governor. The Senate thus has a substantial interest in the presentation of the nine bills and is affected differently than citizens by the House's failure to present legislation that both houses have passed. The history of Article 4, § 33 reinforces the Senate's substantial and distinct interest. *See Lansing Sch Ed Ass'n*, 487 Mich at 374–375 (legislative history demonstrates a substantial and distinct interest); *see also supra* at 4–9.

Finally, the Senate also meets the requirements of MCR 2.605 to seek a declaratory judgment. MCR 2.605(A)(1) states: "In a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted." The

RECEIVED by MSC 12/8/2025 5:09:02 PM
RECEIVED by MSC 3/17/2025 3:54:29 PM
GOODMAN ACKER Michigan's Trusted Law Firm

Michigan Supreme Court has held that "[a]n actual controversy exists when a declaratory judgment is needed to guide a party's future conduct in order to preserve that party's legal rights." *League of Women Voters of Mich v Secretary of State*, 506 Mich 561, 586; 957 NW2d 731 (2020) (*en banc*). There is an actual controversy because the Senate has the constitutional right to presentment of these nine bills and all bills in the future that pass both houses of the Legislature.

In the lower court, the House falsely claimed that the Senate "cite[d] no case supporting its assertion of standing." *See* Defs' Resp to Pls' MSD, p 10 (App, p 63). To the contrary, the Senate relied on—and continues to rely on—the standards set forth in *Lansing Schools*. *See supra* at 29–31. The only case the House relied on to argue that the Senate lacks standing, *League of Women Voters of Mich v Secretary of State*, 331 Mich App 156; 952 NW2d 491 (2020), Defs' Resp to Pls' MSD, p 10 (App, p 63), is inapplicable. That case involved the Legislature's attempt to sue over whether a passed law was constitutional and challenging an Attorney General opinion. *League of Women Voters of Mich*, 331 Mich App at 164. The Court found that those interests are shared with the general public, rendering the Legislature without standing. *Id* at 173–174. This matter is vastly different. The Senate suffers special institutional injuries by the House's failure to present, injuries unique to it not shared with the public.

ii. The Senate Majority Leader.

In *House Speaker v State Admin Bd*, 441 Mich 547; 495 NW2d 539 (1993), the Court held that legislators have standing to sue if they "establish that they have been deprived of a 'personal and legally cognizable interest peculiar to them.'" *Id* at 556 (citation omitted). One of those interests is a "complete nullification of [her] vote, with no recourse in the legislative process." *Id* at 557.

RECEIVED by MSC 12/8/2023 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

The Senate Majority Leaders' vote to pass all nine bills has been completely nullified by the withholding of presentment by the House, and she has no recourse in the legislative process because the legislative session in which she voted for the nine bills is over. Hers is not "a generalized grievance that the law is not being followed," *id* at 556 (internal quotation marks and citation omitted), but an injury peculiar to her as a legislator who voted for the bills and whose vote is nullified by the failure of the House to present the nine bills.

In the lower court, the House errantly relied on *Killeen v Wayne Co Road Comm*, 137 Mich App 178; 357 NW2d 851 (1984) (*per curiam*), and misconstrued *State Admin Bd*, 441 Mich 547, to argue that the Senate Majority Leader lacks standing. *See* Defs' Resp to Pls' MSD, p 10 (App, p 63). Neither case supports the House's contention. First, both cases predate *Lansing Schools*, the controlling precedent on standing. Second, they are factually distinguishable. Both involved situations where "legislative work-product [had been] enacted," at which point, the "special interest as lawmakers ha[d] ceased." *Killeen*, 137 Mich App at 189; *State Admin Bd*, 441 Mich at 557 (same). Here, the failure to present unconstitutionally interrupted the lawmaking process, which is not over because the nine bills have not been presented and acted upon by the Governor—part of the legislative process. 1 Official Record, Constitutional Convention 1961, p 1719 (the "veto power of the governor . . . is strictly a legislative function"). Thus, the Senate Majority Leader is uniquely injured as a legislator because her vote was nullified by the House's unconstitutional interference with the lawmaking process.[4]

[4] In the lower court, the House miscited Sutherland to the effect that presentment is discretionary. *See* Defs' Resp to Pls' MSD, p 11 (App, p 11). In fact, Sutherland says: "[M]ost courts require that bills be presented to the executive with reasonable promptness after adjournment and in a manner that accords with reasonable business practice." 1 Sutherland Statutory Construction, § 16:1, pp 730–732.

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM

B. This Case Is Justiciable.

1. The Court Of Claims' Opinion And Order.

The Court of Claims correctly held that this case is not barred by the political question doctrine because "[r]esolving this dispute requires nothing more than an interpretation of our Constitution, which is 'an exclusive function of the judicial branch.'" *Mich Senate*, pp 9–10 (citation omitted) (App, pp 9–10). In reviewing the leading case law's three-factor inquiry, the Court of Claims found the following:

> Section 33 includes no language committing its interpretation to any branch of government other than the courts. This lawsuit seeks "recognition and redress" of a constitutional violation, which are "quintessentially judicial functions." The Court need not move beyond the judicial expertise of interpreting the plain language of our Constitution.
>
> The third inquiry, consideration of whether prudential concerns counsel against justiciability, urges caution but does not render this case and controversy nonjusticiable.
>
> . . .
>
> The Court's analysis and opinion rest on the undisputed fact that nine bills were passed by both Michigan's House and Senate during a legislative session that adjourned in December 2024, and are awaiting presentation to the Governor. The question of whether Section 33 requires their presentation is a justiciable question before the Court and does not present a political question that prohibits the Court's review.

Id at 10–11 (citations omitted) (App, pp 10–11).

2. The Standard Of Review.

Appellate courts review "de novo a trial court's grant or denial of a motion for summary disposition." *Huntington Woods v Detroit*, 279 Mich App 603, 614; 761 NW2d 127 (2008). De novo review requires an appellate court to "review [an] issue independently, with no required deference to the courts below." *In re Ferranti*, 504 Mich 1, 14; 934 NW2d 610 (2019) (*en banc*).

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

Questions of justiciability are also reviewed de novo. *See Huntington Woods*, 279 Mich App at 614.

3. The Issues Presented Meet The Standards For Justiciability.

The controlling Michigan case on the "political question" doctrine is *House Speaker v Governor*, 443 Mich 560; 506 NW2d 190 (1993), *overruled in part as to standing by Rohde v Ann Arbor Pub Sch*, 479 Mich 336; 737 NW2d 158 (2007) (*en banc*), *overruled as to standing by Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349; 792 NW2d 686 (2010), in which the Court held that the doctrine did not prevent it from resolving a dispute between the Speaker of the House and the Governor. *Id* at 576.

The Court's framework for determining whether the political question doctrine applies uses a three-part test:

> The political question doctrine requires analysis of three inquiries: "(i) Does the issue involve resolution of questions committed by the text of the Constitution to a coordinate branch of Government? (ii) Would resolution of the question demand that a court move beyond areas of judicial expertise? (iii) Do prudential considerations [for maintaining respect between the three branches] counsel against judicial intervention?"

Id at 574 (citation omitted).

In applying these standards, the Court also held that simply because a case involves "political" issues does not mean that it is subject to the political question doctrine:

> The fact that this case involves "political" issues is not determinative of the need for this Court to defer to the Governor on political question grounds. Rather, as noted in *Baker[v Carr*, 369 US 186; 82 S Ct 691; 7 L Ed 2d 663 (1962)], "[t]he doctrine of which we treat is one of 'political questions,' not one of the 'political cases.' The courts cannot reject as 'no law suit' a bona fide controversy as to whether some action denominated 'political' exceeds constitutional authority."

RECEIVED by MSC 12/8/2023 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM
GOODMAN ACKER Michigan's Trusted Law Firm

Id. The Court also declared that judicial resolution is not precluded simply because a dispute is between or within the branches of government:

> Similarly, the mere fact that a case involves a conflict between the legislative and executive branches "does not preclude judicial resolution of the conflict." *United States v AT&T*, 551 U.S. App DC 198, 204; 551 F2d 384 (1976) (citing *Senate Select Comm on Presidential Campaign Activities v Nixon*, 162 U.S. App DC 183; 498 F2d 725 (1974).

Id at 574 n 18.

Answering the first inquiry in this case, the question of whether the House violated its duty to present the nine bills under Article 4, § 33 is not textually committed to another branch of state government. Nowhere does the state Constitution expressly provide that the interpretation of Article 4, § 33 is the sole province of the House, the Senate, and/or the entire Legislature. Instead, that question is a classic question of constitutional interpretation for the courts. *See, e.g.*, *Bauserman v Unemployment Ins Agency*, 509 Mich 673, 687; 983 NW2d 855 (2022) (*en banc*) ("The recognition and redress of constitutional violations are quintessentially judicial functions . . . ."); *Richardson v Secretary of State*, 381 Mich 304, 309; 160 NW2d 883 (1968) (*per curiam*) ("Interpretation of the State Constitution is the exclusive function of the judicial branch. Construction of the Constitution is the province of the courts and this Court's construction of a State constitutional provision is binding on all departments of government . . . ."). Indeed, the Michigan Supreme Court has already opined that the Presentment Clause imposes a mandatory duty on the Legislature that cannot be "enlarged, curtailed, changed, or qualified, by the legislative body." *Anderson v Atwood*, 273 Mich 316, 320; 262 NW 922 (1935), quoting 59 CJ, p 575.

The second inquiry asks whether resolution of the legal issues presented here require a court "to move beyond areas of judicial expertise." In resolving the constitutional interpretation question here, a court would use its well-established principles of constitutional interpretation. *See,*

RECEIVED by MSC 12/8/2023 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

e.g., *Mothering Justice v Attorney General*, ___ Mich ___, ___; ___ NW2d ___ (2024) (Docket No. 165325) (*en banc*); slip op at 12–13 (describing those principles).

Finally, as to the third inquiry, there are no "prudential concerns" that "counsel against judicial intervention." As the Court held in *House Speaker v Governor*, so, too, here:

> Interpreting the constitution does not imply a lack of respect for another branch of government, even when that interpretation differs from that of the other branch. Where it is otherwise proper, virtually no court, including this Court, is hesitant to render its interpretation of a constitutional or statutory provision, even though another branch of government has already issued a contrary interpretation.

House Speaker, 443 Mich at 575 (citation omitted).

This case presents a dispute over the meaning of the state Constitution and the fact that the House has a different interpretation of the Constitution does not "counsel against judicial intervention." Michigan courts often decide constitutional questions when "another branch of government has already issued a contrary interpretation." *See, e.g.*, *Mothering Justice*, ___ Mich at ___; slip op at 34 n 18 (rejecting the opinion of the Attorney General on a state constitutional issue).

Thus, none—let alone all—of the inquiries required by *House Speaker* support the application of the political question doctrine here. Courts in other states have reached the same conclusion in cases involving presentment clauses. *See, e.g.*, *Brewer v Burns*, 222 Ariz 234, 238–239; 213 P3d 671 (2008) (*en banc*) (rejecting application of the political question doctrine in a dispute over whether the legislature must present passed bills to the governor).

In the lower court, the House did not dispute the Senate's arguments that its claims are justiciable under the political question doctrine. Instead, the House ignored the controlling case, *House Speaker*, 443 Mich 560, and tried to conjure a separation of powers argument. *See* Defs' Resp to Pls' MSD, pp 11–12 (App, pp 64–65). That invention fails. Separation of powers issues

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER Michigan's Trusted Law Firm

are subsumed in the political question doctrine analysis. *See Baker v Carr*, 369 US 186, 217; 82 S Ct 691; 7 L Ed 2d 663 (1962) (a political question is "essentially a function of the separation of powers"), *cited in House Speaker*, 443 Mich at 574.[5]

C. The Senate Is Entitled To A Declaratory Judgment.

1. The Court Of Claims' Opinion And Order.

The Court of Claims correctly held that "[t]he text of Section 33 refutes defendants' position that the House has discretion to withhold bills passed by the Legislature in December 2024. . . . The language is mandatory and leaves no room for the exceptions that defendants claim." *Mich Senate*, p 12 (App, p 12). In so holding, the Court of Claims found that "there is no exception for bills passed by a prior Legislature." *Id* at 13 (App, p 13). In addition, the Court of Claims rejected the House's "reliance on precedent prohibiting a Legislature from 'bind[ing] a future Legislature or limit[ing] its power to amend or repeal statutes' [as] misplaced." *Id* at 14 (App, p 14).

After the Court of Claims determined that presentation is mandatory, it properly granted a declaratory judgment as follows:

> Under Section 33, the nine bills that were passed by the Legislature and are under the House's control must be presented to the Governor with sufficient time to allow her 14 days for review before the end-date of the 90-day period on which the bills could take effect.

Id at 17 (App, p 17).

[5] The House also conflated the merits of the Senate's claims with whether they have standing. *See* Defs' Resp to Pls' MSD, pp 11–13 (App, pp 64–66). Whether the Senate's claims have merit does not affect their standing to sue. *See Detroit Fire Fighters Ass'n v Detroit*, 449 Mich 629, 633; 537 NW2d 436 (1995).

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM
GOODMAN ACKER Michigan's Trusted Law Firm

2. *The Standard Of Review.*

The standard of review for a trial court's decision on a motion for summary disposition in a declaratory relief action is de novo. *Warren City Council v Buffa*, 346 Mich App 528, 539; 12 NW3d 681 (2023) (*per curiam*), citing *League of Women Voters of Mich v Secretary of State*, 339 Mich App 257, 272; 981 NW2d 538 (2021), *aff'd* 508 Mich 520; 975 NW2d 840 (2022). De novo review requires an appellate court to "review [an] issue independently, with no required deference to the courts below." *In re Ferranti*, 504 Mich 1, 14; 934 NW2d 610 (2019) (*en banc*).

However, the lower "court's grant or denial of declaratory relief is subject to an abuse-of-discretion standard of review." *Buffa*, 346 Mich App at 539, quoting *Reed-Pratt v Detroit City Clerk*, 339 Mich App 510, 516; 984 NW2d 794 (2021) (*per curiam*). "A court abuses its discretion when a decision falls outside the range of reasonable and principled outcomes." *House of Representatives v Governor*, 333 Mich App 325, 363; 960 NW2d 125 (2020).

3. *The Senate Meets The Standards For A Declaratory Judgment.*

MCR 2.605(A)(1) states: "In a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted." The Michigan Supreme Court has held that "[a]n actual controversy exists when a declaratory judgment is needed to guide a party's future conduct in order to preserve that party's legal rights." *League of Women Voters of Mich v Secretary of State*, 506 Mich 561, 586; 957 NW2d 731 (2020) (*en banc*). "The declaratory judgment rule is intended to be liberally construed to provide a broad, flexible remedy to increase access to the courts . . . ." *Recall Blanchard Comm v Secretary of State*, 146 Mich App 117, 121; 380 NW2d 71 (1985), *lv den* 424 Mich 875; ___ NW2d ___ (1986). The existence of

RECEIVED by MSC 12/8/2025 5:09:02 PM
RECEIVED by MSC 3/17/2025 3:54:29 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2023 5:09:02 PM
RECEIVED by MSC 3/17/2025 3:54:29 PM

alternative remedies does not prevent its issuance. *See Bay Co Exec v Bay Co Bd of Comm'rs*, 129 Mich App 707, 714; 342 NW2d 96 (1983).[6]

There is an actual controversy because the Senate has a constitutional right under Article 4, § 33 to the presentment of these nine bills and the House has a constitutional duty under Article 4, § 33 to present them and all bills in the future that pass both houses of the Legislature. *See* Section II(A)(3)(i)–(ii).

For the same reasons as set forth in Section II(A)(3)(i)–(ii), the Senate is entitled to a declaratory judgment that it has a constitutional right to presentment of these nine bills and the House has a constitutional duty to present them and all bills in the future that pass both houses of the Legislature.

Further, the duty to present does not abate in a subsequent legislative session. In the lower court, the House wrongly claimed that a subsequent legislative session has no duty to present bills passed in a prior session. *See* Defs' Resp to Pls' MSD, pp 1, 3, 13–14 (App, pp 54, 56, 66–67). The argument ignores the text of Article 4, § 33, which contains no exception to its duty. The text does not extinguish the duty merely because a legislative session ends and another begins. It clearly contemplates that a governor may be presented with a bill after a legislative session adjourns by describing how it becomes law or is vetoed:

> [T]he governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, *and the legislature has within that time finally adjourned the session at which the bill was passed*, it shall not become

[6] In the lower court, the House argued that "[t]he Senate cannot avoid mandamus and its standards by calling their claim something else." *See* Defs' Resp to Pls' MSD, p 20 (App, p 73). However, the House's reliance on *Minarik v State Hwy Comm'r*, 336 Mich 209; 57 NW2d 501 (1953), *see* Defs' Resp to Pls' MSD, p 20 (App, p 73), is incorrect. *Minarik* involved a question of court jurisdiction, the Court holding that plaintiffs could not obtain jurisdiction of a mandamus action in the circuit court by relabeling it an injunction. *Id* at 213. That is not the case here.

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

law. If he disapproves, *and the legislature continues the session at which the bill was passed*, he shall return it within such 14-day period with his objections, to the house in which it originated. . . . *If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it*.

Const 1963, art 4, § 33 (emphasis added).

The House's reliance on Article 4, § 13 to claim that a *passed* bill dies when an even year session adjourns is incorrect. *See* Defs' Resp to Pls' MSD, pp 3, 6 (App, pp 56, 59). That section only applies to bills that have not been acted upon by both houses. 2 Official Record, Constitutional Convention 1961, pp 2376–2377. Moreover, a specific constitutional provision controls over a general one. *See In re Advisory Opinion on Constitutionality of 1978 PA 426*, 403 Mich 631, 639; 272 NW2d 495 (1978). Article 4, § 33 controls because it addresses bills that have passed the Legislature.[7]

The House also conjured up a preposterous hypothetical about presenting a 1956 bill somehow "discovered" in 2025. *See* Defs' Resp to Pls' MSD, p 14 (App, p 67). The Court can ignore such fantasies. It has these facts before it—nine bills passed in late 2024 that would have been presented to the Governor two months ago but for the House's unconstitutional action. The constitutional duty to present has not abated here.

Finally, the constitutional duty to present brooks no delay. In the lower court, the House claimed that they have no duty as to "when a bill must be presented." Defs' Resp to Pls' MSD, pp 1, 4 (App, pp 54, 57). This defense also ignores Article 4, § 33's text, which says "when"—passage

[7] The House also claimed that *LeRoux v Secretary of State*, 465 Mich 594; 640 NW2d 849 (2002) (*per curiam*), relieves the current legislative session of presentment duties because "a past legislature cannot bind a future legislature." Defs' Resp to Pls' MSD, pp 2–3, 11, 13 (App, pp 55–56, 64, 66). That misstates the holding of *LeRoux*, which actually held that a future legislature is free to amend or repeal statutes adopted by a prior legislature. *LeRoux*, 465 Mich at 615–616. That unremarkable holding is irrelevant here because this case involves the Legislature's duty to present passed bills to the Governor, not amend or repeal statutes.

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

of a bill triggers the duty: "Every bill passed by the Legislature shall be presented to the Governor." That text makes no allowance for delay, including delay for alleged "legal review" or due to "technical errors." Its drafters countenanced delay only for ministerial tasks, such as printing or a long queue of bills:

> Then, it being a senate bill, it becomes the *duty* of the secretary of the senate to print that bill in the form in which it was finally adopted and it is the *duty* of the secretary of the senate, since it was a senate bill, to present that bill to the governor. *Sometimes a bill can be speedily printed, sometimes it takes 2 or 3 weeks to get a bill printed, if it's a great big thick bill and there's an awful lot of other bills also to be printed.*

1 Official Record, Constitutional Convention 1961, p 1719 (emphasis added); *see also Boards of Co Road Comm'rs v Bd of State Canvassers*, 391 Mich 666, 676; 218 NW2d 144 (1974) (*per curiam*) (adoption of identical constitutional language carries with it the prior construction). This is in accord with other states' interpretation of their Presentment Clauses. *See, e.g.*, *Campaign for Fiscal Equity v Marino*, 87 NY2d 235, 238; 661 NE2d 1372 (1995) (presentment required "within a reasonable time after . . . passage"); *Brewer v Burns*, 222 Ariz 234, 240; 213 P3d 671 (2009) (*en banc*) (presentment required after "such time as may reasonably be necessary to complete ministerial acts"); *Fla ex rel Cunningham v Davis*, 123 Fla 41, 68; 166 So 289 (1936) (Whitfield, C.J., concurring) (same).

The absurdity and danger of this defense is obvious. Under the House's argument, passed bills would *never* have to be presented, enabling the very hostage-taking the House is unconstitutionally engaged in. It would allow the leadership of each house to essentially veto every bill approved by both houses, illegally usurping the Governor's veto power. The House has had more than a reasonable amount of time to present the nine bills. They should be ordered to present them immediately.

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MSC 3/17/2026 5:09:02 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM

IV. THE HOUSE'S DEFENSES ARE MERITLESS.

A. The Alleged Lack Of *Sine Die* Adjournment Of The Previous Legislature Does Not Bar Presentation.

Speaker Hall has claimed that there are "implications of the previous House having not adopted a resolution to adjourn *sine die*." Eggert, *New House Speaker Pushes Elimination of Business Tax Credits to Fund Roads, Questions RenCen Plan*, Crain's Detroit Business (January 9, 2025).

This claim cannot be used to stop presentation. The duty to present under Article 4, § 33 is triggered by the bills being "passed" by the Legislature, nothing more. Whether either body ever officially adjourned by *sine die* motion or otherwise is irrelevant. The nine bills passed the Legislature, obligating the House to present them to the Governor. Relying on the alleged lack of a *sine die* resolution is an unconstitutional attempt to legislatively "curtail" the duty to present. *Atwood* forbids that. *See Anderson v Atwood*, 273 Mich 316, 320; 262 NW 922 (1935).

The text of Article 4, § 33 reinforces the conclusion that legislative adjournment plays no role in the duty to present bills. Under Article 4, § 33, adjournment is only a factor in the Governor's veto options and the ability of the Legislature to respond to a veto:

> Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. *If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated.* That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

> shall be entered in the journal with the votes and names of the members voting thereon. *If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it*.

Const 1963, art 4, § 33 (emphasis added).

Adjournment, its date, and how it was accomplished are irrelevant to the Presentment Clause, which is triggered solely by passage of bills.

B. "Technical Problems" In The Nine Bills Do Not Bar Presentation.

Speaker Hall has also raised the specter of alleged "technical problems with the bills" that could prevent presentation. Eggert, *New House Speaker Pushes Elimination of Business Tax Credits to Fund Roads, Questions RenCen Plan*. "Technical problems" with the bills cannot prevent presentation for several reasons.

First, the text of Article 4, § 33 is clear, mandatory, and permits no exceptions whether for "technical problems" or anything else. *See Anderson v Atwood*, 273 Mich 316, 320; 262 NW 922 (1935). Thus, the nine passed bills must be presented to the Governor regardless of claimed "technical problems."

Second, the Joint Rules of the Senate and House *require* the House Clerk to correct technical errors:

> In addition, the Secretary of the Senate and the Clerk of the House of Representatives, as the case may be, *shall correct* obvious technical errors in the enrolled bill or resolution, including adjusting totals, misspellings, the omission or redundancy of grammatical articles, cross-references, punctuation, updating bill or resolution titles, capitalization, citation formats, and plural or singular word forms.

2023–2024 Joint Rule 12 (emphasis added). The authority of the House Clerk to correct technical errors has been upheld by the Michigan Supreme Court. *See, e.g.*, *LeRoux v Secretary of State*, 465 Mich 594, 607–614; 640 NW2d 849 (2002) (*per curiam*).

RECEIVED by MSC 12/8/2025 5:09:02 PM
RECEIVED by MSC 3/17/2025 3:54:29 PM
GOODMAN ACKER P.C. Michigan's Trusted Law Firm

Alleged "technical problems" with the bills cannot justify the failure to present them to the Governor.

CONCLUSION AND RELIEF SOUGHT

For the reasons stated, the Senate asks that the Court to:

1. Grant its Emergency Application for Leave to Appeal Before Decision by the Court of Appeals;

2. Set the case for expedited briefing and oral argument;

3. Render a decision as soon as possible; and

4. Reverse the Court of Claims' Opinion and Order Granting in Part Defendants' Countermotion for Summary Disposition by

   A. Holding that the Senate is entitled to mandamus;

   B. Remanding to the Court of Claims for reconsideration of its denial of permanent injunctive relief enforcing its declaratory judgment;

5. Affirm the Court of Claims' Declaratory Judgment; and

6. Such other and further relief as the Court deems appropriate.

Respectfully submitted,

/s/ Mark Brewer
GOODMAN ACKER, P.C.
MARK BREWER (P35661)
ROWAN CONYBEARE (P86571)
Attorneys for Plaintiffs-Appellees and Cross-Appellants
Two Towne Square, Suite 444
Southfield, MI 48076
(248) 483-5000
mbrewer@goodmanacker.com
rconybeare@goodmanacker.com

Dated: March 17, 2025

RECEIVED by MSC 3/17/2025 5:09:02 PM
RECEIVED by MSC 12/8/2025 3:54:29 PM

Certificate of Compliance

I certify that this brief complies with the word volume limitation set forth in MCR 7.212(B)(1) and with the format requirements of MCR 7.212(B)(5). I am relying on the word count of the word-processing system used to produce this document. The word count is 14,024.

Respectfully submitted,

/s/ Mark Brewer
GOODMAN ACKER, P.C.
MARK BREWER (P35661)
ROWAN CONYBEARE (P86571)
Attorneys for Plaintiffs-Appellees and Cross-Appellants
Two Towne Square, Suite 444
Southfield, MI 48076
(248) 483-5000
mbrewer@goodmanacker.com
rconybeare@goodmanacker.com

Dated: March 17, 2025

Proof of Service

The undersigned certifies that on March 17, 2025, the foregoing instrument(s) electronically filed the foregoing papers with the Clerk of the Court using the Electronic Filing System which will send notification of such filing to all attorneys of record.

/s/ Elizabeth M. Rhodes
Elizabeth M. Rhodes

GOODMAN ACKER P.C.
Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MSC 3/17/2025 5:09:02 PM

Exhibit 4

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

STATE OF MICHIGAN

COURT OF CLAIMS

MICHIGAN SENATE and MICHIGAN SENATE MAJORITY LEADER WINNIE BRINKS, in her official capacity,

Plaintiffs,

v

MICHIGAN HOUSE OF REPRESENTATIVES, MICHIGAN HOUSE SPEAKER MATT HALL, in his official capacity, and MICHIGAN HOUSE CLERK SCOTT STARR, in his official capacity,

Defendants.
______________________________/

OPINION AND ORDER

Case No. 25-000014-MB

Hon. Sima G. Patel

OPINION AND ORDER GRANTING IMMEDIATE CONSIDERATION AND DENYING MOTION TO ENFORCE

Plaintiffs ask the Court to enforce the February 27, 2025 declaratory judgment regarding the requirements of Const 1963, art 4, § 33, and seek immediate consideration of their motion. The Court GRANTS the motion for immediate consideration. On the Court's own motion, the Court STAYS all further proceedings in this Court pending the appellate process.

On February 27, 2025, the Court issued a declaratory judgment recognizing plaintiffs' right under Const 1963, art 4, § 33 to have nine subject bills "presented to the Governor with sufficient time to allow her 14-days review prior to the earliest date that these bills could take effect" under Const 1963, art 4, § 27. However, the Court determined "[t]he procedures through which this takes place is a legislative function in which the Court will not interfere." Accordingly, the Court denied plaintiffs' request for mandamus or a permanent injunction.

RECEIVED by MSC 12/8/2025 3:54:29 PM

The parties filed claims of appeal in the Court of Appeals on March 12, and 13, 2025. On March 17, 2025, plaintiffs filed an emergency bypass application in the Michigan Supreme Court, along with a motion for immediate and expedited consideration. The Supreme Court has yet to rule on the application or motion.

The issues in this case are extremely important and affect every resident of this state. The parties have diligently sought appellate review of this Court's order and a thoroughly considered opinion from the state's top court would be to everyone's benefit. Accordingly, the Court STAYS all further proceedings in this Court pursuant to MCR 7.209(E)(2)(b) ("An appeal does not stay execution unless: . . . The trial court grants a stay . . . as justice so requires. . . ."), until the appellate courts reach a final resolution.

Date: March 21, 2025

Sima G. Patel
Judge, Court of Claims

Exhibit 5

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

STATE OF MICHIGAN

COURT OF CLAIMS

MICHIGAN SENATE and MICHIGAN SENATE MAJORITY LEADER WINNIE BRINKS, in her official capacity,

Plaintiffs,

v

Case No. 25-000014-MB

MICHIGAN HOUSE OF REPRESENTATIVES, MICHIGAN HOUSE SPEAKER MATT HALL, in his official capacity, and MICHIGAN HOUSE CLERK SCOTT STARR, in his official capacity,

Hon. Sima G. Patel

Defendants.
______________________________/

OPINION AND ORDER

Plaintiffs filed this lawsuit on February 3, 2025, requesting expedited consideration of their complaint to compel defendants to present to the Governor nine bills that were passed by the Legislature in or before December 2024. Plaintiffs also simultaneously moved for summary disposition under MCR 2.116(C)(10). The Court ordered expedited briefing, authorized and reviewed amicus briefs from several interested persons and entities, and heard oral argument on February 24, 2025. One day later, defendants filed a countermotion for summary disposition under MCR 2.116(C)(8) and (C)(10).

In light of this review and the applicable law, the Court GRANTS, in part, plaintiffs' motion for summary disposition under MCR 2.116(C)(10) and hereby issues a declaratory judgment recognizing plaintiffs' right under Article 4, § 33, of Michigan's 1963 Constitution to

have these nine bills presented to the Governor with sufficient time to allow her 14-days review prior to the earliest date that the bills could take effect under Article 4, § 27, of Michigan's 1963 Constitution.

The Constitution does not specify which person or entity is responsible for such presentment and, therefore, neither will the Court. There appears to be no dispute that because the nine bills originated with defendant Michigan House of Representatives, it currently controls their presentment and its rules require defendant Scott Starr, as Clerk of the House, to carry out this duty. However, Michigan courts have declined to interpret and enforce internal rules of the Legislature in the past, and the Court finds good reason to follow such precedent here.

Simply put, all bills passed by the Legislature must be presented to the Governor within time to allow 14 days for the Governor's review prior to the first date that they could take effect—even those passed during a "lame duck" session in an even year. The procedures through which this takes place is a legislative function in which the Court will not interfere. Plaintiffs' alternative requests for a writ of mandamus or permanent injunction are DENIED.

Accordingly, defendants' motion for summary disposition is GRANTED to the extent the Court denies plaintiffs' request for a writ of mandamus and injunctive relief, and DENIED in all other respects.

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

I. BACKGROUND

When Michigan's Legislature convened in January 2025, approximately 97 bills had completed the legislative process and were waiting to be presented to the Governor. Because the bills originated with the House, the parties agree that the duty of presentment falls with the House. The primary governing law here is Article 4, § 33 of Michigan's 1963 Constitution, which reads:

> Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If [she] approves, [she] shall within that time sign and file it with the secretary of state and it shall become law. If [she] does not approve, and the legislature has within that time finally adjourned the session at which the bill passed, it shall not become law. If [she] disapproves, and the legislature continues the session at which the bill was passed, [she] shall return it within such 14-day period with [her] objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if [she] had signed it. [Const 1963, art 4, § 33.]

Eighty-eight of these bills were presented to the Governor. The parties dispute whether this occurred before the 103rd Michigan Legislature convened at noon on January 8, 2025, or after. Clerk Starr submitted an affidavit with defendants' response attesting that "Richard J. Brown, the Clerk of the Michigan House of Representatives during the 102nd Michigan Legislature" presented "numerous bills" to the Governor before the 103rd Michigan Legislature convened and before both Defendant House Speaker Matt Hall and Clerk Starr were elected to their respective positions. However, at the Court's request, the parties supplemented the record to include legislative histories from these bills, which indicate that a large number of them were presented to the Governor after 12:00 noon.

Regardless, there is no dispute that nine bills have not been presented to the Governor, that they are controlled by the House, and that defendants are unwilling to present them. Plaintiffs claim that the nine bills were withheld at the direction of Speaker Hall who allegedly instructed Clerk Starr to hold them. Three of these bills (2024 HB 4177, 2024 HB 5817, and 2024 HB 5818) enact a History Museum Authority Act and amend certain laws to authorize funding for county authorities formed under this act. Three other bills (2023 HB 4665, 2023 HB 4666 and 2023 HB 4667) expand eligibility for the Michigan State Police Retirement Plan and options for receiving service credits in connection with the Michigan State Police Retirement Plan. And three of these bills (2023 HB 4900, 2023 HB 4901, and 2024 HB 6058) either provide additional protections to debtors in bankruptcy and garnishment proceedings or mandate a minimum percentage that public employers must contribute to public employee health insurance plans. The substance of the bills is not relevant to the Court's analysis. The Court's role here is to determine whether Michigan's Constitution requires these bills be presented to the Governor simply because they were passed by both houses of the Legislature, not to evaluate the merits of legislation that has not yet become law.

Plaintiffs seek summary disposition under MCR 2.116(C)(10). Defendants responded and, after oral argument, filed a countermotion for summary disposition in lieu of an answer under MCR 2.116(C)(8) and (C)(10). The parties dispute whether either plaintiff has standing to bring this suit, whether the political-question doctrine or other prudential considerations counsel against judicial involvement, and whether Section 33 requires the House to present these bills given that they were passed by the 102nd Legislature, not the 103rd Legislature that convened on January 8, 2025, and whether any form of relief that plaintiffs seek (i.e., mandamus, declaratory judgment, and/or permanent injunction) is available under Michigan law.

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

The propriety of Speaker Hall's participation in this lawsuit is also contested. Only two of the three defendants, the House and Clerk Starr, accepted service and oppose plaintiffs' requested relief. Speaker Hall did not accept service; instead, he claims that he is privileged from civil service under Article 4, § 11 of Michigan's 1963 Constitution, which states:

> Except as provided by law, senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for five days before the commencement and after the termination thereof. They should not be questioned in any other place for any speech in either house.

The applicability of the legislative privilege, as well as questions of justiciability and the merits of plaintiffs' claims are analyzed below.

II. ANALYSIS

Because the Court has considered documents outside of the pleadings, it will evaluate both parties' motions under MCR 2.116(C)(10). A "motion under MCR 2.116(C)(10) . . . tests the factual sufficiency of a claim." *El-Khalil v Oakwood Healthcare Inc*, 504 Mich 152, 160; 934 NW2d 665 (2019). When reviewing a motion under this provision, the Court must consider "affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion." *Maiden v Rozwood*, 461 Mich 109, 119-120; 597 NW2d 817 (1999). A motion under MCR 2.116(C)(10) may only be granted when the "provided evidence does not establish a genuine issue of material fact." *Jewett v Mesick Consol Sch Dist*, 332 Mich App 462, 470; 957 NW2d 377 (2020). Summary disposition prior to the conclusion of discovery is appropriate where, as here, the parties' dispute rests on a legal question and there is no fair likelihood of uncovering factual support for the opposing party's position. *Mazzola v Deeplands Dev Co LLC*, 329 Mich App 216, 230; 942 NW2d 107 (2019).

RECEIVED by MSC 12/8/2025 3:54:29 PM

A. SPEAKER HALL IS PRIVILEGED FROM CIVIL PROCESS

The Court finds that Speaker Hall may claim a privilege from service of this lawsuit under Section 11.

It is undisputed that Speaker Hall is a Representative and service was attempted while the Legislature was in session. However, the parties dispute whether Speaker Hall may claim this privilege to avoid plaintiffs' claim that, acting in his official capacity, he instructed Clerk Starr to violate Section 33.

The privilege awarded in Section 11 is broad—insulating legislators not only from monetary damages but, also, from civil service during the stated period. This constitutional privilege provides legislators with absolute, broad immunity against civil process for tasks undertaken within the "sphere of legislative activity." *Bishop v Montante*, 395 Mich 672, 678; 237 NW2d 465 (1976); *Wilkins v Gagliardi*, 219 Mich App 260, 268; 556 NW2d 171 (1996). This privilege must be applied in light of its purpose, which is to "protect legislators from the distraction of litigation," whether actual or potential, and allow them to give their "undivided time and attention in public affairs." *Cotton v Banks*, 310 Mich App 104, 111-112; 872 NW2d 1 (2015) (cleaned up).

Because the language is similar to the federal Speech and Debate Clause, the Court may look to federal cases for guidance. *Id*. at 112-113. This privilege covers "anything generally done in a session of the House by one of its members in relation to the business before it," including a legislator's conduct at a hearing, voting decisions, committee reports, and other tasks within the sphere of "legitimate legislative activity." *Gravel v United States*, 408 US 606, 624-627; 92 S Ct 2614; 33 L Ed 2d 583 (1972) (cleaned up); see also *Wilkins*, 219 Mich App at 269 ("The Speech

or Debate Clause has been applied to the act of voting, to committee reports and resolutions, to the authorizing of an investigation, and to the issuing of a subpoena.”). Even allegations that the legislator acted in bad faith are not sufficient to waive the privilege if the actions underlying the litigation constitute legislative activity. *Gamrat v McBroom*, 822 F Appx 331, 333-334 (CA 6, 2020).

Plaintiffs named Speaker Hall as a defendant because of his alleged instruction to Clerk Starr to withhold these nine bills from presentment to the Governor. Defendants suggest a question of fact exists as to whether Speaker Hall issued this instruction. Regardless, any involvement that Speaker Hall may have had with these bills was undertaken as Speaker of the House. Review and negotiation of legislation and instructions to the Clerk of the House regarding the same are legislative functions for which Speaker Hall is afforded immunity under Section 11. This privilege exempts him from civil process as well as relief from a judgment and, accordingly, privileges him from service of plaintiffs’ complaint.

B. THIS CASE PRESENTS A JUSTICIABLE QUESTION

1. BOTH PLAINTIFFS HAVE STANDING

Under federal and state law, the interests alleged by the Senate and Senator Brinks in the context of this lawsuit authorize their standing to litigate this case.

Michigan appellate courts have set forth the standards for evaluating standing. Specifically, its purpose “is to assess whether a litigant’s interest in the issue is sufficient to ensure sincere and vigorous advocacy. Thus, the standing inquiry focuses on whether a litigant is a proper party to request adjudication of a particular issue and not whether the issue itself is justiciable.” *Lansing Sch Ed Ass’n v Lansing Bd of Ed*, 487 Mich 349, 355; 792 NW2d 686 (2010) (cleaned

RECEIVED by MSC 12/8/2025 3:54:29 PM

up). Standing is present when the litigant meets the requirements for a declaratory judgment stated in MCR 2.605, when there is cause of action under the law, or "if the litigant has a special injury or right, or substantial interest, that will be detrimentally affected in a manner different from the citizenry at large." *Id.* The Legislature's interest in "defending its own work," including supporting the constitutionality of enacted statutes, and in procedures or requirements necessarily implicated in this work, endow standing. *League of Women Voters of Mich v Secretary of State*, 506 Mich 561, 517-579; 957 NW2d 731 (2020); *Mich Alliance for Retired Americans v Secretary of State*, 334 Mich App 238, 246-250; 964 NW2d 816 (2020). In addition, public officials generally have standing to sue "commensurate with their public duties and trusts." *Killeen v Wayne Co Rd Comm'n*, 137 Mich App 178, 189-190; 357 NW2d 851 (1984).

Both the Senate and Senator Brinks allege injuries that are distinct from the public at large and sufficient to endow standing. Plaintiffs claim, and defendants have presented no basis to refute their claim, that the Senate and Senator Brinks voted in favor of the nine bills that have not yet been presented to the Governor. Indeed, a resolution was passed by the Senate to file this lawsuit in defense of their work. This is sufficient to warrant standing on appeal and the Court finds it equally applicable here. *League of Women Voters of Mich*, 506 Mich at 579; *Mich Alliance for Retired Americans*, 334 Mich App at 246-250.

Federal and state courts have also recognized legislator-standing with respect to Senator Brinks' claim that her vote on these bills has been rendered ineffectual by defendants' actions. Cf *Coleman v Miller*, 307 US 433, 438; 59 S Ct 972, 83 L Ed 1385 (1939) (senators "whose votes . . . have been overridden and virtually held for naught" had "plain, direct and adequate interest" in a lawsuit vindicating such right); see also *Dodak v State Admin Bd*, 441 Mich 547, 556; 495 NW2d

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

539 (1993) (member of a legislative committee had standing to contest actions that deprived him of a "specific statutory right to participate in the legislative process").

This lawsuit is not a "generalized grievance" about the conduct of government, or an attempt to force another branch of government to carry out an enacted law. Rather, plaintiffs seek to vindicate their interest in the legislative processes and to ensure their votes are effectuated as mandated by our Constitution with respect to the nine bills that have passed both the House and Senate and await presentment. Cf *American Fed of Gov't Employees, AFL-CIO v Pierce*, 697 F2d 303, 305 (DC Cir 1982). Both the Senate and Senator Brinks have standing based on the allegations in their complaint.

2. THE POLITICAL-QUESTION DOCTRINE DOES NOT RENDER THIS CASE NONJUSTICIABLE

While the Court agrees with defendants that Speaker Hall is privileged from appearing in this lawsuit, it disagrees that the claims here are nonjusticiable political questions. Michigan courts traditionally define judicial power " 'by a combination of considerations' " including " 'the existence of a real dispute, or case or controversy; the avoidance of deciding hypothetical questions; . . . the ability to issue proper forms of effective relief to a party; [and] the avoidance of political questions or other non-justiciable controversies . . . .' " *Carter v DTN Mgt Co*,____ Mich ___; ____NW3d ___ (Docket No. 165425); slip op at 10, quoting *Nat'l Wildlife Fed v Cleveland Cliffs Iron Co*, 471 Mich 608, 613-615; 684 NW2d 800 (2004), overruled on other grounds by *Lansing Sch Ed Ass'n*, 487 Mich at 352. The presence of a "real dispute" is not contested. Plaintiffs claim that Section 33 requires the presentment of the nine bills to the Governor; defendants disagree and, to date, have refused to present them. Resolving this dispute requires

RECEIVED by MSC 12/8/2025 3:54:29 PM

nothing more than an interpretation of our Constitution, which is "an exclusive function of the judicial branch." *Wilkins*, 219 Mich App at 267.

The political-question doctrine does not counsel against the Court fulfilling its functions here. Michigan courts "maintain[] primacy in interpreting the Constitution." *Bauserman v Unemployment Ins Agency*, 509 Mich 673, 687; 983 NW2d 855 (2022). The mere fact that a "dispute is politically charged" or is a "political issue" does not make it a political question. Notably, the doctrine "is one of 'political questions,' not one of political cases." *Pego v Karamo*, ___ Mich App ___; ___ NW3d ___ (Docket No. 371299); slip op at 11. The following three inquiries frame this analysis:

> (i) Does the issue involve resolution of questions committed by the text of the Constitution to a coordinate branch of government? (ii) Would resolution of the question demand that a court move beyond areas of judicial expertise? [and] (iii) Do prudential considerations [for maintaining respect for the three branches] counsel against judicial intervention? [*House Speaker v Governor*, 443 Mich 560, 574; 506 NW2d 190 (1993) (cleaned up).]

In *Makowski v Governor*, 495 Mich 465, 472-482; 852 NW2d 61 (2014), our Supreme Court elaborated on each inquiry. Put another way, the first inquiry considers whether the "text of the Constitution commits" this question to another branch of government; the second evaluates whether resolution of the matter "demand[s] that the Court move beyond areas of judicial expertise"; and the third assesses whether there are any "prudential considerations that prevent [the] Court from resolving the issue." *Id*. at 472, 477, 481.

Section 33 includes no language committing its interpretation to any branch of government other than the courts. This lawsuit seeks "recognition and redress" of a constitutional violation, which are "quintessentially judicial functions." *Bauserman*, 509 Mich at 687. The Court need not move beyond the judicial expertise of interpreting the plain language of our Constitution.

The third inquiry, consideration of whether prudential concerns counsel against justiciability, urges caution but does not render this case and controversy nonjusticiable. Specifically, the parties' dispute whether the mandate in Section 33 applies to legislation passed in a "lame duck" session before the 103rd Legislature convened. This is a justiciable question that requires only an interpretation of our Constitution and related documents, which is unquestionably a judicial function. "When a court does not address the merits of the decision at issue but instead looks to whether the power existed in the first instance, prudential considerations do not militate against intervention." *Pego*, ___ Mich App at ___; slip op at 11.

Prudential considerations, however, set parameters for the Court's review and the relief issued. The Court is not considering the substantive merits of the nine bills at issue. Nor is it the Court's role to interpret or enforce any procedure stated in the House or Senate Rules as a basis for its decision. "The courts do not review claims that actions were taken in violation of a legislative rule . . . . 'Rules of legislative procedure, adopted by the Legislature and not prescribed by the Constitution, may be suspended and action had, even if contrary thereto, will not be reviewed by the courts.' " *LeRoux v Secretary of State*, 465 Mich 594, 609; 640 NW2d 849 (2002), quoting *Anderson v Atwood*, 273 Mich 316, 319; 262 NW 922 (1935).

The Court's analysis and opinion rest on the undisputed fact that nine bills were passed by both Michigan's House and Senate during a legislative session that adjourned in December 2024, and are awaiting presentation to the Governor. The question of whether Section 33 requires their presentation is a justiciable question before the Court and does not present a political question that prohibits the Court's review.

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

C. SECTION 33 REQUIRES PRESENTMENT OF ALL BILLS PASSED BY BOTH LEGISLATIVE HOUSES, EVEN AFTER ADJOURNMENT

To answer this justiciable question, the Court applies well-known principles of constitutional interpretation. The Court "ascertain[s] the purpose and intent [of Section 33] as expressed in . . . the meaning of the particular words" not in the abstract, but "in light of the general purpose sought to be accomplished or the evil sought to be remedied" by Section 33. *White v Ann Arbor*, 406 Mich 554, 561-562; 281 NW2d 283 (1979). "When interpreting constitutional provisions, we are mindful that the interpretation given the provision should be the sense most obvious to the common understanding and one that reasonable minds, the great mass of the people themselves[,] would give it" at the time of its ratification. *Adair v State,* 486 Mich 468, 477; 785 NW2d 119 (2010) (cleaned up). Put another way, courts "apply the plain meaning of each term used therein at the time of ratification unless technical, legal terms were employed." *Studier v Mich Public Sch Employees Retirement Bd*, 472 Mich 642, 652; 698 NW2d 350 (2005). Moreover, constitutional provisions are to be interpreted as consistent with other provisions. See *Straus v Governor*, 459 Mich 526, 533-534; 592 NW2d 53 (1999); see also *Lewis v Attorney General*, unpublished per curiam opinion of the Michigan Court of Appeals, issued Oct 20, 2011 (Docket No. 299743), pp 2-3 (rejecting interpretation of a constitutional provision that is inconsistent with other provisions of Article 4).

The text of Section 33 refutes defendants' position that the House has discretion to withhold bills passed by the Legislature in December 2024. The text is unequivocal: ***"[e]very*** bill passed by the legislature ***shall*** be presented to the governor before it becomes law . . . ." Const 1963, art 4, § 33 (emphasis added). The language is mandatory and leaves no room for the exceptions that defendants claim.

Notably, there is no exception for bills passed by a prior Legislature. Defendants' attempt to disavow itself of the textual mandate by claiming that they are the "103rd Legislature," and the bills were passed by the "102nd Legislature" is without merit. Section 33 authorizes no such distinction. A bill passed by the 102nd Legislature is one of "[e]very bill passed by the legislature" referenced in the first sentence of Section 33. Const 1963 art 4, § 33. Nothing in the text of Section 33 or any related provision supports an argument that a passed bill becomes invalid, or unavailable for the Governor's review, after the legislative session in which it was passed ends. To the contrary, the drafters of Section 33 recognized the potential that the Governor would receive a bill after final adjournment of the legislative session in which it was passed. When this situation occurs, the bill must be presented to the Governor. The bill becomes law upon the Governor's approval, signature, and filing with the Secretary of State, regardless of whether the Legislature that enacted the bill is still in session. Const 1963, art 4, § 33. However, if the Governor disapproves, the bill never becomes law. A bill may only be returned to the Legislature for fresh consideration and review if the Governor's review occurs before the legislative session in which the bill was enacted has ended. Const 1963, art 4, § 33.

The language of Section 33 and its refutation of defendants' requested interpretation is even more clear when contrasted with other provisions within Article 4. Section 13 refers to "[a]ny business, bill or joint resolution ***pending*** at the final adjournment of a regular session . . . ." Const 1963, art 4, § 13 (emphasis added). Section 33 refers to ***passed*** bills in its title and presents a different procedure, requiring every bill passed by the Legislature to be presented to the Governor for her review. Const 1963, art 4, § 33. Defendants' position that they are exempt from this because they are the "103rd Legislature" is without merit.

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

Moreover, defendants' reliance on precedent prohibiting a Legislature from "bind[ing] a future Legislature or limit[ing] its power to amend or repeal statutes" is misplaced. *LeRoux*, 465 Mich at 612-617. This maxim refers to a judicial recognition that the Legislature may not enact a law that limits future amendments or prohibits repeal of that law. *Id.* Legislation that contains such limitations or prohibitions is considered "wholly inoperative," and a "legislative declaration, embodied in a particular law, that it shall be binding only on those who may assent to it, may limit the scope of that law, but a declaration that any future law on the same subject shall be thus restricted must be void." *Detroit v Detroit & Howell Plank Road Co*, 43 Mich 140, 145; 5 NW 275 (1880).

This has no application here. The nine bills at issue were passed by Michigan's Legislature and, pursuant to Section 33, must be presented to the Governor. If the Governor disapproves, the bills die. If the Governor approves and the bills become law, defendants may act within their legislative authority to negotiate amendments, revisions, or even a repeal of these laws if they see fit. There is no claim that any bill, by its text or otherwise, prohibits such action. Defendants' citation to precedent recognizing that a current Legislature may not bind a future Legislature has no application here.

D. PLAINTIFFS ARE ENTITLED TO A DECLARATORY JUDGMENT, BUT NOT MANDAMUS OR INJUNCTIVE RELIEF

1. MANDAMUS IS DENIED BECAUSE THE DUTY TO PRESENT IS NOT MINISTERIAL

While the language of Section 33 leaves no question that a bill passed by the Legislature must be presented to the Governor, it does not provide sufficient detail to be a ministerial task warranting a writ of mandamus.

“Mandamus is not a matter of right, but rather one of grace . . . and of discretion.” *Toan v McGinn*, 271 Mich 28, 33; 260 NW 108 (1935). This “extraordinary remedy” is available only when the party seeking it shows that: (1) the party has a “clear, legal right to performance of the specific duty sought,” (2) the opposing party “has a clear legal duty to perform,” (3) “the act is ministerial,” and (4) “no other adequate legal or equitable remedy exists that might achieve the same result.” *Rental Props Owners Ass’n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518-519; 866 NW2d 817 (2014). A “ministerial act” is one “ ‘where the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment.’ ” *Keaton v Beverly Hills*, 202 Mich App 681, 683-684; 509 NW2d 544 (1993), quoting *Delly v Bureau of State Lottery*, 183 Mich App 258, 260-261; 454 NW2d 141 (1990). And a clear legal right in this context is one “clearly founded in, or granted by, law; [or] a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided.” *Univ Medical Affiliates, PC v Wayne Co Executive*, 142 Mich App 135, 143; 366 NW2d 277 (1985).

Section 33 requires that all bills passed by the Legislature be presented to the Governor, but does not prescribe and define this duty with sufficient precision and certainty as to leave nothing to the Legislature’s discretion or judgment. While the House Rules support plaintiffs’ position that responsibility for this mandate falls on Clerk Starr, these rules are not law, and prudential concerns counsel against an order from the Court interpreting or enforcing them. Plaintiffs’ request for a writ of mandamus is DENIED.

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

2. A DECLARATORY JUDGMENT IS WARRANTED

However, plaintiffs' alternative request for a declaratory judgment is GRANTED. This case presents an actual controversy over proper interpretation of an unambiguous mandate in our Constitution. Michigan law supports the issuance of a declaratory judgment.

The standard for a declaratory judgment is stated in our court rules and interpreted by Michigan courts as follows: "In a case of actual controversy . . . a Michigan court . . . may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted." MCR 2.605(A)(1). An "actual controversy" for purpose of MCR 2.605(A)(1) is present when the "declaratory judgment is necessary to guide a plaintiff's future conduct in order to preserve legal rights." *UAW v Mich Univ Trustees*, 295 Mich App 486, 495; 815 NW2d 132 (2012). Hypothetical issues cannot be the subject of declaratory relief, but an order may be entered before actual injuries or losses have occurred. *Id.* Essential to this request is the "plead[ing] and prov[ing] facts which indicate an adverse interest necessitating the sharpening of the issues raised." *Shavers v Kelley*, 402 Mich 554, 589; 267 NW2d 72 (1978). The Court may, but is not required to consider and/or grant "further relief, such as an injunction . . . against any adverse party whose rights were determined by the declaratory judgment." *Barry Co Probate Court v Mich Dep't of Soc Servs*, 114 Mich App 312, 319; 319 NW2d 571 (1982).

The nine bills at issue are encompassed in the mandate that begins Section 33, i.e., "[e]very bill passed by the legislature ***shall*** be presented to the Governor." Const 1963, art 4, § 33 (emphasis added). The parties agree that responsibility for carrying out this mandate falls on the House because the bills originated there. The failure of the House to either carry out this mandate or alter its rules so as to pass the bills to the Senate to carry out the mandate, at minimum, renders

RECEIVED by MSC 12/8/2025 3:54:29 PM

the votes that Senator Brinks placed in favor of these bills ineffective. Plaintiffs have a legal and a constitutional right to have bills that they passed proceed to the Governor under Section 33. To hold otherwise would render nugatory a clear mandate in our Constitution. The Court will not do so.

With respect to timing, Section 33 provides no mandate. But Article 4, § 27 of Michigan's 1963 Constitution provides the earliest date on which the legislation could take effect:

> No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.

Interpreting Section 33 in light of Section 27, the Court finds that the bills must be presented to the Governor with sufficient time to allow them to take effect at the end of the 90-day period authorized by Section 27, including 14 days for the Governor's review.

Plaintiffs' request for a declaratory judgment is GRANTED. Under Section 33, the nine bills that were passed by the Legislature and are under the House's control must be presented to the Governor with sufficient time to allow her 14 days for review before the end-date of the 90-day period on which the bills could take effect.

3. PLAINTIFFS' REQUEST FOR A PERMANENT INJUNCTION IS DENIED

The declaratory judgment is sufficient to resolve the parties' dispute, and both prudential concerns and Michigan law counsel against coupling this with a permanent injunction.

"Injunctive relief is an extraordinary remedy that issues only when justice requires, there is no adequate remedy at law, and there is a real and imminent danger of irreparable injury." *Janet Travis, Inc v Preka Holdings, LLC*, 306 Mich App 266, 274-275; 856 NW2d 206 (2014). The

RECEIVED by MSC 12/8/2025 3:54:29 PM

decision to grant or deny this relief is within the Court's "sound discretion," which is "ordinarily a matter of grace . . . to be exercised according to the circumstances and exigencies of each particular case." *Youngs v West*, 317 Mich 538, 545; 27 NW2d 88 (1947). When deciding whether to grant this equitable remedy, the following factors are taken into account:

> (a) the nature of the interest to be protected,
>
> (b) the relative adequacy to the plaintiff of injunction and of other remedies,
>
> (c) any unreasonable delay by the plaintiff in bringing suit,
>
> (d) any related misconduct on the part of the plaintiff,
>
> (e) the relative hardship likely to result to defendant if an injunction is granted and to plaintiff if it is denied,
>
> (f) the interests of third persons and of the public, and
>
> (g) the practicability of framing and enforcing the order or judgment. [*Kernen v Homestead Dev Co*, 232 Mich App 503, 514-515; 591 NW2d 369 (1998), citing 4 Restatement Torts, 2d, §§ 936, pp 565-566.].

Applying these factors to plaintiffs' claims, the Court finds the permanent injunction inappropriate. While our jurisprudence on standing and the political-question doctrine do not alleviate the Court's duty to interpret Section 33 and to declare the parties' legal rights, the political nature of this dispute cannot be ignored. The lawsuit was filed by a body within our bicameral Legislature, alleging a failure of the other body to carry out a legislative process. The interest to be protected is one of fulfillment of the constitutional mandate, for certain, which the Court does through issuance of declaratory relief. However, the Court cannot say that the hardships fall disproportionately on one party vis-à-vis the other, or the interests of third persons and of the public are served by injunctive relief. Moreover, the injunction plaintiffs seek is an order that "prohibits Defendants from failing to present the nine bills." Such a negative command would be impractical, if not impossible, to enforce.

Our Supreme Court has recognized that "[a] strict legal right, if incompatible with the equities of the case, does not necessarily entitle one to equitable redress." *Roy v Chevrolet Motor Co*, 262 Mich 663, 668; 247 NW 774 (1933). Considering the facts of this case, the Court DENIES plaintiffs' request for injunctive relief.

III. CONCLUSION

For the reasons stated in this Opinion and Order, IT IS ORDERED that plaintiffs' motion for summary disposition is GRANTED to the extent that plaintiffs request a declaratory judgment. The Court hereby enters the declaratory judgment described below. Plaintiffs' motion is DENIED with respect to plaintiffs' request for a writ of mandamus and injunctive relief. Plaintiffs' complaint is DISMISSED with respect to these claims; and

IT IS FURTHER ORDERED that defendants' countermotion for summary disposition under MCR 2.116(C)(10) is GRANTED with respect to plaintiffs' claims for a writ of mandamus and injunctive relief. The Court DENIES defendants' motion for summary disposition with respect to plaintiffs' request for a declaratory judgment.

The Court enters a judgment declaring that Article 4, § 33, of Michigan's 1963 Constitution requires that all bills passed by the Legislature be presented to the Governor in sufficient time to allow her 14 days to review the bills prior to the earliest date that the legislation may take effect under Article 4, § 27, of Michigan's 1963 Constitution. This includes the nine bills that are currently under defendants' control.

IT IS SO ORDERED.

This is a final order and disposes of the last claim in this case.

RECEIVED by MSC 12/8/2025 3:54:29 PM

Date: February 27, 2025

Sima G. Patel
Judge, Court of Claims

RECEIVED by MSC 12/8/2025 3:54:29 PM

Exhibit 6

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

STATE OF MICHIGAN
IN THE COURT OF CLAIMS

MICHIGAN SENATE and MICHIGAN SENATE MAJORITY LEADER WINNIE BRINKS, in her official capacity,

Plaintiffs,

v

MICHIGAN HOUSE OF REPRESENTATIVES, MICHIGAN HOUSE SPEAKER MATT HALL, in his official capacity, and MICHIGAN HOUSE CLERK SCOTT STARR, in his official capacity.

Defendants.

Case No. 25-000014-MB

Hon. Sima Patel

Mark Brewer (P35551)
Rowan Conybeare (P86751)
Goodman Acker P.C.
17000 W. Ten Mile Rd.
Southfield, MI 48075
(248) 483-5000
mbrewer@goodmanacker.com

Attorneys for Michigan Senate

Kyle M. Asher (P80359)
Steven C. Liedel (P58852)
DYKEMA GOSSETT PLLC
201 Townsend Street, Suite 900
Lansing, MI 48933
(517) 374-9100
kasher@dykema.com
sliedel@dykema.com

Attorneys for Michigan House of Representatives and Michigan House Clerk Scott Starr

---

AFFIDAVIT OF SCOTT E. STARR

I, Scott E. Starr, having been duly sworn and under oath, state as follows:

1. I am over the age of 18 years old and have personal knowledge of the facts in this Affidavit. If sworn as a witness, I can testify competently to the facts stated herein.

2. I served as the Assistant Clerk of the House of Representatives during the 102nd Michigan Legislature. On January 8, 2025, I was elected to serve as the Clerk of the House of Representatives during the 103rd Michigan Legislature.

RECEIVED by MSC 12/8/2025 3:54:29 PM

3. On January 8, 2025, Richard J. Brown, the Clerk of the Michigan House of Representatives during the 102nd Michigan Legislature ("Clerk Brown"), delivered to the governor numerous bills that were passed by the 102nd Michigan Legislature.

4. At the time Clerk Brown did so, the 103rd Michigan Legislature had not yet convened and the officers of the House of Representatives for the 103rd Michigan Legislature, including Representative Matt Hall and me, had not yet been elected to their leadership positions.

5. At 12:00 o'clock noon. on January 8, 2025, the Michigan House of Representatives was called to order for the First Regular Session of the 103rd Michigan Legislature by Clerk Brown.

6. At the time the 103rd Michigan Legislature convened, there remained nine (9) outstanding bills passed by the 102nd Michigan Legislature that had not yet been sent to the governor.

7. No bills passed during the 102nd Michigan Legislature were presented by the House of Representatives to the governor after the 103rd Michigan Legislature convened.

Further affiant saith not.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

Scott E. Starr

2-7-2025

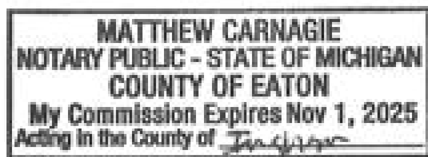
Date

STATE OF MICHIGAN)
) s.s.
COUNTY OF ______________)

Subscribed and sworn by Scott E. Starr before me this 7 day of February 2025, in Ingham County, State of Michigan.

/s/ ______________________

Printed Name: Matthew Carnagie
Notary Public, State of Michigan, County of Eaton
My commission expires 11/1/2025
Acting in the County of Ingham


MATTHEW CARNAGIE
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF EATON
My Commission Expires Nov 1, 2025
Acting in the County of Ingham

RECEIVED by MSC 12/8/2025 3:54:29 PM

Exhibit 7

RECEIVED by MSC 12/8/2025 3:54:29 PM

/8/2025 3:54:29 PM

GONGWER | STATE AFFAIRS

Thursday, February 6, 2025

Listen to the Article

Despite Senate Lawsuit, Hall Hopeful Deal On Minimum Wage, Earned Sick Leave Possible Before Feb. 21

Although the Senate has sued House Speaker Matt Hall over his delay in presenting nine bills from last session to the governor, Hall said he's still hopeful the two chambers will be able to reach a deal on legislation to preserve a lower wage for tipped workers and alter the Earned Sick Time Act.

"They just want to serve me for political reasons, to satisfy their rabid left-wing base," Hall (R-Richland Township) said at a Thursday news conference. "This is weaponization of state government."

Despite, or perhaps because of the lawsuit, Hall said he has not met much with Senate Majority Winnie Brinks (D-Grand Rapids).

"I've talked to her on the phone a couple of times, but I've not met with her," he said.

Although his conversations with Brinks have been limited, Hall said he spoke with Senate Majority Floor Leader Sam Singh (D-East Lansing) on Wednesday about the minimum wage and earned sick time legislation.

"There's about 20 things that need to be negotiated," Hall said. "What I'm going to do is I'm going to write a proposal that I think is in the middle between these corporations and these

/8/2025 3:54:29 PM

businesses and these union bosses. One that I think will work for Michigan workers."

Hall said he was hopeful that the House and the Senate would be able to meet in the middle and compromise on legislation (SB 8 , SB 15 , HB 4001 , HB 4002) prior to February 21, when the laws are set to go into effect.

"The earlier we can resolve this, the more likely that workers will be able to follow what we come up with, the small businesses, the corporations will still be able to do it, and there'll be a smooth transition."

Regarding the nine bills from last session, Hall contended that he was under no obligation to present them, though he also said that wasn't his original argument.

"All the experts and the legal scholars, they're all saying that I don't have to present the bills," he said. "I haven't even taken the position that I don't have to present the bills. We were doing a very thorough legal review, and now there are all these other questions."

The lawsuit, filed Monday, notably involves HB 6058 of 2024, which requires public employers to pay a larger share of the health insurance premium for public employees (See Gongwer Michigan Report, February 3, 2025).

Hall said it is not the obligation of the current Legislature to carry out the previous Legislature's work.

Further, he argued that previous speakers have held bills in the chamber for far longer than he has held the nine bills from last term.

"We do remember the time where Joe Tate refused to present that Grand Rapids hotel tax increase until Winnie Brinks moved an economic development bill?" Hall said. "That was months and months of holding on presenting."

A bill allowing Kent County to increase its hotel-motel tax waited in the House for more than four months after it had passed both houses in identical form before the House presented it to Governor Gretchen Whitmer as negotiations on related legislation continued (HB 5048 of 2023).

/8/2025 3:54:29 PM

There is nothing in the Constitution, statute or the Joint Rules of the Legislature stating when a legislative house must present a bill. For unknown reasons, House Speaker Joe Tate (D-Detroit) and then-House Clerk Rich Brown allowed the 2023-24 House Democratic majority to end at noon January 1 without completing the enrollment and presentation of the bills to the governor.

– By Elena Durnbaugh

Back to top

Copyright 2025, Gongwer News Service LLC. All rights reserved.

Exhibit 8

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

SENATE RESOLUTION NO. 3

Senators Brinks, Polehanki, Shink, Irwin, McMorrow, Camilleri, Singh, Cherry, Klinefelt, Moss, Chang, Santana, McCann, Hertel, Cavanagh, Geiss, Bayer, Wojno and Anthony offered the following resolution:

1 A resolution to authorize the Senate Majority Leader to
2 commence legal action, on behalf of the Senate, to compel the House
3 of Representatives to fulfill its constitutional duty to present to
4 the Governor the nine remaining bills passed by both houses during
5 the One Hundred Second Legislature.

6 Whereas, Article IV, Section 33 of the Michigan Constitution
7 requires that every bill passed by the Legislature be presented to
8 the Governor; and

9 Whereas, On December 20, 2024, the Senate passed House Bills
10 4177 and 4665-4667 of 2023, and House Bills 4900-4901, 5817-5818,
11 and 6058 of 2024, then returned them to the House for presentation

1 to the Governor; and
2 Whereas, Despite its constitutional duty, the House of
3 Representatives has failed to present those bills to the Governor
4 and has advised, through the Speaker of the House, that it will
5 continue holding the bills; and
6 Whereas, The Constitution does not permit the House's
7 unilateral decision to delay presenting those bills to the
8 Governor; and
9 Whereas, The Senate must act to ensure that the House fulfills
10 its constitutional duty to present to the Governor all bills that
11 passed both houses during the One Hundred Second Legislature; now,
12 therefore, be it
13 Resolved by the Senate, That the Senate Majority Leader, in
14 her official capacity, is authorized to commence legal action, on
15 behalf of the Senate, to compel the House of Representatives to
16 immediately present to the Governor House Bills 4177 and 4665-4667
17 of 2023, and House Bills 4900-4901, 5817-5818, and 6058 of 2024,
18 and to take all necessary steps incidental thereto, including, but
19 not limited to, pursuing or defending any appeals.

RECEIVED by MSC 12/8/2025 3:54:29 PM

Exhibit 9

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

Approved, SCAO

Original - Court
1st copy - Defendant

2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN Court of Claims JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY	SUMMONS	CASE NUMBER 25-000014-MB

Court address
925 W. Ottawa Street, PO Box 30185, Lansing, MI 48909

Court telephone number
(517) 373-0807

Plaintiff's name, address, and telephone number	v	Defendant's name, address, and telephone number
Michigan Senate and Michigan Senate Majority Leader Winnie Brinks		Michigan House of Representatives, Michigan House Speaker Matt Hall, and Michigan House Clerk Scott Starr
Plaintiff's attorney bar number, address, and telephone number Mark Brewer (P35661) 17000 W. Ten Mile Drive Southfield, MI 48075 (248) 483-5000		

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (MC 21). The summons section will be completed by the court clerk.

Domestic Relations Case

☐ There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
☐ There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (MC 21) listing those cases.
☐ It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

Civil Case

☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
☐ MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106(4).
☑ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in ☐ this court, ☐ ______________________ Court, where it was given case number ______________ and assigned to Judge ______________________

The action ☐ remains ☐ is no longer pending.

Summons section completed by court clerk. **SUMMONS**

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside of Michigan).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date	Expiration date*	Court clerk
February 3, 2025	May 5, 2025	Jerome W. Zimmer Jr.

*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

RECEIVED by MCOC 2/3/2025 12:26:10 PM

Case Number 25-000014-MB

RECEIVED by MSC 12/8/2025 3:54:29 PM

PROOF OF SERVICE

TO PROCESS SERVER: You must serve the summons and complaint and file proof of service with the court clerk before the expiration date on the summons. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE OF SERVICE / NONSERVICE

☐ I served ☐ personally ☐ by registered or certified mail, return receipt requested, and delivery restricted to the the addressee (copy of return receipt attached) a copy of the summons and the complaint, together with the attachments listed below, on:

☐ I have attempted to serve a copy of the summons and complaint, together with the attachments listed below, and have been unable to complete service on:

Name	Date and time of service
Place or address of service	
Attachments (if any)	

☐ I am a sheriff, deputy sheriff, bailiff, appointed court officer or attorney for a party.

☐ I am a legally competent adult who is not a party or an officer of a corporate party. I declare under the penalties of perjury that this certificate of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee $	Miles traveled	Fee $	
Incorrect address fee $	Miles traveled	Fee $	**TOTAL FEE** $

Signature

Name (type or print)

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of a copy of the summons and complaint, together with

_______________ on _______________.
Attachments (if any) Date and time

_______________ on behalf of _______________
Signature

____
Name (type or print)

RECEIVED by MCOC 2/3/2025 12:26:10 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

STATE OF MICHIGAN
IN THE COURT OF CLAIMS

MICHIGAN SENATE and **MICHIGAN SENATE MAJORITY LEADER WINNIE BRINKS,** in her official capacity,	Case No. 25-000014-MB Hon. Sima G. Patel
Plaintiffs,	**URGENT STATE CONSTITUTIONAL MATTER**

v

MICHIGAN HOUSE OF REPRESENTATIVES, MICHIGAN HOUSE SPEAKER MATT HALL, in his official capacity, and **MICHIGAN HOUSE CLERK SCOTT STARR,** in his official capacity,

Defendants.

____/

PLAINTIFFS' VERIFIED COMPLAINT FOR MANDAMUS, DECLARATORY JUDGMENT, AND PERMANENT INJUNCTION

IMMEDIATE AND EXPEDITED CONSIDERATION REQUESTED

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the complaint.

/s/ Mark Brewer
GOODMAN ACKER, P.C.
MARK BREWER (P35661)
ROWAN CONYBEARE (P86571)
Attorneys for Plaintiffs
17000 W. Ten Mile Road
Southfield, MI 48075
(248) 483-5000
mbrewer@goodmanacker.com
rconybeare@goodmanacker.com

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MCOC 2/3/2025 12:26:10 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

Plaintiffs Michigan Senate and Senate Majority Leader Winnie Brinks (collectively "Senate") for their Verified Complaint for Mandamus, Declaratory Judgment, and Permanent Injunction against Defendants (collectively "House") state as follows:

INTRODUCTION

"Every bill passed by the legislature shall be presented to the governor before it becomes law . . . ."[1]

"Constitutional provisions regulating the presentation, approval, and veto of bills by the executive are mandatory, and the procedure as thus established cannot be enlarged, curtailed, changed, or qualified, by the legislative body."[2]

1. This case is about enforcing the State House's state constitutional duty to present to the Governor nine bills that passed the Legislature in 2024: House Bills 4177 and 4665–4667 of 2023, and House Bills 4900–4901, 5817–5818, and 6058 of 2024 (collectively the "nine bills"). The first sentence of Article 4, § 33 of the State Constitution (the "Presentment Clause"), Michigan Supreme Court precedent, Constitutional Convention proceedings, and legislative practice all mandate that the House perform its state constitutional duty to present these nine bills to the Governor.

JURISDICTION

2. This Court has jurisdiction over Plaintiffs' claims in this action for mandamus, declaratory judgment, and permanent injunction under MCL 600.6419(1)(a) and (7), MCR 2.605(A)(1), and MCR 3.305(A)(1).

PARTIES

3. The Michigan Senate is one of the two legislative bodies constituting the bicameral Michigan Legislature in which the legislative power is vested. Const 1963, art 4, § 1. The Senate

RECEIVED by MCOC 2/3/2025 12:26:10 PM

[1] Const 1963, art 4, § 33.
[2] *Anderson v Atwood*, 273 Mich 316, 320; 262 NW 922 (1935), *quoting* 59 CJ, p 575.

RECEIVED by MSC 12/8/2025 3:54:29 PM

analyzed, held committee hearings on, considered, deliberated, and passed the nine bills in 2024. It has adopted a resolution authorizing this litigation. *See* Ex 1.

4. Senate Majority Leader Winnie Brinks is the duly elected Senator for District 29 for a four-year term, 2023–2027, and the duly elected Majority Leader of the Michigan Senate for 2023–2027. She voted for the nine bills.

5. The Michigan House of Representatives is one of the two legislative bodies constituting the bicameral Michigan Legislature in which the legislative power is vested. Const 1963, art 4, § 1. The House analyzed, held committee hearings on, considered, deliberated, and passed the nine bills in 2024.

6. Michigan House Speaker Matt Hall was an elected Representative from District 42 in 2023–2025 and is the elected Representative from District 42 in 2025–2027. He voted no or failed to vote on the nine bills during the 2023–2024 legislative session. He was elected Speaker of the House on January 8, 2025. Although they were ready for presentation, Speaker Hall directed Clerk of the House Scott Starr not to present the nine bills to the Governor. *See* Eggert, *New House Speaker Pushes Elimination of Business Tax Credits to Fund Roads, Questions RenCen Plan*, Crain's Detroit Business (January 9, 2025).

7. Michigan House Clerk Scott Starr is the duly elected House Clerk who has the ministerial duty of presenting bills passed by the Legislature and originating in the House to the Governor.

FACTUAL ALLEGATIONS

A. Historical Bill Presentment Practice.

8. The Presentment Clause of the Michigan Constitution states:

> Every bill passed by the Legislature shall be presented to the governor before it becomes law . . . .

Const 1963, art 4, § 33. The Clause imposes a duty to present every bill passed by the Legislature

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MCOC 2/3/2025 12:26:10 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

without exception.

9. For at least 150 years under three State Constitutions—1850, 1908, and 1963—following presentment by the Legislature, Michigan governors have signed bills after the adjournment of the legislative session at which they were passed. *See, e.g.*, *Detroit v Chapin*, 108 Mich 136, 143; 66 NW 587 (1895) ("Our attention is called to instances where the governors of this State have signed bills [after legislative adjournment], one as early as 1873, and many since."); 1 OAG, 1982, No. 6,114, p 779, at 780 (December 22, 1982) (*Chapin* "expressly recognized that governors of this state have signed bills [after legislative adjournment] for many years.").

10. The vast majority of bills passed during a legislative session are presented to the Governor during that session. However, the volume of bills passed in the final days of a legislative session has sometimes caused bill presentation and signing to occur during the next legislative session.

11. Examples of bills presented by the Senate to the Governor during the next legislative session following passage include but are not limited to:

1) Senate Bill 240 of 1998 was presented to the Governor on January 13, 1999 and signed on January 27, 1999. *See* 1998 Senate Journal 2290, 2309–2310.

2) Senate Bill 1102 of 1996 was presented to the Governor on January 10, 1997 and signed on January 21, 1997. *See* 1996 Senate Journal 2377, 2392.

3) Senate Bills 530, 979, 200, and 201 of 1982 were presented to the Governor on January 4, 1983 and signed by the Governor on January 17, 1983. *See* 1983 Senate Journal 32, 56–57.

4) Between January 4 and 16, 1981 the Senate presented 49 bills to the Governor. *See* 1980 Senate Journal 3767–3768.

12. Examples of bills presented by the House to the Governor during the next legislative session by the House include but are not limited to:

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MCOC 2/3/2025 12:26:10 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

1) In January 1981, 71 bills from the 1980 session were presented to the Governor between January 7, 1981 and January 16, 1981. *See* 1980 House Journal 3767–3768.

B. The Events Of January 8, 2025.

13. On January 8, 2025, the Legislature convened, Representative Hall was elected Speaker, and Starr was elected Clerk.

14. Following the well-established practice of the Michigan Legislature, on January 8, 2025, the Clerk of the House presented at least 88 bills to the Governor that had been passed by the Legislature in December 2024 during the previous legislative session. *See* Michigan Legislature, *Bills: 2023–2024 Session*, https://www.legislature.mi.gov/Bills?session=2023-2024.

15. All nine bills had passed both houses of the Legislature in 2024 and were ready for presentation to the Governor on January 8, 2025, along with the rest of the bills. However, in defiance of Article 4, § 33, Michigan Supreme Court precedent, and long-established legislative practice, Speaker Hall ordered Clerk Starr not to present the nine bills to the Governor.

C. The Nine Bills Passed By The Legislature In 2024 That The House Has Failed To Present To The Governor.

16. 2023 HB 4177

- Brief Description: Enacts the History Museum Authorities Act to allow a county board of commissioners to establish a history museum authority and levy a tax of up to 0.2 mills in a county that established an authority. *See* Senate Fiscal Agency Analysis, HB 4177 (November 25, 2024).
- Process, *see* Michigan Legislature, *House Bill 4177 of 2023: History* (accessed January 28, 2025):
  - Introduced – 3/7/23
  - Reported from the House Committee on Regulatory Reform – 9/19/23
    - Two Committee Hearings, *see* House of Representatives Committee on Regulatory Reform, *Committee Meeting Minutes* (September 12, 2023); House of Representatives Committee on Regulatory Reform, *Committee Meeting Minutes* (September 19, 2023).

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MCOC 2/3/2025 12:26:10 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

- Passed the House (56–53) – 6/20/24
- Reported from the Senate Committee on Finance, Insurance, and Consumer Protection – 11/26/24
  - Committee Hearing, *see* Senate Committee on Finance, Insurance, and Consumer Protection, *Committee Meeting Minutes* (November 13, 2024).
- Passed the Senate (20–18) – 12/20/24
- Returned to the House – 12/20/24
- Ordered Enrolled – 12/31/24

17. 2024 HB 5817

- Brief Description: Amends the Tax Increment Financing Act to exempt the mills captured under HB 4177, so that money collected goes to the established authority. *See* Senate Fiscal Agency Analysis, HB 5817 (November 25, 2024).
- Process, *see* Michigan Legislature, *House Bill 5817 of 2024: History* (accessed January 28, 2025):
  - Introduced – 6/13/24
  - Reported from the House Committee on Regulatory Reform – 6/18/24
    - Committee Hearing, *see* House of Representatives Committee on Regulatory Reform, *Committee Meeting Minutes* (June 18, 2024).
  - Passed the House (56–54) – 6/27/24
  - Reported from the Senate Committee on Finance, Insurance, and Consumer Protection – 11/13/24
    - Committee Hearing, *see* Senate Committee on Finance, Insurance, and Consumer Protection, *Committee Meeting Minutes* (November 13, 2024).
  - Passed the Senate (20–18) – 12/20/24
  - Returned to the House – 12/20/24
  - Ordered Enrolled – 12/31/24

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MCOC 2/3/2025 12:26:10 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

18. 2024 HB 5818

- Brief Description: Amends the Brownfield Redevelopment Authority Act to exempt the mills captured under HB 4177, so that money collected goes to the established authority. *See* Senate Fiscal Agency Analysis, HB 5818 (November 25, 2024).

- Process, *see* Michigan Legislature, *House Bill 5818 of 2024: History* (accessed January 28, 2025):

  - Introduced – 6/13/24

  - Reported from the House Committee on Regulatory Reform – 6/18/24

    - Committee Hearing, *see* House of Representatives Committee on Regulatory Reform, *Committee Meeting Minutes* (June 18, 2024).

  - Passed the House (56–54) – 6/27/24

  - Reported from the Senate Committee on Finance, Insurance, and Consumer Protection – 11/26/24

    - Committee Hearing, *see* Senate Committee on Finance, Insurance, and Consumer Protection, *Committee Meeting Minutes* (November 13, 2024).

  - Passed the Senate (20–18) – 12/20/24

  - Returned to the House – 12/20/24

  - Ordered Enrolled – 12/31/24

19. 2023 HB 4665

- Brief Description: Amends the State Police Retirement Act to allow corrections officers, conservation officers, and other law enforcement officers to participate in the Michigan State Police retirement plan. *See* House Fiscal Agency Analysis, HB 4665 (December 13, 2024).

- Process, *see* Michigan Legislature, *House Bill 4665 of 2023: History* (accessed January 28, 2025):

  - Introduced – 5/25/23

  - Reported from the House Committee on Labor – 12/12/24

    - Committee Hearing, *see* House of Representatives Committee on Labor, *Committee Meeting Minutes* (December 12, 2024).

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MCOC 2/3/2025 12:26:10 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

- Passed the House (56–0) – 12/13/24
- Discharged from the Senate Committee on Government Operations – 12/20/24
- Passed the Senate (25–13) – 12/20/24
- Returned to the House – 12/20/24
- Ordered Enrolled – 12/31/24

20. 2023 HB 4666

   - Brief Description: Amends the State Employees' Retirement Act to allow certain individuals who are qualified participants in the State Employees' Retirement System to elect to join the Michigan State Police retirement plan. *See* House Fiscal Agency Analysis, HB 4666 (December 13, 2024).

   - Process, *see* Michigan Legislature, *House Bill 4666 of 2023: History* (accessed January 28, 2025):

     - Introduced – 5/25/23
     - Reported from the House Committee on Labor – 12/12/24
       - Committee Hearing, *see* House of Representatives Committee on Labor, *Committee Meeting Minutes* (December 12, 2024).
     - Passed the House (56–0) – 12/13/24
     - Discharged from the Senate Committee on Government Operations – 12/20/24
     - Passed the Senate (25–13) – 12/20/24
     - Returned to the House – 12/20/24
     - Ordered Enrolled – 12/31/24

21. 2023 HB 4667

   - Brief Description: Adds three sections to the State Police Retirement Act to allow eligible individuals to purchase service credit for service under the State Employees' Retirement Act. *See* House Fiscal Agency Analysis, HB 4667 (December 13, 2024).

   - Process, *see* Michigan Legislature, *House Bill 4667 of 2023: History* (accessed January 28, 2025):

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MCOC 2/3/2025 12:26:10 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

- Introduced – 5/25/23
- Reported from the House Committee on Labor – 12/12/24
  - Committee Hearing, *see* House of Representatives Committee on Labor, *Committee Meeting Minutes* (December 12, 2024).
- Passed the House (56–0) – 12/13/24
- Discharged from the Senate Committee on Government Operations – 12/20/24
- Passed the Senate (25–13) – 12/20/24
- Returned to the House – 12/20/24
- Ordered Enrolled – 12/31/24

22. 2023 HB 4900

- Brief Description: Modifies the types and value of wages, money, and property exempt from garnishment and execution (debt collection), and modifies Michigan's garnishment and execution process. *See* Senate Fiscal Agency Analysis, HB 4900 (December 18, 2024).
- Process, *see* Michigan Legislature, *House Bill 4900 of 2023: History* (accessed January 28, 2025):
  - Introduced – 7/18/23
  - Discharged from the House Committee on Insurance and Financial Services – 12/13/24
  - Passed by the House (56–0) – 12/13/24
  - Discharged from the Senate Committee on Government Operations – 12/20/24
  - Passed by the Senate (22–16) – 12/20/24
  - Returned to the House – 12/20/24
  - Ordered Enrolled – 12/31/24

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MCOC 2/3/2025 12:26:10 PM

23. 2023 HB 4901

- Brief Description: Amends the bankruptcy section of the Revised Judicature Act to modify the value of types of property and expand the types of property exempt from inclusion in a debtor's estate. *See* Senate Fiscal Agency Analysis, HB 4901 (December 18, 2024).

- Process, *see* Michigan Legislature, *House Bill 4901 of 2023: History* (accessed January 28, 2024):

  - Introduced – 7/18/23
  - Discharged from the House Committee on Insurance and Financial Services – 12/13/24
  - Passed the House (56–0) – 12/13/24
  - Discharged from the Senate Committee on Government Operations – 12/20/24
  - Passed the Senate (21–17) – 12/20/24
  - Returned to the House – 12/20/24
  - Ordered Enrolled – 12/31/24

24. 2024 HB 6058

- Brief Description: Amends the Publicly Funded Health Insurance Contribution Act to mandate that public employers contribute at least 80% of the costs for employee health plans and permit employers to contribute up to the full cost. *See* Senate Fiscal Agency Analysis, HB 6058 (December 19, 2024).

- Process, *see* Michigan Legislature, *House Bill 6058 of 2024: History* (accessed January 28, 2025):

  - Introduced – 11/12/24
  - Reported from the House Committee on Labor – 12/5/24
    - Committee Hearing, *see* House of Representatives Committee on Labor, *Committee Meeting Minutes* (December 5, 2024).
  - Passed by the House (56–0) – 12/13/24
  - Discharged from the Senate Committee on Government Operations – 12/20/24

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOC 2/3/2025 12:26:10 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

- Passed the Senate (20–18) – 12/20/24
- Returned to the House – 12/20/24
- Ordered Enrolled – 12/31/24

THE HOUSE HAS A CLEAR LEGAL DUTY TO PRESENT THE NINE BILLS TO THE GOVERNOR

25. The House has a clear legal duty to present the nine bills to the Governor:

> Every bill passed by the legislature *shall* be presented to the governor before it becomes law . . . .

Const 1963, art 4, § 33 (emphasis added). The Clause contains no exceptions. The Michigan Supreme Court has held that "shall" means "shall," that presentation is mandatory, and that the Legislature cannot interfere with the constitutional mandate in any way:

> "Constitutional provisions regulating the presentation, approval, and veto of bills by the executive are mandatory, and the procedure as thus established cannot be enlarged, curtailed, changed, or qualified, by the legislative body."

Anderson v Atwood, 273 Mich 316, 320; 262 NW 922 (1935), *quoting* 59 CJ, p 575; *see also, e.g.*, *Campaign for Fiscal Equity v Marino*, 87 NY2d 235, 238–239; 661 NE2d 1372 (1995) (withholding bills from the governor that have passed the legislature violates the New York Constitution's Presentment Clause); *Brewer v Burns*, 222 Ariz 234, 236; 213 P3d 671 (2009) (*en banc*) (the legislature violates the Arizona Constitution's Presentment Clause when it withholds bills that have passed from the governor).

STANDING

26. Plaintiffs incorporate the prior paragraphs as if set forth word for word.

27. Only one Plaintiff needs to have standing in order for the complaint to proceed. *See, e.g.*, *House Speaker v State Admin Bd*, 441 Mich 547, 561; 495 NW2d 539 (1993). Both Plaintiffs have standing on several bases under Michigan Supreme Court precedent.

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MCOC 2/3/2025 12:26:10 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOC 2/3/2025 12:26:10 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

The Legal Standards

28. In *Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349; 792 NW2d 686 (2010), the Court held that "consistent with Michigan's long-standing historical approach to standing," judicial standing analyses are "limited" and "prudential." *Id* at 352–353. The sole "purpose of the standing doctrine," the Court held, "is to assess whether a litigant's interest in the issue is sufficient to 'ensure sincere and vigorous advocacy.'" *See id* at 335, *quoting Detroit Fire Fighters Ass'n v Detroit*, 449 Mich 629, 633; 537 NW2d 436 (1995).

29. *Lansing Schools* held that plaintiffs can establish standing in any one of several ways: (1) "whenever there is a[n explicit] legal cause of action"; (2) "if the statutory scheme" or some other source implies a cause of action; (3) when the plaintiff *either* "has a special injury *or* right, *or* substantial interest, that will be detrimentally affected in a manner different from the citizenry at large"; or (4) "whenever a litigant meets the requirements of MCR 2.605 . . . to seek a declaratory judgment." *Lansing Sch Ed Ass'n*, 487 Mich at 372 (emphasis added).

30. Plaintiffs have standing under a number of the *Lansing Schools* standards.

The Michigan Senate Has Standing

31. First, the Senate has a special right that will be detrimentally affected in a manner different from the citizenry at large by the House's failure to do its duty to present the nine bills. The House's unilateral refusal to present the nine bills to the Governor violates the constitutionally established bicameral lawmaking process under Article 4 generally, and § 33 specifically. As an integral part of the bicameral lawmaking body, the Senate has the institutional right under § 33 to have bills passed by both houses presented to the Governor. To permit the House to withhold presentation would undermine the integrity of the bicameral lawmaking process mandated by § 33 by allowing one house and one legislator to veto the work of both houses after a legislative session

RECEIVED by MSC 12/8/2025 3:54:29 PM

has ended. The right to veto legislation is the sole constitutional prerogative of the Governor and it cannot be usurped by a legislative body or a legislator after a legislative session is over. This institutional right is unique to the Senate, not shared with the citizenry at large, and is plainly detrimentally affected by the House's conduct here.

32. The Senate also has a special injury caused by the House's failure to do its duty to present—an injury not shared by the citizenry at large. The Senate expended considerable time and resources considering, performing bill analyses, holding committee hearings, debating, and finally passing the nine bills at issue here. *See supra*, ⁋⁋ 19–24. No other person or organization performed or can perform these innately legislative tasks of the Senate. Thus, the Senate is uniquely injured by having spent its time and resources on these nine bills only to have them unconstitutionally blocked from presentment by the House.

33. In addition, the Senate has a substantial interest that will be detrimentally affected in a manner different from the citizenry at large by the House's failure to do its duty to present. The text of Article 4, § 33 specifically references the Legislature and the legislative process. *See Lansing Sch Ed Ass'n*, 487 Mich at 374 (text can demonstrate "a substantial and distinct interest"). While citizens can influence the legislative process, only the Senate and House can pass legislation and present it to the Governor. The Senate thus has a substantial interest in the presentation of the nine bills and is affected differently than citizens by the House's failure to present legislation that both houses have passed. The history of Article 4, § 33 reinforces the Senate's substantial and distinct interest. *See Lansing Sch Ed Ass'n*, 487 Mich at 374–375 (legislative history demonstrates a substantial and distinct interest); *see also supra*, ⁋⁋ 9–12.

34. The Senate also meets the requirements of MCR 2.605 to seek a declaratory judgment. MCR 2.605(A)(1) states: "In a case of actual controversy within its jurisdiction, a Michigan court

RECEIVED by MCOC 2/3/2025 12:26:10 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted." The Michigan Supreme Court has held that "[a]n actual controversy exists when a declaratory judgment is needed to guide a party's future conduct in order to preserve that party's legal rights." *League of Women Voters of Mich v Secretary of State*, 506 Mich 561, 586; 957 NW2d 731 (2020) (*en banc*). There is an actual controversy because the Senate has the constitutional right to presentment of these nine bills and all bills in the future that pass both houses of the Legislature.

The Senate Majority Leader Has Standing

35. In *House Speaker v State Admin Bd*, 441 Mich 547; 495 NW2d 539 (1993), the Court held that legislators have standing to sue if they "establish that they have been deprived of a 'personal and legally cognizable interest peculiar to them.'" *Id* at 556. One of those interests is a "complete nullification of [her] vote, with no recourse in the legislative process." *Id* at 557.

36. Leader Brinks' vote to pass all nine bills has been completely nullified by the withholding of presentment by the House and she has no recourse in the legislative process because the legislative session in which she voted for the nine bills is over. Hers is not a "generalized grievance that the law is not being followed," *id* at 556, but an injury peculiar to Leader Brinks as a legislator who voted for the bills and whose vote is nullified by the failure of the House to present the nine bills.

COUNT I – MANDAMUS: THE HOUSE OF REPRESENTATIVES SHOULD BE ORDERED TO PRESENT THE NINE BILLS TO THE GOVERNOR

37. Plaintiffs incorporate the prior paragraphs as if set forth word for word.

38. A writ of mandamus is issued by a court to compel public bodies and officers to perform a clear legal duty, including public bodies created by the State Constitution. *See, e.g.*, *Jones v Dep't of Corrections*, 468 Mich 646, 658; 664 NW2d 717 (2003); *Citizens for Protection of Marriage v*

RECEIVED by MCOC 2/3/2025 12:26:10 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

Bd of State Canvassers, 263 Mich App 487; 688 NW2d 538 (2004) (*per curiam*) (granting mandamus against the Board of State Canvassers); *Pillon v Attorney General*, 345 Mich 536; 77 NW2d 257 (1956) (granting mandamus against the Secretary of State).

39. To be entitled to a writ of mandamus, a plaintiff must show that: "(1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result." *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518; 866 NW2d 817 (2014) (*per curiam*), *lv den* 498 Mich 853; 865 NW2d 19 (2015).

40. Based on the facts, authorities, and analysis set forth in ¶¶ 8–36, Plaintiffs are entitled to a writ of mandamus because (1) Plaintiffs have a clear legal right under Article 4, § 33 to have the House present the nine bills to the Governor; (2) Defendants have a clear legal duty under Article 4, § 33 to present the nine bills to the Governor; (3) the act of presentation is ministerial; and (4) Plaintiffs have no other legal or equitable remedy that might achieve the same result.

COUNT II – DECLARATORY JUDGMENT: THE HOUSE OF REPRESENTATIVES HAS A CONSTITUTIONAL DUTY TO PRESENT THE NINE BILLS TO THE GOVERNOR AND THE SENATE HAS A CONSTITUTIONAL RIGHT TO PRESENTMENT

41. Plaintiffs incorporate the prior paragraphs as if set forth word for word.

42. "In a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted." The Michigan Supreme Court has held that "[a]n actual controversy exists when a declaratory judgment is needed to guide a party's future conduct in order to preserve that party's legal rights." *League of Women Voters of Mich v Secretary of State*, 506 Mich 561, 586; 957 NW2d 731 (2020) (*en banc*).

RECEIVED by MCOC 2/3/2025 12:26:10 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

43. There is an actual controversy because Plaintiffs have a constitutional right under Article 4, § 33 to the presentment of these nine bills and Defendants have a constitutional duty under Article 4, § 33 to present them and all bills in the future that pass both houses of the Legislature.

44. Plaintiffs are entitled to a declaratory judgment that Plaintiffs have a constitutional right to presentment of these nine bills and Defendants have has a constitutional duty to present them and all bills in the future that pass both houses of the Legislature.

COUNT III – PERMANENT INJUNCTION: THE HOUSE OF REPRESENTATIVES SHOULD BE PERMANENTLY ENJOINED FROM FAILING TO PRESENT THE NINE BILLS TO THE GOVERNOR

45. Plaintiffs incorporate the prior paragraphs as if set forth word for word.

46. Plaintiffs are entitled to a declaratory judgment that Defendants have a constitutional right to presentment of these nine bills and Defendants have a constitutional duty to present them and all bills in the future that pass both houses of the Legislature.

47. Other relief may be granted based on a declaratory judgment. MCR 2.605(F).

48. Plaintiffs are entitled to a permanent injunction enjoining Defendants from failing to present the nine bills to the Governor because they meet all of the criteria for a permanent injunction. *See, e.g.*, *Kernen v Homestead Dev Co*, 232 Mich App 503, 514–515; 591 NW2d 369 (1998).

THIS IS AN URGENT MATTER REQUIRING IMMEDIATE AND EXPEDITED CONSIDERATION

49. Plaintiffs incorporate the prior paragraphs as if set forth word for word.

50. Actions for declaratory judgment can be expedited. MCR 2.605(D).

51. Unless given immediate effect, laws take effect 90 days after the Legislature adjourns. Const 1963, art 4, § 27. None of the nine bills were given immediate effect, so if signed by the Governor, they will take effect on April 2, 2025, which is fast approaching.

RECEIVED by MCOC 2/3/2025 12:26:10 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

52. The Governor has up to 14 days after presentation to consider bills. *Id* § 33.

53. Appeals are expected in this matter. To resolve those appeals and allow the Governor her constitutionally mandated period of 14 days to consider a bill after presentation but before the April 2, 2025, effective date of the bills she signs, this matter requires immediate and expedited consideration.

54. Since January 9, 2025, Speaker Hall has been reviewing the legal issues he asserts prevent presentment. *See* Eggert, *New House Speaker Pushes Elimination of Business Tax Credits to Fund Roads, Questions RenCen Plan* (reporting that Speaker Hall's "team is conducting a legal review of [the] nine bills"). In addition, the Senate adopted the resolution authorizing this litigation on January 22, 2025, *see* Verified Compl, Ex 1, so the House has known that this complaint was coming. With nearly four weeks of legal review already done and more than a week's notice of its anticipated filing, the House should be able to respond quickly to this complaint that presents solely legal issues.

PRAYER FOR RELIEF

For the reasons stated, Plaintiffs respectfully pray for this relief from the Court:

1. Immediate and expedited consideration of this Verified Complaint;

2. Grant the Complaint for Mandamus and order Defendants to immediately present the nine bills to the Governor;

3. A declaratory judgment that Defendants have a constitutional duty to present the nine bills to the Governor and that Plaintiffs have the constitutional right to such presentment;

4. A permanent injunction enjoining Defendants from failing to immediately present the nine bills to the Governor; and

5. Such other relief as the Court considers necessary or appropriate.

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MCOC 2/3/2025 12:26:10 PM

Respectfully submitted,

/s/ Mark Brewer

GOODMAN ACKER, P.C.
MARK BREWER (P35661)
ROWAN CONYBEARE (P86571)
Attorneys for Plaintiffs
17000 W. Ten Mile Road
Southfield, MI 48075
(248) 483-5000
mbrewer@goodmanacker.com
rconybeare@goodmanacker.com

Dated: February 3, 2025

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOC 2/3/2025 12:26:10 PM

VERIFICATION

STATE OF MICHIGAN)
)ss
COUNTY OF INGHAM)

I declare under the penalties of perjury that this Verified Complaint has been examined by me and that its contents are true to the best of my knowledge, information, and belief.

____

Subscribed and sworn to before me
This 30 day of January, 2025.

____
Notary Public
County of Kalamazoo, State of Michigan
My Commission Expires:

KELSEY ROY
NOTARY PUBLIC, STATE OF MI
COUNTY OF KALAMAZOO
MY COMMISSION EXPIRES Feb 10, 2028
ACTING IN COUNTY OF Ingham

RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MCOC 2/3/2025 12:26:10 PM

Exhibit 10

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

STATE OF MICHIGAN
IN THE COURT OF CLAIMS

MICHIGAN SENATE and **MICHIGAN SENATE MAJORITY LEADER WINNIE BRINKS,** in her official capacity,

Case No.
Hon.

Plaintiffs,

URGENT STATE CONSTITUTIONAL MATTER

v

MICHIGAN HOUSE OF REPRESENTATIVES, MICHIGAN HOUSE SPEAKER MATT HALL, in his official capacity, and **MICHIGAN HOUSE CLERK SCOTT STARR,** in his official capacity,

Defendants.
______________________________________/

PLAINTIFFS' 2/3/25 BRIEF IN SUPPORT OF MOTION FOR SUMMARY DISPOSITION

ORAL ARGUMENT REQUESTED IF THE COURT DEEMS IT NECESSARY

GOODMAN ACKER, P.C.
MARK BREWER (P35661)
ROWAN CONYBEARE (P86571)
Attorneys for Plaintiffs
17000 W. Ten Mile Road
Southfield, MI 48075
(248) 483-5000
mbrewer@goodmanacker.com
rconybeare@goodmanacker.com

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

TABLE OF CONTENTS

Index of Authorities iv

Introduction 1

Statement of Facts 1

A. The Events Of January 8, 2025 2

Argument: Plaintiffs Are Entitled To Mandamus, Declaratory Judgment, And Permanent Injunction Requiring Defendants To Present The Nine Bills To The Governor 3

I. Plaintiffs Have Standing 3

A. The Legal Standards 3

B. The Michigan Senate Has Standing 3

C. The Senate Majority Leader Has Standing 5

II. Plaintiffs' Claims Are Justiciable 6

III. Plaintiffs Are Entitled To Mandamus 8

A. The House Has A Clear Legal Duty To Present The Nine Bills 9

B. Plaintiffs Have A Clear Legal Duty To Presentation Of The Nine Bills 13

C. Presentation Is Ministerial 14

D. Plaintiffs Have No Other Adequate Legal Or Equitable Remedy That Might Achieve The Same Result As Mandamus 15

IV. Plaintiffs Are Entitled To Declaratory Judgment And Permanent Injunction 15

A. Declaratory Judgment 15

B. Permanent Injunction 16

V. Defendants' Defenses Are Meritless 16

A. The Alleged Lack Of *Sine Die* Adjournment Of The Previous Legislature Does Not Bar Presentation 16

B. “Technical Problems” In The Nine Bills Do Not Bar Presentation 18

VI. Plaintiffs Are Entitled To Immediate Relief 19

VII. This Is An Urgent Matter Requiring Immediate And Expedited Consideration............... 19

Conclusion and Relief Sought 20

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

INDEX OF AUTHORITIES

Cases

Anderson v Atwood, 273 Mich 316; 262 NW 922 (1935)..*passim*

Barry Co Probate Court v Mich Dep't of Social Servs, 114 Mich App 312; 319 NW2d 571 (1982)..16

Bauserman v Unemployment Ins Agency, 509 Mich 673; 983 NW2d 855 (2022)..7, 14

Bay Co Exec v Bay Co Bd of Comm'rs, 129 Mich App 707; 342 NW2d 96 (1983)..15

Boards of Co Roads Comm'rs v Bd of State Canvassers, 391 Mich 666; 218 NW2d 144 (1974) (*per curiam*)..10, 11, 14

Brewer v Burns, 222 Ariz 234; 213 P3d 671 (2008) (*en banc*)..8, 10, 13

Campaign for Fiscal Equity v Marino, 87 NY2d 235; 661 NE2d 1372 (1995)..10, 13

Citizens for Protection of Marriage v Bd of State Canvassers, 263 Mich App 487; 688 NW2d 538 (2004) (*per curiam*)..9

Council of Saginaw v Bd of Trustees, 321 Mich 641; 32 NW2d 899 (1948)..10

Detroit v Chapin, 108 Mich 136; 66 NW 587 (1895)..1

Detroit Fire Fighters Ass'n v Detroit, 449 Mich 629; 537 NW2d 436 (1995)..3

House Speaker v Governor, 443 Mich 560; 506 NW2d 190 (1993)..6, 8

House Speaker v State Admin Bd, 441 Mich 547; 495 NW2d 539 (1993)..3, 5

Jones v Dep't of Corrections, 468 Mich 646; 664 NW2d 717 (2003)..8, 9

Kernen v Homestead Dev Co, 232 Mich App 503; 591 NW2d 369 (1998)..16

Lansing Sch Ed Ass'n v Lansing Bd of Ed, 487 Mich 349; 792 NW2d 686 (2010)..3, 4, 5

League of Women Voters of Mich v Secretary of State, 506 Mich 561; 957 NW2d 731 (2020) (*en banc*)..5, 15

LeRoux v Secretary of State, 465 Mich 594; 640 NW2d 849 (2002) (*per curiam*)..18

Moore v Harper, 600 US ___; 143 S Ct 2065; 216 L Ed 2d 729 (2023)..12

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

Mothering Justice v Attorney General, ___ Mich ___; ___ NW2d ___ (2024)
(Docket No. 165325) (*en banc*).. 8, 13

Obama for America v Husted, 697 F3d 423 (CA 6, 2012) 16

People v Thompson, 424 Mich 118; 379 NW2d 49 (1985) 10, 14

Pillon v Attorney General, 345 Mich 536; 77 NW2d 257 (1956).. 9

Recall Blanchard Comm v Secretary of State, 146 Mich App 117; 380 NW2d 71 (1985) 15

Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer, 308 Mich App 498;
866 NW2d 817 (2014) (*per curiam*) 9, 13, 14

Richardson v Secretary of State, 381 Mich 304; 160 NW2d 883 (1968) (*per curiam*) 7

Smith v Auditor General, 165 Mich 140; 130 NW 557 (1911).. 12

Stand Up For Democracy v Secretary of State, 492 Mich 588; 822 NW2d 159 (2012) 9, 10

Wood v State Admin Bd, 255 Mich 220; 238 NW 16 (1931)... 13

Constitutional Provisions

Const 1908, art 5, § 36 14

Const 1963, art 4, § 27 19

Const 1963, art 4, § 33 .... *passim*

Legislative Bills

1982 SB 200 2

1982 SB 201 2

1982 SB 530 2

1982 SB 979 2

1996 SB 1102 2

1998 SB 240 2

2023 HB 4177 1

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

2023 HB 4665 1

2023 HB 4666 1

2023 HB 4667 1

2024 HB 4900 1

2024 HB 4901 1

2024 HB 5817 1

2024 HB 5818 1

2024 HB 6058 1

Legislative Materials

1980 House Journal 2

1980 Senate Journal 2

1983 Senate Journal 2

1996 Senate Journal 2

1998 Senate Journal 2

2023–2024 Joint Rule 12 18

2025–2026 House Rule 19 .... 14, 15

Attorney General Opinions

1 OAG, 1982, No. 6,114 1

1 OAG, 2003, No. 7,139 13

Michigan Court Rules

MCR 2.605 .... 3, 5

MCR 2.605(A)(1) 5, 15

MCR 2.605(F) 16

Other Sources

1 Cooley, Constitutional Limitations (2d ed) 12

1 Official Record, Constitutional Convention 1961 .... 11, 15

Eggert, *New House Speaker Pushes Elimination of Business Tax Credits to Fund Roads, Questions RenCen Plan*, Crain's Detroit Business (January 9, 2025) 16, 17, 18, 19

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER Michigan's Trusted Law Firm

INTRODUCTION

This case is about enforcing the State House's state constitutional duty to present to the Governor nine bills that passed the Legislature during the 2024 legislative session: House Bills 4177 and 4665–4667 of 2023, and House Bills 4900–4901, 5817–5818, and 6058 of 2024 (collectively the "nine bills"). The first sentence of Article 4, § 33 of the State Constitution (the "Presentment Clause"), Michigan Supreme Court precedent, proceedings of the Constitutional Convention, and long-established legislative practice mandate that the House perform its state constitutional duty to present these bills to the Governor.

STATEMENT OF FACTS

The Presentment Clause of the Michigan Constitution states:

> Every bill passed by the Legislature shall be presented to the governor before it becomes law . . . .

Const 1963, art 4, § 33. The Clause imposes a duty to present every bill passed by the Legislature without exception.

For at least 150 years under three State Constitutions—1850, 1908, and 1963—following presentment by the Legislature, Michigan governors have signed bills after the adjournment of the legislative session at which they were passed. *See, e.g.*, *Detroit v Chapin*, 108 Mich 136, 143; 66 NW 587 (1895) ("Our attention is called to instances where the governors of this State have signed bills [after legislative adjournment], one as early as 1873, and many since."); 1 OAG, 1982, No. 6,114, p 779, at 780 (December 22, 1982) (*Chapin* "expressly recognized that governors of this state have signed bills [after legislative adjournment] for many years.").

The vast majority of bills passed during a legislative session are presented to the Governor during that session. However, the volume of bills passed in the final days of a legislative session has sometimes caused bill presentation and signing to occur during the next legislative session.

RECEIVED by MSC 12/8/2025 3:54:29 PM

Examples of bill presentation by the Senate to the Governor during the next legislative session following passage include but are not limited to:

1) Senate Bill 240 of 1998 was presented to the Governor on January 13, 1999 and signed on January 27, 1999. *See* 1998 Senate Journal 2290, 2309–2310.

2) Senate Bill 1102 of 1996 was presented to the Governor on January 10, 1997 and signed on January 21, 1997. *See* 1996 Senate Journal 2377, 2392.

3) Senate Bills 200, 201, 530, and 979 of 1982 were presented to the Governor on January 4, 1983, and signed by the Governor on January 17, 1983. *See* 1983 Senate Journal 32, 56–57.

4) Between January 4, 1981, and January 16, 1981, the Senate presented 49 bills to the Governor. *See* 1980 Senate Journal 3767–3768.

Examples of bill presentation by the House to the Governor during the next legislative session by the House include but are not limited to:

1) In January 1981, 71 bills from the 1980 session were presented to the Governor between January 7, 1981 and January 16, 1981. *See* 1980 House Journal 3765–3766.

A. The Events Of January 8, 2025.

The Legislature convened on January 8, 2025, and Representative Matt Hall was elected Speaker of the Michigan House of Representatives, and Scott Starr was elected Clerk Michigan House of Representatives on that day. Following the well-established practice of the Michigan Legislature, on January 8, 2025, the Clerk of the House presented at least 88 bills to the Governor that had been passed by the Legislature in December 2024. *See* Verified Compl, ⁋ 14.

However, in defiance of Article 4, § 33, Michigan Supreme Court precedent, and the legislative practice of the last 150 years, Speaker Hall ordered Clerk Starr not to present to the Governor the nine bills at issue here, all of which had passed both houses of the Legislature in 2024 and were ready for presentation together with the other bills.

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

ARGUMENT

PLAINTIFFS ARE ENTITLED TO MANDAMUS, DECLARATORY JUDGMENT, AND PERMANENT INJUNCTION REQUIRING DEFENDANTS TO PRESENT THE NINE BILLS TO THE GOVERNOR

I. PLAINTIFFS HAVE STANDING.

Only one Plaintiff needs to have standing in order for a complaint to proceed. *See, e.g., House Speaker v State Admin Bd*, 441 Mich 547, 561; 495 NW2d 539 (1993). Both Plaintiffs have standing on several bases under Michigan Supreme Court precedent.

A. The Legal Standards.

In *Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349; 792 NW2d 686 (2010), the Court held that "consistent with Michigan's long-standing historical approach to standing," judicial standing analyses are "limited" and "prudential." *Id* at 352–353. The sole "purpose of the standing doctrine," the Court held, "is to assess whether a litigant's interest in the issue is sufficient to 'ensure sincere and vigorous advocacy.'" *See id* at 335, *quoting Detroit Fire Fighters Ass'n v Detroit*, 449 Mich 629, 633; 537 NW2d 436 (1995).

Lansing Schools held that plaintiffs can establish standing in any one of several ways: (1) "whenever there is a[n explicit] legal cause of action"; (2) "if the statutory scheme" or some other source implies a cause of action; (3) when the plaintiff *either* "has a special injury *or* right, *or* substantial interest, that will be detrimentally affected in a manner different from the citizenry at large"; or (4) "whenever a litigant meets the requirements of MCR 2.605 . . . to seek a declaratory judgment." *Lansing Sch Ed Ass'n*, 487 Mich at 372 (emphasis added).

Plaintiffs have standing under a number of the *Lansing Schools* standards.

B. The Michigan Senate Has Standing.

First, the Senate has a special right that will be detrimentally affected in a manner different

from the citizenry at large by the House's failure to do its duty to present the nine bills. The House's unilateral refusal to present the nine bills to the Governor violates the constitutionally established bicameral lawmaking process under Article 4 generally, and § 33 specifically. As an integral part of the bicameral lawmaking body, the Senate has the institutional right under § 33 to have bills passed by both houses presented to the Governor. To permit the House to withhold presentation would undermine the integrity of the bicameral lawmaking process mandated by § 33 by allowing one house and one legislator to veto the work of both houses after a legislative session has ended. The right to veto legislation is the sole constitutional prerogative of the Governor and it cannot be usurped by a legislative body or a legislator after a legislative session is over. This institutional right is unique to the Senate, not shared with the citizenry at large, and is plainly detrimentally affected by the House's conduct here.

The Senate also has a special injury caused by the House's failure to do its duty to present—an injury not shared by the citizenry at large. The Senate expended considerable time and resources considering, performing bill analyses, holding committee hearings, debating, and finally passing the nine bills at issue here. *See* Verified Compl, ¶¶ 16–24. No other person or organization performed or can perform these innately legislative tasks of the Senate. Thus, the Senate is uniquely injured by having spent its time and resources on these nine bills only to have them unconstitutionally blocked from presentment by the House.

In addition, the Senate has a substantial interest that will be detrimentally affected in a manner different from the citizenry at large by the House's failure to do its duty to present. The text of Article 4, § 33 specifically references the Legislature and the legislative process. *See Lansing Sch Ed Ass'n*, 487 Mich at 374 (text can demonstrate "a substantial and distinct interest"). While citizens can influence the legislative process, only the Senate and House can pass legislation

RECEIVED by MSC 12/8/2025 3:54:29 PM

Goodman Acker P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

and present it to the Governor. The Senate thus has a substantial interest in the presentation of the nine bills and is affected differently than citizens by the House's failure to present legislation that both houses have passed. The history of Article 4, § 33 reinforces the Senate's substantial and distinct interest. *See Lansing Sch Ed Ass'n*, 487 Mich at 374–375 (legislative history demonstrates a substantial and distinct interest); *see also* Verified Compl, ¶¶ 9–12.

Finally, the Senate also meets the requirements of MCR 2.605 to seek a declaratory judgment. MCR 2.605(A)(1) states: "In a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted." The Michigan Supreme Court has held that "[a]n actual controversy exists when a declaratory judgment is needed to guide a party's future conduct in order to preserve that party's legal rights." *League of Women Voters of Mich v Secretary of State*, 506 Mich 561, 586; 957 NW2d 731 (2020) (*en banc*). There is an actual controversy because the Senate has the constitutional right to presentment of these nine bills and all bills in the future that pass both houses of the Legislature.

C. The Senate Majority Leader Has Standing.

In *House Speaker v State Admin Bd*, 441 Mich 547; 495 NW2d 539 (1993), the Court held that legislators have standing to sue if they "establish that they have been deprived of a 'personal and legally cognizable interest peculiar to them.'" *Id* at 556. One of those interests is a "complete nullification of [her] vote, with no recourse in the legislative process." *Id* at 557.

Leader Brinks' vote to pass all nine bills has been completely nullified by the withholding of presentment by the House and she has no recourse in the legislative process because the legislative session in which she voted for the nine bills is over. Hers is not a "generalized grievance that the law is not being followed," *id* at 556, but an injury peculiar to Leader Brinks as a legislator

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

who voted for the bills and whose vote is nullified by the failure of the House to present the nine bills.

II. PLAINTIFFS' CLAIMS ARE JUSTICIABLE.

Defendants will undoubtedly assert that Plaintiffs' claims are nonjusticiable "political questions" that a court should not resolve. Plaintiffs' claims are justiciable.

The controlling Michigan case on the "political question" doctrine is *House Speaker v Governor*, 443 Mich 560; 506 NW2d 190 (1993), *overruled in part as to standing by Rohde v Ann Arbor Pub Sch*, 479 Mich 336; 737 NW2d 158 (2007), *overruled as to standing by Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349; 792 NW2d 686 (2010), in which the Court held that the doctrine did not prevent it from resolving a dispute between the Speaker of the House and the Governor. *Id* at 576.

The Court's framework for determining whether the political question doctrine applies uses a three-part test:

> The political question doctrine requires analysis of three inquiries: "(i) Does the issue involve resolution of questions committed by the text of the Constitution to a coordinate branch of Government? (ii) Would resolution of the question demand that a court move beyond areas of judicial expertise? (iii) Do prudential considerations [for maintaining respect between the three branches] counsel against judicial intervention?"

Id at 574 (citation omitted).

In applying these standards, the Court also held that simply because a case involves "political" issues does not mean that it is subject to the political question doctrine:

> The fact that this case involves "political" issues is not determinative of the need for this Court to defer to the Governor on political question grounds. Rather, as noted in *Baker[v Carr*, 369 US 186; 82 S Ct 691; 7 L Ed 2d 663 (1962)], "[t]he doctrine of which we treat is one of 'political questions,' not one of the 'political cases.' The courts cannot reject as

RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

> 'no law suit' a bona fide controversy as to whether some action denominated 'political' exceeds constitutional authority."

Id. The Court also declared that judicial resolution is not precluded simply because a dispute is between or within the branches of government:

> Similarly, the mere fact that a case involves a conflict between the legislative and executive branches "does not preclude judicial resolution of the conflict." *United States v AT&T*, 551 U.S. App DC 198, 204; 551 F2d 384 (1976) (citing *Senate Select Comm on Presidential Campaign Activities v Nixon*, 162 U.S. App DC 183; 498 F2d 725 (1974).

Id at 574 n 18.

Answering the first inquiry in this case, the question of whether the House violated its duty to present the nine bills under Article 4, § 33 is not textually committed to another branch of state government. Nowhere does the State Constitution expressly provide that the interpretation of Article 4, § 33 is the sole province of the House, the Senate, and/or the entire Legislature. Instead, that question is a classic question of constitutional interpretation for the courts. *See, e.g.*, *Bauserman v Unemployment Ins Agency*, 509 Mich 673, 687; 983 NW2d 855 (2022) ("The recognition and redress of constitutional violations are quintessentially judicial functions . . . ."); *Richardson v Secretary of State*, 381 Mich 304, 309; 160 NW2d 883 (1968) (*per curiam*) ("Interpretation of the State Constitution is the exclusive function of the judicial branch. Construction of the Constitution is the province of the courts and this Court's construction of a State constitutional provision is binding on all departments of government . . . ."). Indeed, the Michigan Supreme Court has already opined that the Presentment Clause imposes a mandatory duty on the Legislature that cannot be "enlarged, curtailed, changed, or qualified, by the legislative body." *Anderson v Atwood*, 273 Mich 316, 320; 262 NW 922 (1935), *quoting* 59 CJ, p 575.

The second inquiry asks whether resolution of the legal issues presented here require a court "to move beyond areas of judicial expertise." They would not. In resolving the constitutional

RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

interpretation question here, a court would use its well-established principles of constitutional interpretation. *See, e.g.*, *Mothering Justice v Attorney General*, ___ Mich ___; ___ NW2d ___ (2024) (Docket No. 165325) (*en banc*); slip op at 12–13 (describing those principles).

Finally, as to the third inquiry, there are no "prudential considerations" that "counsel against judicial intervention." As the Court held in *House Speaker v Governor*, so, too, here:

> Interpreting the constitution does not imply a lack of respect for another branch of government, even when that interpretation differs from that of the other branch. Where it is otherwise proper, virtually no court, including this Court, is hesitant to render its interpretation of a constitutional or statutory provision, even though another branch of government has already issued a contrary interpretation.

House Speaker, 443 Mich at 575 (citation omitted).

This case presents a dispute over the meaning of the State Constitution and the fact that Defendants have a different interpretation of the Constitution does not "counsel against judicial intervention." Michigan courts often decide constitutional questions when "another branch of government has already issued a contrary interpretation." *See, e.g.*, *Mothering Justice*, ___ Mich at ___; slip op at 34 n 18 (rejecting the opinion of the Attorney General on a state constitutional issue).

Thus, none—let alone all—of the inquiries required by *House Speaker* support the application of the political question doctrine here. Courts in other states have reached the same conclusion in cases involving presentment clauses. *See, e.g.*, *Brewer v Burns*, 222 Ariz 234, 238–239; 213 P3d 671 (2008) (*en banc*) (rejecting application of the political question doctrine in a dispute over whether the legislature must present passed bills to the governor).

III. PLAINTIFFS ARE ENTITLED TO MANDAMUS.

A writ of mandamus is issued by a court to compel public bodies and officers to perform a clear legal duty, including public bodies created by the State Constitution. *See, e.g.*, *Jones v Dep't*

RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

of Corrections, 468 Mich 646, 658; 664 NW2d 717 (2003); *Citizens for Protection of Marriage v Bd of State Canvassers*, 263 Mich App 487; 688 NW2d 538 (2004) (*per curiam*) (granting mandamus against the Board of State Canvassers); *Pillon v Attorney General*, 345 Mich 536; 77 NW2d 257 (1956) (granting mandamus against the Secretary of State).

To be entitled to a writ of mandamus, a plaintiff must show that: "(1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result." *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518; 866 NW2d 817 (2014) (*per curiam*), *lv den* 498 Mich 853; 865 NW2d 19 (2015).

Plaintiffs are entitled to a writ of mandamus because (1) Plaintiffs have a clear legal right under Article 4, § 33 to have the House present the nine bills to the Governor; (2) the House has a clear legal duty under Article 4, § 33 to present the nine bills to the Governor; (3) the act of presentation is ministerial; and (4) Plaintiffs have no other legal or equitable remedy that might achieve the same result.

A. The House Has A Clear Legal Duty To Present The Nine Bills.

There can be no doubt that the House has a clear legal duty to present the nine bills to the Governor under the text of Article 4, § 33:

> Every bill passed by the legislature *shall* be presented to the governor before it becomes law . . . .

Const 1963, art 4, § 33 (emphasis added).[1] The Presentment Clause contains no exceptions. The Michigan Supreme Court has held that "shall" means "shall." *See, e.g.*, *Stand Up For Democracy*

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

[1] The legislative history of the nine bills indicates that they have all been "passed by the legislature." *See* Verified Compl, ⁋⁋ 16–24.

RECEIVED by MSC 12/8/2025 3:54:29 PM

v Secretary of State, 492 Mich 588, 601; 822 NW2d 159 (2012). The Michigan Supreme Court has also held that presentation is mandatory under Article 4, § 33's Presentment Clause, and the Legislature cannot interfere with the constitutional mandate in any way:

> "Constitutional provisions regulating the presentation, approval, and veto of bills by the executive are mandatory, and the procedure as thus established cannot be enlarged, curtailed, changed, or qualified, by the legislative body."

Anderson v Atwood, 273 Mich 316, 320; 262 NW 922 (1935), *quoting* 59 CJ, p 575.[2]

Although *Atwood* was decided under the Presentment Clause of the 1908 Constitution—Article V, § 36—it still controls. When the drafters of the 1963 Constitution considered the current Presentment Clause, they are "presumed to be aware of existing law and judicial construction and to act in light of that knowledge." *See People v Thompson*, 424 Mich 118, 129; 379 NW2d 49 (1985), *reh den* 424 Mich 1206; ___ NW2d ___ (1986); *see also, e.g.*, *Council of Saginaw v Bd of Trustees*, 321 Mich 641, 647; 32 NW2d 899 (1948) ("The framers of a Constitution are presumed to have a knowledge of existing laws, . . . and to act in reference to that knowledge. . . . A constitutional provision must be presumed to have been framed and adopted in the light and understanding of prior and existing law and with reference to them." (internal quotation marks omitted)).

Thus, when the drafters of the 1963 Constitution adopted the identically worded 1908 Presentment Clause and simply moved it to Article 4, § 33 of the 1963 Constitution with no change in wording, they were carrying forward *Atwood*'s interpretation of it:

> The delegates to the 1961 Constitutional Convention are presumed to have known and to have understood the meaning ascribed in these

---

[2] *See also, e.g.*, *Campaign for Fiscal Equity v Marino*, 87 NY2d 235, 238–239; 661 NE2d 1372 (1995) (withholding from the governor bills that have passed the legislature violates the New York Constitution's Presentment Clause); *Brewer v Burns*, 222 Ariz 234, 236; 213 P3d 671 (2009) (*en banc*) (the legislature violates the Arizona Constitution's Presentment Clause when it withholds from the governor bills that have passed).

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

> earlier decisions to the language of the 1908 Constitution. This language was retained by them in the 1963 Constitution without modification in response to the earlier decisions. Under well-established principles, it is not open to us to place a new construction on this language.

Boards of Co Roads Comm'rs v Bd of State Canvassers, 391 Mich 666, 676; 218 NW2d 144 (1974) (*per curiam*); *see also* 1 Official Record, Constitutional Convention 1961, p 1718 (only change in § 33 was length of time for governor to consider bill after presentment).

For all of these reasons, *Atwood* controls the interpretation of Article 4, § 33, requiring the presentation of the nine bills to the Governor, and forbidding the House from "enlarg[ing], curtail[ing], chang[ing], or qualify[ing]" presentment in any way. All nine bills have been "passed by the legislature" and must be presented to the Governor.

That the Constitutional Convention delegates understood that Article 4, § 33 imposed a duty on the Legislature is confirmed by a delegate's description of the presentment process as a duty, even if it takes a few weeks to present a bill or there is a long queue of bills:

> What happens is this: let us assume that we have a senate bill, a bill originally introduced into the senate. It passes the senate and it passes the house and presumably in a different form. Then the 2 houses have to agree to it in a conference, but it finally is adopted by both houses in a particular form. Then, it being a senate bill, it becomes the *duty* of the secretary of the senate to print that bill in the form in which it was finally adopted and it is the *duty* of the secretary of the senate, since it was a senate bill, *to present that bill to the governor*. Sometimes a bill can be speedily printed, sometimes it takes 2 or 3 weeks to get a bill printed, if it's a great big thick bill and there's an awful lot of other bills also to be printed.

1 Official Record, Constitutional Convention 1961, p 1719 (emphasis added). The duty to present never abates.

While the Legislature's conduct cannot change the clear text of the Presentment Clause, the text's interpretation by *Atwood*, or the text's meaning as interpreted by the Constitutional Convention delegates, legislative conduct can confirm that the Legislature agrees with the Clause's

RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

requirement. *Compare, e g, Smith v Auditor General*, 165 Mich 140, 144; 130 NW 557 (1911) ("contemporaneous and subsequent construction[] of the legislature[]" is "entitled to weight in determining the proper construction of the constitutional provisions"); 1 Cooley, Constitutional Limitations (2d ed), p 67 (writing that "a practical construction, which has been acquiesced in for a considerable period" has "a plausibility and force which it is not easy to resist"); *Moore v Harper*, 600 US ___; 143 S Ct 2065, 2086; 216 L Ed 2d 729 (2023) ("We have long looked to 'settled and established practice' to interpret the Constitution.").

Under the Presentment Clause of the 1963 Constitution, both houses of the Legislature have demonstrated by their practices over several decades that they agree that they have a duty to present bills that were passed during the prior legislative session. *See* Verified Compl, ¶¶ 11–12 (105 bills presented in the 1980's and 1990's in the sessions after they were passed). On January 8, 2025, alone—the day Speaker Hall unconstitutionally obstructed presentation of the nine bills—the House presented at least 88 bills to the Governor that had passed in the 2023–2024 legislative session. *See id* ¶14. Thus, the House itself has consistently interpreted the Presentment Clause to mandate that it present all passed bills to the Governor whether during the session in which they passed or during the next session.

Permitting the House to block presentation here would destroy the integrity of the joint bicameral lawmaking process mandated by Article 4 of the State Constitution, including § 33, because it would allow one house and one legislator to essentially veto the bills passed by the Legislature during a previous legislative session that has ended. The right to approve or veto legislation is vested solely in the Governor by Article 4, § 33 and it cannot be usurped by a legislative body or a single legislator. The Michigan Supreme Court has held that the State Constitution cannot be construed to allow the Legislature to impair the Governor's veto power:

Goodman Acker P.C. Michigan's Trusted Law Firm

> A [constitutional] construction which permits the legislature to impair the executive power of veto, whether active or "pocket," or which gives rise to a situation concerning a bill as to which the effect of either executive or legislative action or inaction is not stated in the Constitution, manifestly is untenable.

Wood v State Admin Bd, 255 Mich 220, 229; 238 NW 16 (1931); *see also, e.g.*, 1 OAG, 2003, No. 7,139 (October 2, 2003) ("[O]ne house of the Legislature may not vacate enrollment of a bill"). By blocking presentation of the nine bills, Speaker Hall is infringing on the Governor's Article 4, § 33 authority to approve or veto the nine bills. *Wood* forbids that. *See also, e.g.*, *Brewer*, 222 Ariz at 237 (legislature's refusal to present "violates the constitutionally established procedure for lawmaking and undermines [the governor's] express authority to veto or approve bills").

Finally, allowing the House—indeed, a single individual—to block presentation is anti-majoritarian, violating one of the core principles embodied in the State Constitution: democracy. *See, e.g.*, *Mothering Justice*, ___ Mich at ___; slip op at 14 n 10 ("'[D]emocracy' itself is core to our Constitution . . . ."); *see also Campaign for Fiscal Equity*, 87 NY2d at 238–239 (refusing to allow withholding of bills by the legislature because it would "sanction a practice where one house or one or two persons, as leaders of the Legislature, could nullify the express vote and will of the People's representatives"). The nine bills were passed by majorities in both houses. The anti-democracy conduct of the House cannot stand.

For all of these reasons, Defendants have a clear legal duty to present the nine bills to the Governor.

B. Plaintiffs Have A Clear Legal Right To Presentation Of The Nine Bills.

To obtain mandamus, a plaintiff must have a "clear, legal right to performance of the specific duty sought." *Rental Props Owners*, 308 Mich App at 518. That right must be one "not possessed by citizens generally." *Id* at 519. A "clear, legal right" is

RECEIVED by MSC 12/8/2025 3:54:29 PM

Goodman Acker P.C. Michigan's Trusted Law Firm

> "one clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided."

Id (citation omitted).

As demonstrated, the House has a clear legal duty to present the nine bills. The Senate has a concomitant constitutional right to enforce the duties to present through mandamus. In *Anderson v Atwood*, 273 Mich 316; 262 NW 922 (1935), the Michigan Supreme Court recognized the right to bring a mandamus action to remedy an alleged violation of Article 5, § 36 of the 1908 Constitution—the location of the Presentment Clause today found in Article 4, § 33. Although the Court denied the writ, it did so based on the legal question presented, not because the plaintiff lacked the right to seek mandamus to enforce his rights under Article 5, § 36. The Constitutional Convention is presumed to have been aware of *Atwood*, *see, e.g.*, *Thompson*, 424 Mich at 129, and to have carried forward *Atwood*'s right to enforce the Presentment Clause by mandamus, *see, e.g.*, *Boards of Co Roads Comm'rs*, 391 Mich at 676. Thus, Plaintiffs have the right to enforce Article 4, § 33 through mandamus. The current Michigan Supreme Court would agree. *See Bauserman*, 509 Mich at 692 ("[L]egal obligations that exist but cannot be enforced are ghosts that are seen in the law but that are elusive to the grasp." (internal quotation marks and citation omitted)).

Plaintiffs have a well-established right to enforce Defendants' duty to present through mandamus.

C. Presentation Is Ministerial.

The House's own rules demonstrate that presentation of passed bills is ministerial, directing the Clerk to present them:

> When a House bill has been finally passed by the two houses, the Clerk shall present to the Governor an enrolled copy thereof, taking a receipt showing the day, hour, and minute at which such copy was deposited in the executive office.

RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

2025–2026 House Rule 19; *see also* 1 Official Record, Constitutional Convention 1961, p 1719 (describing the ministerial process of presentations).

D. Plaintiffs Have No Other Adequate Legal Or Equitable Remedy That Might Achieve The Same Result As Mandamus.

The legislative session at which the nine bills passed is over. Plaintiffs have no other legal or equitable remedy that might achieve the same result as mandamus.

IV. PLAINTIFFS ARE ENTITLED TO DECLARATORY JUDGMENT AND PERMANENT INJUNCTION.

A. Declaratory Judgment.

MCR 2.605(A)(1) states: "In a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted." The Michigan Supreme Court has held that "[a]n actual controversy exists when a declaratory judgment is needed to guide a party's future conduct in order to preserve that party's legal rights." *League of Women Voters of Mich*, 506 Mich at 586. "The declaratory judgment rule is intended to be liberally construed to provide a broad, flexible remedy to increase access to the courts . . . ." *Recall Blanchard Comm v Secretary of State*, 146 Mich App 117, 121; 380 NW2d 71 (1985), *lv den* 424 Mich 875; ___ NW2d ___ (1986). The existence of alternative remedies does not prevent its issuance. *See Bay Co Exec v Bay Co Bd of Comm'rs*, 129 Mich App 707, 714; 342 NW2d 96 (1983).

There is an actual controversy because Plaintiffs have a constitutional right under Article 4, § 33 to the presentment of these nine bills and Defendants have a constitutional duty under Article 4, § 33 to present them and all bills in the future that pass both houses of the Legislature. *See* Part III.

GOODMAN ACKER Michigan's Trusted Law Firm

For the same reasons as set forth in Part III(A) and (B), Plaintiffs are entitled to a declaratory judgment that they have a constitutional right to presentment of these nine bills and Defendants have a constitutional duty to present them and all bills in the future that pass both houses of the Legislature.

B. Permanent Injunction.

Plaintiffs are entitled to a declaratory judgment that they have a constitutional right to presentment of these nine bills and Defendants have a constitutional duty to present them and all bills in the future that pass both houses of the Legislature. Other relief may be granted based on that declaratory judgment under MCR 2.605(F). *See, e.g.*, *Barry Co Probate Court v Mich Dep't of Social Servs*, 114 Mich App 312, 319; 319 NW2d 571 (1982) ("After entry of judgment for declaratory relief, further relief, such as an injunction, may be granted, if necessary . . . .").

Permanent injunctive relief is necessary here to ensure that there is immediate compliance with the Court's declaratory judgment. All of the criteria for permanent injunctive relief are met. *See, e.g.*, *Kernen v Homestead Dev Co*, 232 Mich App 503, 514–515; 591 NW2d 369 (1998). A constitutional violation is presumptively irreparable. *See, e.g.*, *Obama for America v Husted*, 697 F3d 423, 436 (CA 6, 2012). Moreover, there is no adequate alternative remedy—the legislative session at which the nine bills passed is over, so Plaintiffs can do nothing further to remedy Defendants' breach of their constitutional duty. Only a permanent injunction prohibiting Defendants from failing to present the nine bills can remedy Defendants' constitutional violation.

Plaintiffs are entitled to a permanent injunction.

V. DEFENDANTS' DEFENSES ARE MERITLESS.

A. The Alleged Lack Of *Sine Die* Adjournment Of The Previous Legislature Does Not Bar Presentation.

Speaker Hall has claimed that there are "implications of the previous House having not

RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

adopted a resolution to adjourn *sine die*." Eggert, *New House Speaker Pushes Elimination of Business Tax Credits to Fund Roads, Questions RenCen Plan*, Crain's Detroit Business (January 9, 2025).

This claim cannot be used to stop presentation.

The duty to present under Article 4, § 33 is triggered by the bills being "passed" by the Legislature, nothing more. Whether either body ever officially adjourned by *sine die* motion or otherwise is irrelevant. The nine bills passed the Legislature, obligating Defendants to present them to the Governor. Relying on the alleged lack of a *sine die* resolution is an unconstitutional attempt to legislatively "curtail" the duty to present. *Atwood* forbids that. *See Atwood*, 372 Mich at 320.

The text of Article 4, § 33 reinforces the conclusion that legislative adjournment plays no role in the duty to present bills. Under Article 4, § 33, adjournment is only a factor in the Governor's veto options and the ability of the Legislature to respond to a veto:

> Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. *If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated.* That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. *If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.*

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

Const 1963, art 4, § 33 (emphasis added).

Adjournment, its date, and how it was accomplished are irrelevant to the Presentment Clause, which is triggered solely by passage of bills.

B. “Technical Problems” In The Nine Bills Do Not Bar Presentation.

Speaker Hall has also raised the specter of alleged “technical problems with the bills” that could prevent presentation. Eggert, *New House Speaker Pushes Elimination of Business Tax Credits to Fund Roads, Questions RenCen Plan*. “Technical problems” with the bills cannot prevent presentation for several reasons.

First, the text of Article 4, § 33 is clear, mandatory, and permits no exceptions whether for “technical problems” or anything else. *See Atwood*, 273 Mich at 320. Thus, the nine passed bills must be presented to the Governor regardless of claimed “technical problems.”

Second, the Joint Rules of the Senate and House *require* the House Clerk to correct technical errors:

> In addition, the Secretary of the Senate and the Clerk of the House of Representatives, as the case may be, *shall correct* obvious technical errors in the enrolled bill or resolution, including adjusting totals, misspellings, the omission or redundancy of grammatical articles, cross-references, punctuation, updating bill or resolution titles, capitalization, citation formats, and plural or singular word forms.

2023–2024 Joint Rule 12 (emphasis added). The authority of the House Clerk to correct technical errors has been upheld by the Michigan Supreme Court. *See, e.g.*, *LeRoux v Secretary of State*, 465 Mich 594, 607–614; 640 NW2d 849 (2002) (*per curiam*).

Alleged “technical problems” with the bills cannot justify the failure to present them to the Governor.

RECEIVED by MSC 12/8/2025 3:54:29 PM

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

VI. PLAINTIFFS ARE ENTITLED TO IMMEDIATE RELIEF.

The nine bills were ready for presentation on January 8, 2025, and but for the unconstitutional action of Speaker Hall, Clerk Starr would have performed his ministerial duty to present them to the Governor on January 8, 2025. There is no reason for further delay. The Defendants should be ordered to immediately present all nine bills to the Governor.

VII. THIS IS AN URGENT MATTER REQUIRING IMMEDIATE AND EXPEDITED CONSIDERATION.

There is a compelling need for this urgent matter to be immediately and expeditiously considered.

Unless given immediate effect, laws take effect 90 days after the Legislature adjourns. Const 1963, art 4, § 27. None of the nine bills were given immediate effect, so if signed by the Governor, they will take effect on April 2, 2025, which is fast approaching.

But before their effective date other events must occur. The Governor has up to 14 days after presentation to consider bills. *Id* § 33. Moreover, appeals are expected in this matter. To resolve those appeals and allow the Governor her constitutionally mandated period of 14 days to consider a bill after presentation but before the April 2, 2025 effective date of the bills she signs, this matter requires immediate and expedited consideration.

In addition, Defendants have no basis to oppose immediate and expedited consideration. Since January 9, 2025, Speaker Hall has been reviewing the legal issues he asserts prevent presentment. *See* Eggert, *New House Speaker Pushes Elimination of Business Tax Credits to Fund Roads, Questions RenCen Plan* (reporting that Speaker Hall's "team is conducting a legal review of [the] nine bills"). In addition, the Senate adopted the resolution authorizing this litigation on January 22, 2025, *see* Verified Compl, Ex 1, so the House has known that this complaint was coming. With nearly four weeks of legal review already done and more than a week's notice of its

GOODMAN ACKER P.C. Michigan's Trusted Law Firm

anticipated filing, Defendants should be able to respond quickly to this complaint that presents solely legal issues.

This matter can and should be given immediate and expedited consideration.

CONCLUSION AND RELIEF SOUGHT

For the reasons stated, Plaintiffs respectfully pray for this relief from the Court:

1. Grant the Motion for Summary Disposition;

2. Grant the Complaint for Mandamus and order Defendants to immediately present the nine bills to the Governor;

3. Issue a declaratory judgment that Defendants have a constitutional duty to immediately present the nine bills to the Governor and that Plaintiffs have the constitutional right to such presentment;

4. Grant a permanent injunction enjoining Defendants from failing to present the nine bills to the Governor; and

5. Grant such other relief as the Court considers necessary or appropriate.

Respectfully submitted,

/s/ Mark Brewer

GOODMAN ACKER, P.C.
MARK BREWER (P35661)
ROWAN CONYBEARE (P86571)
Attorneys for Plaintiffs
17000 W. Ten Mile Road
Southfield, MI 48075
(248) 483-5000
mbrewer@goodmanacker.com
rconybeare@goodmanacker.com

Dated: February 3, 2025

GOODMAN ACKER Michigan's Trusted Law Firm

RECEIVED by MSC 12/8/2025 3:54:29 PM

Exhibit 11

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

STATE OF MICHIGAN
IN THE COURT OF CLAIMS

MICHIGAN SENATE and MICHIGAN SENATE MAJORITY LEADER WINNIE BRINKS, in her official capacity,

Plaintiffs,

v

MICHIGAN HOUSE OF REPRESENTATIVES, MICHIGAN HOUSE SPEAKER MATT HALL, in his official capacity, and MICHIGAN HOUSE CLERK SCOTT STARR, in his official capacity.

Defendants.

Case No. 25-000014-MB

Hon. Sima Patel

ORAL ARGUMENT REQUESTED

Mark Brewer (P35551)
Rowan Conybeare (P86751)
Goodman Acker P.C.
17000 W. Ten Mile Rd.
Southfield, MI 48075
(248) 483-5000
mbrewer@goodmanacker.com

Attorneys for Michigan Senate and Senate Majority Leader Winnie Brinks

Kyle M. Asher (P80359)
Steven C. Liedel (P58852)
DYKEMA GOSSETT PLLC
201 Townsend Street, Suite 900
Lansing, MI 48933
(517) 374-9151
kasher@dykema.com

Attorneys for Defendants

BRIEF IN SUPPORT OF DEFENDANTS' FEBRUARY 25, 2025 MOTION FOR SUMMARY DISPOSITION[1]

[1] As set forth below, Defendants assert that Speaker Matt Hall is immune from civil process "during sessions of the legislature" and that he has not been properly served. Const 1963, art 4, § 11. While Speaker Hall has not been properly served, the arguments would apply with full force to Speaker Hall as well.

RECEIVED by MSC 12/8/2025 3:54:29 PM

TABLE OF CONTENTS

INTRODUCTION 1

BACKGROUND 3

I. MICHIGAN'S BIENNIAL LEGISLATURES 3

II. THE PRESENTMENT CLAUSE AND PAST PRACTICES 4

III. THE 102ND LEGISLATURE 4

IV. THE 103RD LEGISLATURE 6

V. THIS LAWSUIT 7

ARGUMENT 7

I. THE SENATE'S MANDAMUS CLAIM FAILS ON THE MERITS 7

A. Article 4, Section 33 does not contemplate a new legislature presenting bills passed by a prior legislature. 8

B. Article 4, Section 33 does not clearly impose a duty on the legislature or a legislative officer. 10

1. The Constitution Does Not Define "Who" Bears a Duty. 10

2. The Constitution Does Not Specify "When" Any Duty Must be Performed 11

C. To the extent the court determines "the legislature" had a duty to present the bills to the Governor, that duty belonged to the previous Legislature. 14

D. Section 33 does not confer a right to have bills presented to the governor. 15

E. Any duty of the 103rd Legislature to present the 102nd Legislature's bills is not ministerial. 15

II. THIS CASE IS NOT JUSTICIABLE 16

III. THE SENATE AND SENATE MAJORITY LEADER LACK STANDING TO SUE 17

A. The Senate Majority Leader lacks standing. 17

B. The Senate lacks standing. 18

IV. THE SENATE IS NOT ENTITLED TO A DECLARATORY JUDGMENT, AND ITS PERMANENT INJUNCTION "CLAIM" IS NOT A CAUSE OF ACTION 19

V. SPEAKER HALL IS PRIVILEGED FROM PROCESS AND HAS NOT BEEN PROPERLY SERVED 20

CONCLUSION 20

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

TABLE OF AUTHORITIES

Cases

Anderson v Atwood,
273 Mich 316 (1935) 11

Berry v Garrett,
316 Mich App 37 (2016).......... passim

Brewer v Burns,
222 Ariz 234 (2009).......... 2, 12

Citizens for Protection of Marriage v Bd of State Canvassers,
263 Mich App 487 (2004).......... 7

City of Huntington Woods v City of Detroit,
279 Mich App 603; 761 NW2d 127 (2008).......... 13

Ferency v Sec'y of State,
139 Mich App 677 (1984).......... 19

Gilbert v Gladden,
87 NJ 275 (1981) .... passim

Grabow v Macomb Twp,
270 Mich App 222 (2006).......... 20

Hammel v Speaker of the House of Representatives,
297 Mich App 641 (2012).......... 17

Hayes v Parole Bd,
312 Mich App 774, 886 NW2d 725 (2015).......... 10

House Speaker v State Admin Bd,
441 Mich 547 (1993) 18

Killeen v Wayne County Rd Comm'n,
137 Mich App 178 (1984).......... 18, 19

King v Cuomo,
81 NY2d 247 (1993) 3, 8

Koontz v Ameritech Servs,
466 Mich 304 (2002) 11

League of Women Voters of Mich v Sec'y of State,
501 Mich 561 (2020) 2, 17

LeRoux v Secretary of State,
465 Mich 594 (2002) 3

Marbury v Madison,
5 US 137 (1803) 14

Philpot v Lieutenant Governor,
837 SW2d 491 (Ky, 1992) 12

Powers v Dignan,
309 Mich 530 (1944) 16

Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer,
308 Mich App 498 (2014) 15

State v Heston,
137 W Va 375 (1952) 12

Terlecki v Stewart,
278 Mich App 644; 754 NW2d 899 (2008) 19

Toan v McGinn,
271 Mich 28 (1935) 1

Statutes

MCL 4.44 6

Other Authorities

1 Sutherland Statutory Construction § 16:1 (7th ed.) 2

Mason's Manual of Legislative Procedure (2020) 4, 8

Mason's Manual of Legislative Procedure (2020), § 11 8

Mason's Manual of Legislative Procedure (2020), § 12 8

Mason's Manual of Legislative Procedure (2020), § 584 8

Mason's Manual of Legislative Procedure (2020), §586 8

OAG,
1981-1982, No. 6,114 (Dec. 22, 1982); 3, 6, 8

RECEIVED by MSC 12/8/2025 3:54:29 PM

Constitutional Provisions

1 Official Record, Constitutional Convention 1961 12

Const 1963 art 4, § 52 4

Const 1963, art 3, § 2 17

Const 1963, art 4, § 11 1

Const 1963, art 4, § 13 .... passim

Const 1963, art 4, § 17 4

Const 1963, art 4, § 19 4

Const 1963, art 4, § 26 10

Ohio Const, art 2, § 15(E) 4

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

INTRODUCTION

To prevail on their mandamus claim, the Senate must show that the Speaker or Clerk of the House of Representatives for the 103rd Legislature has a "clear legal duty" to immediately present bills passed by the 102nd Legislature. For that to be true, the "law" must "prescribe[] and define[] the duty to be performed with such precision and certainty as *to leave nothing to the exercise of discretion or judgment*." *Berry v Garrett*, 316 Mich App 37, 42 (2016) (emphasis added). Because the law does not prescribe any such duty on the new Legislature and leaves the timing and process for presentment to the Legislature's discretion, the Senate falls far short of that standard, and its Complaint should be dismissed.

First, the Senate's claim that the current House has a "constitutional duty to present these bills" ignores that legislatures are not continuing bodies. "The business" of presenting bills passed by the Senate and House during the 102nd Legislature does not continue into the 103rd. Const 1963, art 4, § 13 (explaining that "[a]ny ***business***, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session" but failing to include a similar provision for "business" ending in even numbered years) (emphasis added). Rules expire with the convening of a new legislature, and a past legislature cannot bind future legislatures. Put simply, there is no basis to impose a duty on a new legislature—which did not exist when the old legislature considered and passed the bills—to present bills passed by the old legislature.

Second, even if this Court were to find otherwise, Article 4, Section 33 does not define the alleged duty with "such precision and certainty as to leave nothing to the exercise of discretion or judgment." To the contrary, that provision is silent as to which legislature or who within the legislature must present the bill. *Toan v McGinn*, 271 Mich 28, 34 (1935) ("To support mandamus

. . . [the] defendants must have the clear legal duty to perform such act[.]"). And it is entirely silent as to when bills are to be presented, vesting the legislature with complete discretion as to the timing and mechanics of presentment. See, e.g., *Gilbert v Gladden*, 87 NJ 275, 283 (1981) ("[T]he timing of such presentment is discretionary, and a rule or practice delaying presentment is well within the legislative prerogative."); 1 Sutherland Statutory Construction § 16:1 (7th ed.) (citing "discretion[]" in "the timing of such presentment"). This inherent discretion with the presentment process is incompatible with a mandamus claim.

Third, this dispute between two bodies within the legislature "presents a nonjusticiable political question the resolution of which is constitutionally committed to the Legislature." *Gilbert*, 87 NJ at 288. Deferring to the legislative branch to resolve this purely legislative issue would not render Article 4, Section 33 nugatory. It would simply recognize that any enforcement of the provision is left to the legislature, as courts do not serve "as the arbiter of disputes solely between branches of government to which [it is] coequal, not superior." *League of Women Voters of Mich v Secretary of State*, 506 Mich 561, 607 (2020) (Clement, C.J., dissenting). Indeed, while the Senate notes that some states have interpreted their constitutions as requiring presentment (without extending that duty to a new legislature), even those courts refused to take the extraordinary step of ordering the legislative branch to present bills to the executive branch. See, e.g., *Brewer v Burns*, 222 Ariz 234, 242-43 (2009) (declining to order presentment because the "case involves a good-faith dispute between the political branches of government" and the plaintiffs "unnecessarily involved the Court further in this dispute among the political branches").

Fourth, the Senate and its Majority Leader have failed to meet the "heavy burden" of establishing legislative standing. Any claims the Senate may have are not ripe. And the Senate

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

cannot avoid the mandamus standards by attempting to repackage their claim as a declaratory judgment claim.

BACKGROUND

I. MICHIGAN'S BIENNIAL LEGISLATURES

The legislature "meet[s] at the seat of government on the second Wednesday in January of each year at twelve o'clock noon." Const 1963, art 4, § 13. A regular session is held each year and a new legislature convenes every two years. "*Any business*, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session" in an even numbered year. *Id.* But the same is not true of business or "[b]ills pending upon a final adjournment in an even-numbered year [which] do not [] carry over to the next regular legislative session." OAG, 1981-1982, No. 6,114 (December 22, 1982); 1 Official Record, Constitutional Convention 1961, p 2376-77. Rather, that business and those bills die, and must be re-introduced in a new legislature for consideration by that new body. *Id.*; see also, e.g., *King v Cuomo*, 81 NY2d 247, 256 (1993) ("[T]he bill in question lapsed when the 1990 session of the Legislature ended, and resuscitation by judicial decree in the fashion requested would be a disproportionate remedy and would wreak more havoc in society than society's interest in stability will tolerate.") (citations omitted); *Gilbert*, 87 NJ at 279 n 2 ("Each 'Legislature' lasts two years. The first year is called the first regular session and the second is the second regular session. Bills and resolutions introduced during the first session remain valid and available only through the end of the second session."). That is consistent with the fact that legislatures are not continuing bodies. Each biennial legislature is separate and distinct from the next.

The "act of one legislature is not binding on, and does not tie the hands of, future legislatures." *LeRoux v Secretary of State*, 465 Mich 594, 615-16 (2002). "No meeting of a

RECEIVED by MSC 12/8/2025 3:54:29 PM

legislative body can bind a subsequent one by irrepealable acts or rules of procedure." Mason's Manual of Legislative Procedure (2020), §13, ¶ 6, p 21.

II. THE PRESENTMENT CLAUSE AND PAST PRACTICES

As the Senate notes, "[e]very bill passed by the legislature shall be presented to the governor before it becomes law[.]" Const 1963, art 4, § 33. Once presented with a bill, "the governor shall have 14 days measured in hours and minutes" to "consider it." *Id.* Section 33 *does not* specify who shall present a bill to the governor. And Section 33 *does not* (contrary to other states[2]) specify when a bill must be presented, or otherwise mention any temporal limitations.[3] Section 33 *does*, however, repeatedly tie the presentment to the *legislature that passed the bill*. Const 1963, art 4, § 33 (bill "shall not become law" if not approved and "the legislature has . . . finally adjourned the session at which the bill was passed"); *id.* (procedures if "the legislature continues the session at which the bill was passed"); *id.* (procedures if the "bill is not returned" and "the legislature" was "continuing in session"). The bills at issue in this case were passed by both houses in the former 102nd Legislature, not the new 103rd Legislature.

III. THE 102ND LEGISLATURE

Consistent with the mandate of Const 1963, art 4, § 13, the first regular session of the 102nd Legislature was convened at noon on January 11, 2023. 2023 House Journal 1 (No. 1, January 11,

---

[2] See Ohio Const, art 2, § 15(E), requiring that bills "be presented forthwith to the governor[.]"

[3] This is not unusual. The constitution imposes other legislative obligations without designating a person or entity responsible or imposing a time requirement. See, e.g., Const 1963, art 4, § 17 (requiring recording of legislative committee actions and making committee votes available for public inspection); Const 1963, art 4, § 19 (mandating publication of votes in either house or joint convention and votes on appointments); Const 1963, art 4, § 51 (requiring legislature to pass laws suitable for protection and promotion of public health); and Const 1963 art 4, § 52 (indicating legislature must provide for protection of natural resources from pollution, impairment and destruction). That general mandate that a bill be presented to a governor before it becomes law under Article 4, § 33 is no more a duty enforceable by mandamus or otherwise by the judiciary than the legislative mandates described above.

RECEIVED by MSC 12/8/2025 3:54:29 PM

2023). On this day, the 102nd Legislature adopted Joint Rules of the Senate and the House of Representatives applicable to the 102nd Legislature ("Joint Rules"). 2023 Journal of the House 26-30 (No. 1, January 11, 2023). Joint Rule 16 provided, as relevant, that that "every bill passed . . . by both houses and returned to the house of origin shall *forthwith* be enrolled and signed by the Secretary of the Senate and the Clerk of the House of Representatives. Enrolled bills shall be presented to the Governor. . . ." *Id.* (emphasis added). These joint rules apply only to the 102nd Legislature and its sessions held in 2023 and 2024. See Joint Rules of the Senate and House of Representatives <https://www.legislature.mi.gov/Documents/Publications/rules/joint_rules.pdf> (showing footer on each page indicating "102nd Legislature 2023-2024").[4]

That first session of the 102nd Legislature adjourned without day at noon on November 14, 2023. 2023 House Journal 2549 (No. 98, November 14, 2023). With 2023 being an odd-numbered year, any business, bill, or joint resolution pending at adjournment of the first regular session in 2023 carried over with the same status to the next regular session in 2024. Const 1963, art 4, § 13. The second regular session of the 102nd Legislature was convened at noon on January 10, 2024. 2024 House Journal 1 (No. 1, January 10, 2024). Following the November 2024 general election, several bills stalled in the House. Many considered were never passed. And several that did pass did so at the last minute. The House Journal for December 31, 2024 indicates that

[4] In the 103rd Legislature, the Senate and the House of Representatives have not yet agreed to or adopted joint rules applicable to the 103rd Legislature. Like the bills, business, and officers of the 102nd Legislature, the joint rules of the 102nd Legislature do not carry forward to or bind the 103rd Legislature. The Joint Rules for the 102nd Legislature also addressed business pending at the end of each of its regular sessions. Under Joint Rule 28, "[a]ny business, bill, or joint resolution which has not been defeated by either house shall be considered pending under the provisions of Article 4, Section 13 of the Constitution." Under Const 1963, art, 4 § 13, only business and bills pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session." The business of the 102nd Legislature, like its Joint Rules, did not carry over to the new 103rd Legislature. *Id.*

RECEIVED by MSC 12/8/2025 3:54:29 PM

numerous House bills passed the Senate, and that those bills were "referred to the [102nd] Clerk [of the House] for enrollment printing and presentation to the Governor on December 23, 2024." 2024 House Journal 2080-2092, 2094 (No. 89, December 31, 2024). This includes the nine bills at issue, which were returned to the House after passage by the Senate and referred to the Clerk for enrollment, printing, and presentation to the governor on December 23, 2024. 2024 House Journal 2080–2082, 2090, and 2092 (No. 89, December 31, 2024).

On December 30, 2024, the secretary of the senate declared the Senate adjourned without day. 2024 Senate Journal 2278 (No. 111, December 30, 2024). The next day, the speaker pro tempore of the House declared the House adjourned without day given the lack of a quorum at 1:50 p.m. 2024 House Journal 2095 (No. 89, December 31, 2024). With the 102nd Legislature finally adjourned, and 2024 being an even numbered year, "*any business*," bill, or joint resolution pending at adjournment of the second regular session in 2024 did not carry over to the first regular session of the 103rd Legislature in 2025. Const 1963, art 4, § 13; OAG, 1981-1982, No. 6,114.

IV. THE 103RD LEGISLATURE

Before the 103rd Legislature convened on January 8, 2025, the 102nd Clerk, who had been directed by the House to present the bills on December 23, 2024, sent numerous bills to the governor. Starr Aff. ¶¶ 3-4; Ex. 1. This was done before the 103rd Legislature had convened, organized, and elected a new speaker and clerk. Starr Aff. ¶¶ 4-6.

The first session of the 103rd Legislature convened at noon on January 8, 2025. 2025 House Journal 1 (No. 1, January 8, 2025). "At the time the 103rd Michigan Legislature convened, there remained nine (9) outstanding bills passed by the 102nd Michigan Legislature that had not yet been sent to the governor." *Id.* at ¶ 6. The House was called to order by the 102nd Clerk, consistent with MCL 4.44. *Id.* A short time later, Scott Starr was elected as the new clerk of the newly

organized House. 2025 House Journal 24 (No. 1, January 8, 2025). "No bills passed during the 102nd Michigan Legislature were presented by the House of Representatives to the governor after the 103rd Michigan Legislature convened." Starr Aff. ¶ 7.

V. THIS LAWSUIT

After the 103rd Legislature convened, questions arose about the unpresented bills leftover from the 102nd Legislature. The House was conducting a legal review when, on January 22, 2025, the Senate introduced a resolution to commence legal action on January 22, 2025. At the time the Senate filed its Complaint, Speaker Hall was quoted as saying that the legal review was still in progress. See Ex. 2 ("'All the experts and the legal scholars, they're all saying that I don't have to present the bills . . . I haven't even taken the position that I don't have to present the bills. We were doing a very thorough legal review, and now there are all these other questions.'"). As of today, Speaker Hall has not been properly served; pleadings were left at his office while he was not present, on a date the legislature was in session.

ARGUMENT

I. THE SENATE'S MANDAMUS CLAIM FAILS ON THE MERITS

The Senate seeks to compel the House to "immediately present the bills" through a claim for mandamus. "To obtain the extraordinary remedy of a writ of mandamus, the plaintiff must show that (1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result." *Berry*, 316 Mich App at 41 (cleaned up). "The plaintiff bears the burden of demonstrating entitlement to the extraordinary remedy of a writ of mandamus." *Citizens for Protection of Marriage v Bd of State Canvassers,* 263 Mich App 487, 492 (2004).

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

A. Article 4, Section 33 does not contemplate a new legislature presenting bills passed by a prior legislature.

To start, the Senate's claim for mandamus falls short because it misstates how the legislature works, and misreads the Constitution. The legislature is not a continuing body. Each legislature exists for two years. As relevant here, the 102nd Legislature was in session in 2023 and 2024. The Constitution states that "[a]ny *business*, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session." Const 1963, art 4, § 13 (emphasis added). But the Constitution omits any similar language for "business" or bills pending at final adjournment in an even-numbered year. That is, business or bills from the second regular session of the 102nd Legislature do not carry over into the 103rd Legislature. OAG, 1981-1982, No. 6,114; *Gilbert*, 87 NJ at 279 n 2 ("Bills and resolutions introduced during the first session remain valid and available only through the end of the second session.").[5] Those bills that have "lapsed" at the end of a legislative session cannot be "resuscitat[ed]" by judicial decree. *King*, 81 NY2d at 256. That makes perfect sense. *LeRoux*, 465 Mich at 615-16 ("[A]n act of one legislature is not binding on, and does not tie the hands of, future legislatures."). In addition, officers vested by one legislature to prepare and present bills have no authority to act once the new legislature convenes.[6]

This structure of separate and distinct legislatures that cannot bind future legislatures or their officers is entirely consistent with Article 4, Section 33, which provides that "[e]very bill

[5] For example, "[r]ules adopted by a legislative body expire with the convening of a subsequent legislature." Mason's Manual of Legislative Procedure (2020), § 12, ¶ 3, p 19; *id.* at § 11, p 19 ("Joint Rules adopted by a state legislature expire with the convening of a subsequent legislature.")

[6] See Mason's Manual of Legislative Procedure (2020), § 584, ¶ 2, p 437 (indicating that legislative officers only subject to the bodies they served) and Mason's Manual of Legislative Procedure (2020), § 586, ¶ 3, p 442 (noting that authority of legislative officers expires with the authority of those from whom the authority was derived once a new legislature organizes).

passed by the legislature shall be presented to the governor before it becomes law." Const 1963, art 4, § 33.[7] As discussed below, this text does not clearly require *anyone* to present a bill; it states only that a bill cannot become law *unless* presented to the governor. But even assuming it requires a legislative body or officer to do so, given that a "legislature" is not a never-ending, continuous body, this raises the question of which "legislature" must. The remainder of Article 4, Section 33's text helps answer that question. This Section repeatedly ties presentation of bills to the legislature that passed the bill. Const 1963, art IV, § 33 (bill "shall not become law" if not approved and "the legislature has within that time finally adjourned the session at which the bill was passed"); *id.* (procedures if "the legislature continues the session at which the bill was passed"); *id.* (procedures if the "bill is not returned" and "the legislature" was "continuing in session").

And for good reason. Were it otherwise, absurd results would occur. Consider first a discovery by the Clerk in 2025 of an original House bill that the Michigan Senate and House had passed in 1956. It was ordered enrolled and printed that year, but was never presented. Is there a duty to present the bill to the governor in 2025? Under the Senate's argument, yes. But that is entirely inconsistent with the hornbook law that the business, rules, and officers of one legislature end when the new legislature convenes. Or consider the passage of a controversial bill by a lame duck Democratic majority in the legislature. A recently defeated Republican governor has threatened to veto the bill before her term expires. Could the lame duck Democrats deliberately delay presentation of the bill until a new Democratic governor takes office, and then sue the new legislature once the new legislature convenes for failing to present the bill to the new governor? Using the Senate's logic, the answer is again, yes.

---

[7] It is also consistent with democratic norms. Once the 103rd Legislature, consisting of House members elected in November of 2024, convenes, officers of the House should be responsive to the body elected in 2024, not the body elected in 2022.

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

These results are only possible based on the Senate's fundamental misunderstanding of how the legislature works. If there is any obligation at all to present a bill to the governor, that obligation must belong to the legislature that passed the bill – not a subsequent and wholly distinct legislative body, which cannot be legally bound by its predecessor. Const 1963, art 4, § 26 prohibits any bill from becoming "a law without the concurrence of the members elected to and serving in each house." The bills at issue in this case were not passed with the concurrence of the members elected to and serving in the current Senate and the current House. In short, the Constitution only permits the 103rd Legislature to present bills passed by both houses in the 103rd Legislature. Timely presentation by the 102nd Legislature of all bills by both houses during the 102nd Legislature was not a tall ask. The House Clerk for the 102nd Legislature had ample time to present the bills after being directed to do so on December 23, 2024. 2024 House Journal 2080-2092, 2094 (No. 89, December 31, 2024). The Senate then had ample time to encourage the Clerk to do so before the 102nd Legislature ended. But now, more than a month later, the Senate cries "emergency." If any "emergency" existed (and, given the lack of any presentment deadline, it did not), the appropriate time to remedy that emergency was before the 103rd Legislature convened.

B. Article 4, Section 33 does not clearly impose a duty on the legislature or a legislative officer.

To the extent this Court finds any ambiguity at all in the above, the lens through which this Court must review the question is important. To obtain mandamus relief, the Senate must show the named Defendants have a "clear legal duty" to present bills passed by a prior Legislature. *Hayes v Parole Bd,* 312 Mich App 774, 782 (2015) (citation omitted).

1. ***The Constitution Does Not Define "Who" Bears a Duty.***

But questions abound in the Senate's theory. Lacking citations to any legal authority, the Senate's Complaint states that *the Clerk* "has the ministerial duty of presenting bills passed by the

Legislature and originating in the House to the Governor." (Compl. ¶ 7.) The text of Article 4, Section 33 does not say that. Nor does the Senate explain *which* Clerk (102nd or 103rd) would bear that duty, or why, if this duty is the Clerk's, the Senate believed it necessary to also name the Speaker and the House as Defendants. If anyone must do so, the only plausible reading is that the legislature that passed the legislation must present the legislation, and that there is no duty of a future legislature to present a prior legislature's bills.

Equally uncertain is whether the Constitution's statement that "[e]very bill passed by the legislature shall be presented to the governor before it becomes law" imposes an affirmative duty on *anyone* to present bills to the governor, or if it just means that a bill cannot become law before it is presented to the governor. In other words, it is unclear if Section 33 is simply meant to clarify that laws become effective only after presentment to the governor and the governor signs the bill. The Senate reads Article 4, Section 33 as follows: "Every bill passed by the legislature shall be presented to the governor."[8] But the Constitution does not say that. Read in full, it states: "Every bill passed by the legislature shall presented to the governor <u>before it becomes law</u>." This Court must give full effect to every word of the Constitution. *Koontz v Ameritech Servs*, 466 Mich 304, 312 (2002). Doing so shows that presentation is simply a precondition of a bill becoming a law.

2. ***The Constitution Does Not Specify "When" Any Duty Must be Performed***

Injecting further uncertainty is Section 33's lack of temporal guidance. Even if read to require someone to present bills to the Legislature, the only temporal constraint is that a bill must

[8] The only Michigan case the Senate cites for its position is *Anderson v Atwood*, 273 Mich 316 (1935), which it claims presents a mandatory obligation to present bills. But *Anderson* never says that. In fact, it did not deal with presentment at all. Rather, it dealt with whether a bill returned by the governor retained any legal force. While it stated in an unrelated context that "[c]onstitutional provisions regulating the presentation, approval, and veto of bills by the executive are mandatory," it never says that presentment itself is mandatory, and it certainly never says that presentment by a subsequent legislature is mandatory.

RECEIVED by MSC 12/8/2025 3:54:29 PM

be presented "before it becomes law." *Id.* Unlike Section 33's 14-day timeline for the governor to take action, there is no similar timeline to present to the governor. *State v Heston*, 137 W Va 375, 394 (1952) ("[T]he first sentence of the foregoing section which requires every bill passed by the Legislature to be presented to the Governor before it becomes a law, prescribes no time within which it must be so presented."); *Gilbert*, 87 NJ at 283 ("[T]he timing of such presentment is discretionary, and a rule or practice delaying presentment is well within the legislative prerogative."); *Brewer*, 222 Ariz at 241 ("Many state constitutions say nothing about the timing of presentment other than indicating it must occur sometime after passage.").

This lack of precision further renders mandamus inappropriate. *Berry*, 316 Mich App at 50. Significant issues would arise if the Court were to "impose a reasonableness standard on the timing of presentment." *Gilbert*, 87 NJ at 283 n 4. Doing so "would obtrude the judiciary into the legislative process" and "require courts to make political value judgments regarding the priority of bills." *Id.* "A more blatant breach of the separation of powers is difficult to imagine." *Id.* See also *Philpot v Lieutenant Governor*, 837 SW2d 491, 494 (Ky 1992) (telling legislature what violates separation of powers, and possible for court to indicating whether legislative system violates the constitution, exercise of this judicial responsibility requires great restraint). And it would require this Court to delve into a legislative inquiry to determine if the current consideration of the bills is "reasonable," based on a nearly non-existent factual record.

Likewise, the Court cannot—as the Senate urges—read an "immediacy" requirement into this provision. Doing so would insert language into the Constitution that does not exist. It would also be inconsistent with the Framers' recognition that the legislature had the option to delay presentation to the governor. 1 Official Record, Constitutional Convention 1961, p 1719. As contemplated by the Constitutional Convention, legislators "don't present all of these bills at

RECEIVED by MSC 12/8/2025 3:54:29 PM

once," but can instead "feed them in to the governor in a kind of workload state so that the governor won't feel unnecessarily swamped." *Id.*

Put simply, the only plausible reading of Article 4, Section 33 is that there *is no deadline for presentment*. *Gilbert*, 87 NJ at 283, 287 (refusing to order presentment of bills that had been held for "over eighteen months"). Rather, "the timing of such presentment is discretionary." *Id.* And that discretion is fatal to the mandamus claim. *Berry*, 316 Mich App at 42 ("A ministerial act is one in which the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment.").

The lack of any temporal requirement also creates other issues. By the Senate's own admissions, it filed this lawsuit while Speaker Hall was "reviewing the legal issues he asserts prevent presentment." (Senate MSD at 19.) But the Senate fails to specify *when* any constitutional violation occurred as a result of this asserted delay while a legal review occurred. Did the asserted violation occur the day the 103rd Legislature convened? Was it January 22nd, when the Senate authorized the filing of the Complaint? February 3rd, when they filed? And whatever date they claim it is (they have yet to specify), what is the source of that? Would the Senate still claim the constitution was violated if the bills were presented tomorrow? Next week? Within 84 days, as the Senate recently waited? Next year?

The absence of any deadline means the absence of any violation. And the absence of any violation means there is no claim or, at the least, that any claim is not ripe. See *City of Huntington Woods v City of Detroit*, 279 Mich App 603, 615-16 (2008) ("Ripeness prevents the adjudication of hypothetical or contingent claims before an actual injury has been sustained. A claim is not ripe if it rests upon 'contingent future events that may not occur as anticipated, or indeed may not occur at all.'") (citation omitted).

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

C. To the extent the court determines "the legislature" had a duty to present the bills to the Governor, that duty belonged to the previous Legislature.

Although the Senate fails to identify when presentment of a bill must occur, to the extent there was any duty to present a bill, that duty did not survive the termination of the 102nd Legislature. As discussed above, the 102nd Legislature that passed the bills in 2024 could have ensured that the clerk of the 102nd Legislature presented those bills to the Governor. It failed to do so. And the bills did not carry over to the 103rd Legislature. The business of the 102nd Legislature is old business now that the 103rd Legislature has convened. The rules of the 102nd Legislature have expired and its officers no longer possess any authority. The Senate neglects to recognize the principle espoused in one of the United States Supreme Court's earliest seminal cases: "To render a mandamus a proper remedy, the officer to whom it is directed must be one to whom, on legal principles, such writ must be directed." *Marbury v Madison*, 5 US 137 (1803). If anyone had a duty to present bills to the Governor, it was a person in the prior legislature. And that duty does not come from the Constitution itself. Rather, the most plausible source of any "duty" to present occurred when the 102nd Legislature directed the 102nd Clerk to do so on December 23, 2024. 2024 House Journal 2080-2092, 2094 (No. 89, December 31, 2024). The Senate points to no similar directive to the 103rd Clerk, the 103rd Speaker, or the 103rd House itself. A writ to the current House, its speaker, or its clerk is improper because they are not the correct person to whom such writ should be directed.

The reason the 102nd Legislature has not been named is straightforward: it no longer exists. Its officers are gone. If the prior Legislature had a duty it failed to fulfill, then the convening of a new legislature term renders it impossible for this Court to grant the requested relief because only the prior legislature or its officers could do so. It thus renders any claim moot. And again, given that the Senate did not act on their perceived claim until weeks after the bills passed (and for the

RECEIVED by MSC 12/8/2025 3:54:29 PM

duration of the 102nd Legislature's remaining term after the Clerk had been directed to present the bills), the Senate's supposed emergency is of its own making and its claims barred by laches.

D. Section 33 does not confer a right to have bills presented to the governor.

To prevail on the mandamus claim, the Senate must also establish a "clear, legal right to performance of the specific duty sought," which is a right "clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided." *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518-19 (2014). Further, a plaintiff's clear legal right in the execution of a duty must be more than a right possessed by citizens generally. *Id.* at 519. The Senate seems to misunderstand this requirement and claim that this lawsuit is premised on a "legal right" to have bills presented to the governor. But the Constitution does not confer a special legal right to have bills presented. Indeed, the Constitution does not convey any specific right to have bills presented, and certainly the Plaintiffs do not have any special right beyond any other Michigan citizen. The Constitution does not prevent either body from reconsidering the passage of a bill.

E. Any duty of the 103rd Legislature to present the 102nd Legislature's bills is not ministerial.

Last, this case involves unchartered territory regarding the authority of a new legislature or its officers to act upon direction of a prior legislature. As discussed above, mandamus is available only for ministerial acts "which the law prescribes and defines" with "precision and certainty as to leave nothing to the exercise of discretion or judgment." *Berry*, 316 Mich App at 42 (citation omitted). But here, the complaint waffles on *who* might have a clear legal duty to present bills from the 102nd Legislature to the governor. At various places, Plaintiffs say "the House of Representatives" has a duty (without specifying *which* House – the 102nd or 103rd). At other places, it states the "the House Clerk" has a duty. Elsewhere, it alleges that "Defendants" have a

duty. Perhaps the only thing that is clear is that the Plaintiffs are not certain who they believe has this supposed duty. They are also unclear on when this duty must be fulfilled. Plaintiffs' inability to allege who has a duty, and when that duty must be satisfied, shows that no duty is precise or certain in a manner that would be required for mandamus relief. Given the threshold fact in dispute regarding who allegedly failed to fulfill a duty, mandamus cannot lie. *Berry*, 316 Mich App at 42; *Powers v Dignan*, 309 Mich 530, 533 (1944) ("mandamus . . . will not lie to compel a public officer to perform a duty dependent upon disputed and doubtful facts.").

II. THIS CASE IS NOT JUSTICIABLE

Moreover, "courts should not confer standing in matters that have the real possibility of infringing upon the separation of powers." *League of Women Voters v Secretary of State*, 331 Mich App 156, 173 (2020). As the New Jersey Supreme Court found, this exact issue "presents a nonjusticiable political question the resolution of which is constitutionally committed to the Legislature." *Gilbert*, 87 NJ at 288. Likewise, the Arizona Supreme Court declined to order presentment because the issue "involves a good-faith dispute between the political branches of government" and the plaintiffs "unnecessarily involved the Court further in this dispute among the political branches." *Burns*, 222 Ariz at 242-44. The same is true here.

The Senate would have this Court interpret Article 4, Section 33 as requiring the 103rd Legislature to not only do the presentation work of the 102nd Legislature, but to do so "immediately." (Compl. ¶ 17.) But even if Section 33 required the 103rd Legislature to present the bills to the governor (it does not), it is not the judicial branch's role to dictate when and how the legislature should do so. That is a matter the framers left to the legislature by declining to implement any timeframe for presentment. Sutherland Statutory Construction § 16:1 (7th ed.) ("[T]he timing of such a presentment is discretionary and delaying the presentment according to

RECEIVED by MSC 12/8/2025 3:54:29 PM

either rule or practice is within the legislative prerogative."). Indeed, the Senate's misplaced reliance on internal House and joint legislative rules (Senate Br. at 8, 14-15) in support of their claim proves as much. As this Court explained in *LeRoux*, "courts do not review claims that actions were taken in violation of a legislative rule." 465 Mich at 609-10.

This case was brought in the midst of a legal review by the House. (Senate Br. at 19 ("Since January 9, 2025, Speaker Hall has been reviewing the legal issues he asserts prevent presentment")); see also Ex. 2. Given the absence of any constitutional text or other authority requiring this Legislature to present the bills, and the lack of any temporal limitations on when a bill must be presented, the Senate's request for judicial intervention on legislative matters, during the House's review (particularly when it has delayed as long 84 days to present bills), is improper.

Put simply, courts do not "serve as political overseers of the executive or legislative branches, weighing the costs and benefits of competing political ideas or the wisdom of the executive or legislative branches in taking certain action." *Hammel v Speaker of the House of Representatives*, 297 Mich App 641, 647 (2012). That is core to Michigan's separation of powers. Const 1963, art 3, § 2. Nor do courts serve "as the arbiter of disputes solely between branches of government to which [it is] coequal, not superior." *League of Women Voters*, 506 Mich at 607. "This may help explain why the Legislature does not provide a single example of a legislative body maintaining a declaratory-judgment action against" another legislative body. *Id.* Here the Senate has a legislative remedy without the extraordinary resort to judicial intervention. The Senate can pass the bills at issues again in the 103rd Legislature.

III. THE SENATE AND SENATE MAJORITY LEADER LACK STANDING TO SUE

A. The Senate Majority Leader lacks standing.

"Our Supreme Court [has] noted that to establish standing, a legislator must overcome a

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

heavy burden." *League of Women Voters*, 331 Mich App at 172. "[P]laintiffs who sue as legislators must establish that they have been deprived of a personal and legally cognizable interest peculiar to them individually, rather than assert a generalized grievance that the law is not being followed." *Id.* The Senate Majority Leader claims her "peculiar" interest is that her "vote to pass all nine bills has been completely nullified by the withholding of presentment by the House." (Senate Br. at 5.) But "once votes which lawmakers are entitled to make have been cast and duly counted, their interest as legislators ceases." *Killeen v Wayne Co Rd Comm*, 137 Mich App 178, 189 (1984) (cleaned up); see also *House Speaker v State Admin Bd*, 441 Mich 547 (1993) ("*Dodak*") (legislator who "did have the opportunity to vote on an issue" was "not suing to maintain the effectiveness of his vote" but rather "to reverse the outcome of a political battle that he lost").

Here, Senator Brinks' vote counted and the bills passed, marking the end of any special interest she may have asserted. *Killeen*, 137 Mich App at 189. She fulfilled her duty as a legislator. And from there, she was in the same position as members of the general public, who may (or may not) wish that the Clerk of the 102nd House had presented the bills as directed, and may (or may not) wish that, if presented, the governor would approve them. As in *Dodak* and *Killeen*, once Senator Brinks voted on the bills, any special interest as a legislator ceased, and she was in the same shoes as the general public. Any other result undermines the fundamental principles of standing that Michigan courts have consistently upheld.

B. The Senate lacks standing.

The Senate cites no case supporting its assertion of standing. That alone is fatal. *League of Women Voters*, 331 Mich App at 171. Regardless, as in *League of Women Voters*, "the Legislature's" unsupported "position [is] unconvincing." *Id.* As with individual legislators, "the legislature," too, "has a heavy burden to show that it has standing." *Id.* at 173. That burden is not

met by a claim that a law passed by the legislature is not being "enforced," as "that injury is not personal or unique to the Legislature. Particularly so given that once legislators' votes are counted and a law enacted, 'their special interest as lawmakers has ceased.'" *Id.*, quoting *Killeen*, 137 Mich App at 189. In other words, the Senate's standing analysis is no different than the Senate Majority Leader's: the Senate's votes were counted, the bills were returned to the House, and the Senate's role was fulfilled. The Senate's interests are currently the same as those of the general public.

IV. THE SENATE IS NOT ENTITLED TO A DECLARATORY JUDGMENT, AND ITS PERMANENT INJUNCTION "CLAIM" IS NOT A CAUSE OF ACTION

Next, while Plaintiffs also raise a claim for declaratory judgment, in effect, they are seeking to couple that judgment with an injunction that would "enjoin[] Defendants from failing to present the nine bills." (Compl. ¶ 20.) An injunction to stop a party from "not doing something" is the same as an order "to do something." And mandamus is the appropriate mechanism to compel a party to do something. The Senate cannot avoid mandamus and its standards by calling their claim something else. Rather, the Court must look "at the true nature of the relief requested." *Ferency v Secretary of State*, 139 Mich App 677, 683 (1984). And when the "requested relief clearly encompasses a mandate to state officials to perform their duties," it is a claim for mandamus no matter how it is labeled." *Id.* That is the case here. But regardless, the declaratory judgment would still fail because the Senate's interpretation of the Constitution is incorrect. And given that there is no deadline to present the bills that has been violated, and the Speaker's public statements that he was still reviewing the bills when sued, no case or controversy exists either.

Finally, Count III of Plaintiffs' Complaint is a "claim" for "permanent injunction." They seek an "injunction enjoining Defendants from failing to present the nine bills to the governor." (Compl. ¶ 48.) But "[i]t is well settled that an injunction is an equitable remedy, not an independent cause of action." *Terlecki v Stewart*, 278 Mich App 644, 663 (2008). To the extent Plaintiffs'

RECEIVED by MSC 12/8/2025 3:54:29 PM

motion relies on this "claim" as an independent cause of action, the motion should be denied.

V. SPEAKER HALL IS PRIVILEGED FROM PROCESS AND HAS NOT BEEN PROPERLY SERVED

Last, as stated in Defendants' response to the Senate's motion for summary disposition, Speaker Hall is privileged from process during sessions of the legislature and has not been properly served. But regardless, the Senate now recognizes that "the Speaker has no role in presentation." (Senate's Reply at 7.) Because the only "proper defendant in an action for a writ of mandamus is the officer who has the duty of performance," Speaker Hall is not a proper defendant in this lawsuit that seeks to compel presentation. *Grabow v Macomb Twp*, 270 Mich App 222, 230 n 4 (2006).

CONCLUSION

The business of the 102nd Legislature ended upon the final adjournment of its second regular session. Its rules and the authority and duties of its officers expired with the convening of the 103rd Legislature. The Senate has failed to point to constitutional text, case law, or other authority that would support its novel claim that the 103rd Legislature has a duty—much less a clear one, as is needed to prevail on their mandamus claim—to present bills passed by a different House and Senate in a prior legislature. That is because none exists. This Court should decline the Senate's request to make old business new again. The Senate's attempt to resurrect dormant legislation should be rejected, its motion should be denied, and the case should be dismissed.

If the Court rules in favor of the Senate, Defendants respectfully request that enforcement of any such order be stayed pending appeal.

Dated: February 25, 2025

<u>/s/ Kyle M. Asher</u>
Kyle M. Asher (P80359)
Steven C. Liedel (P58852)
DYKEMA GOSSETT PLLC
201 Townsend St., Suite 900
Lansing, MI 48933
kasher@dykema.com
(517) 374-9151

RECEIVED by MSC 12/8/2025 3:54:29 PM

Exhibit 12

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

STATE OF MICHIGAN
IN THE COURT OF CLAIMS

MICHIGAN SENATE and MICHIGAN SENATE MAJORITY LEADER WINNIE BRINKS, in her official capacity,

Plaintiffs,

v

MICHIGAN HOUSE OF REPRESENTATIVES, MICHIGAN HOUSE SPEAKER MATT HALL, in his official capacity, and MICHIGAN HOUSE CLERK SCOTT STARR, in his official capacity.

Defendants.

Case No. 25-000014-MB

Hon. Sima Patel

ORAL ARGUMENT REQUESTED

Mark Brewer (P35551)
Rowan Conybeare (P86751)
Goodman Acker P.C.
17000 W. Ten Mile Rd.
Southfield, MI 48075
(248) 483-5000
mbrewer@goodmanacker.com

Attorneys for Michigan Senate and Senate Majority Leader Winnie Brinks

Kyle M. Asher (P80359)
Steven C. Liedel (P58852)
DYKEMA GOSSETT PLLC
201 Townsend Street, Suite 900
Lansing, MI 48933
(517) 374-9151
kasher@dykema.com

Attorneys for Michigan House of Representatives and Michigan House Clerk Scott Starr

---

DEFENDANTS MICHIGAN HOUSE OF REPRESENTATIVES AND CLERK SCOTT STARR'S FEBRUARY 7, 2025 RESPONSE TO MOTION FOR SUMMARY DISPOSITION[1]

[1] As set forth below, the House Defendants assert that Speaker Matt Hall is immune from civil process "during sessions of the legislature" and that he has not been properly served. Const 1963, art 4, § 11. This response is therefore submitted on behalf of the House of Representatives and the Clerk of the House of Representatives, although the arguments would apply with full force to Speaker Hall as well.

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

Document received by the MI Court of Claims.

RECEIVED by MSC 12/8/2025 3:54:29 PM

TABLE OF CONTENTS

TABLE OF CONTENTS i

TABLE OF AUTHORITIES iii

INTRODUCTION 1

COUNTER-STATEMENT OF FACTS 3

I. MICHIGAN'S BIENNIAL LEGISLATURES 3

II. THE PRESENTMENT CLAUSE AND PAST PRACTICES 3

III. THE 102ND LEGISLATURE'S "CHAOS" 5

IV. THE 103RD LEGISLATURE 6

V. THIS LAWSUIT 7

LEGAL STANDARDS 8

ARGUMENT 8

I. SPEAKER HALL IS PRIVILEGED FROM PROCESS AND HAS NOT BEEN PROPERLY SERVED 8

II. THE SENATE AND SENATE MAJORITY LEADER LACK STANDING TO SUE 9

A The Senate Majority Leader lacks standing. 9

B. The Senate lacks standing. 10

C. The Senate and Senate Majority Leader lack standing to turn an intra-branch political dispute into a lawsuit. 11

III. THE SENATE'S MANDAMUS CLAIM FAILS ON THE MERITS 12

A. Article 4, Section 33 does not contemplate a new legislature presenting bills passed by a prior legislature. 13

B. Article 4, Section 33 does not clearly impose a duty on the legislature or a legislative officer. 15

C. To the extent the court determines "the legislature" had a duty to present the bills to the Governor, that duty belonged to the previous Legislature. 17

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

Document received by the MI Court of Claims.

D. Article 4, Section 33 does not confer a right to have bills presented to the governor. 18

E. Any duty of the 103rd Legislature to present the 102nd Legislature's bills is not ministerial. 19

IV. THE SENATE IS NOT ENTITLED TO A DECLARATORY JUDGMENT, AND ITS PERMANENT INJUNCTION "CLAIM" IS NOT A CAUSE OF ACTION. 19

CONCLUSION....................20

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

RECEIVED by MSC 12/8/2025 3:54:29 PM

TABLE OF AUTHORITIES

Cases

Berry v Garrett,
316 Mich App 37 (2016) 12, 16, 19

Bronner v City of Detroit,
507 Mich 158 (2021) 4

Citizens for Protection of Marriage v Bd of State Canvassers,
263 Mich App 487 (2004) 12

City of Huntington Woods v City of Detroit,
279 Mich App 603 (2008) 17

Cotton v Banks,
310 Mich App 104 (2015) 2, 8, 9

Dearborn Hts City Council v Mayor of Dearborn Hts,
unpublished per curiam opinion of the Court of Appeals,
issued June 11, 2020 (Docket No. 351408) 15, 19

Gravel v United States,
408 US 606 (1972) 9

Hammel v Speaker of the House of Representatives,
297 Mich App 641 (2012) 12

Hayes v Parole Bd,
312 Mich App 774, 886 NW2d 725 (2015) 15

House Speaker v State Admin Bd,
441 Mich 547 (1993) 10, 11

Howard Jarvis Taxpayer Ass'n v Secretary of State,
62 Cal 4th 486 (2016) 5

Killeen v Wayne County Rd Comm'n,
137 Mich App 178 (1984) 10, 11

Koontz v Ameritech Servs,
466 Mich 304 (2002) 16

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

Document received by the MI Court of Claims.

League of Women Voters of Mich v Sec'y of State,
331 Mich App 156 (2020) 2, 9, 10, 11

League of Women Voters of Mich v Sec'y of State,
501 Mich 561 (2020) 12

Leemreis v Sherman Twp,
273 Mich App 691 (2007) 18

LeRoux v Sec'y of State,
465 Mich 594 (2002) 2, 3, 11, 13

Maiden v Rozwood,
461 Mich 109 (1999) 8

Marbury v Madison,
5 US 137 (1803) 17

Minarik v State Hwy Comm'r,
336 Mich 209 (1953) 20

Powers v Dignan,
309 Mich 530 (1944) 19

Quinto v Cross & Peters Co,
451 Mich 358 (1996) 8

Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer,
308 Mich App 498 (2014) 18

Terlecki v Stewart,
278 Mich App 644; 754 NW2d 899 (2008) 20

Wilson v Atwood,
270 Mich 317 (1935) 5

Rules

MCR 2.116(C)(10) 8

MCR 2.116(I)(2) 3

Constitutional Provisions

Const 1963, art 3, § 2 12

Const 1963, art 4, § 11 .... 1, 8

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

Const 1963, art 4, § 13 .... 3, 5, 6, 13

Const 1963, art 4, § 17 4

Const 1963, art 4, § 19 4

Const 1963, art 4, § 33 .... 1, 3, 4, 13

Const 1963 art 4, § 52 4

Ohio Const, art 2, § 15(E) 4

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

RECEIVED by MSC 12/8/2025 3:54:29 PM

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

INTRODUCTION

As the 2024 lame duck legislative session "barreled toward its end, infighting and finger-pointing in the Democratic caucus appeared to mount,"[2] and the 102nd Legislature missed a necessary step to enable bills it had passed to become law: presentation to the governor. Const 1963, art 4, § 33. The Michigan Senate and Senate Majority Leader Winnie Brinks (the "Senate") now ask the judicial branch to intervene in a dispute between two bodies within the legislative branch, and to order the new 103rd Legislature to clean up the mess left by the 102nd. For both substantive and procedural reasons, the Senate's request lacks merit, its motion for summary disposition should be denied, and this case should be dismissed.

Starting with substance, the Senate's complaint presents a simple question: does Michigan law impose a duty on the 103rd Legislature to present legislation passed by the 102nd Legislature? The answer is no. The Senate's claim that the current "House" has a "constitutional duty to present these bills to the Governor" is wrong because: (1) the business of the 102nd Legislature does not continue into the 103rd; (2) a past legislature cannot bind future legislatures; and (3) Michigan's Constitution imposes no duty to present legislation upon any specified legislative body or officer.

What's more, because the Senate seeks the "extraordinary remedy" of mandamus, it bears the burden of showing that Defendants violated a "clear legal duty" to present the bills to the governor. But the Senate points to no constitutional text requiring that the 103rd Legislature, its speaker, or its clerk present the bills, or to do so "immediately" as they ask. Nor could they. Michigan's Constitution imposes no temporal limitation on when a bill must be presented. Indeed, on numerous occasions, the Senate, while led by its current Majority Leader, has sat on ready-to-

[2] Lobo, *Michigan Democrats anger allies, advocates as lame duck ends*, Detroit Free Press (December 23, 2024) <https://www.freep.com/story/news/politics/2024/12/23/michigan-house-democrats-lame-duck-adjourn/77105539007/> (accessed February 5, 2025).

Document received by the MI Court of Claims.

present bills for far longer than the two weeks between when the 103rd Legislature convened on January 8th, and when the Senate authorized litigation on January 22nd. (See, e.g., Senate Bills 205, 206, and 207 of 2024, held for presentment for 84 days). Likewise, the Constitution does not specify who must present a bill to the governor (as shown by the Senate's shotgun approach of naming the House, its speaker, and its clerk). Nor does it ever contemplate a new legislature presenting a bill passed by a prior legislature. Quite the contrary, it ties presentation of a bill to the legislature that passed it, as makes sense, given that a past legislature cannot bind a future legislature. *LeRoux v Sec'y of State*, 465 Mich 594, 615-16 (2002).

Put simply, if the 102nd Legislature wanted to assure that bills it passed had an opportunity to become law, it needed to present them to the governor before the 103rd Legislature convened. The 102nd Legislature's failures start and end with that legislature. The unpresented bills did not carry over and are not pending before the 103rd Legislature. Old business cannot be made new again. And Michigan law imposes no duty on the 103rd Legislature or its officers to resurrect the uncompleted work of the 102nd Legislature.

But even if all of this were not true, the Senate would still not be entitled to relief. The Senate has sued Speaker Hall contrary to the Speech or Debate Clause's stated purpose of "protect[ing] the legislators from the trouble, worry and inconvenience of court proceedings during the session . . . so that the State could have their undivided time and attention in public affairs." *Cotton v Banks*, 310 Mich App 104, 112 (2015). It improperly asks the judiciary to intervene in legislative matters. And neither the Senate nor its Majority Leader have met their "heavy burden" of showing legislative standing exists. *League of Women Voters of Mich v Sec'y of State*, 331 Mich App 156, 172 (2020), aff'd in part on other grounds, 506 Mich 561 (2020).

While the Senate may be frustrated with the failures of the 102nd Legislature, the 103rd

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

Legislature has no duty to correct those failures. The Senate's motion should be denied, and its Complaint should be dismissed with prejudice. MCR 2.116(I)(2).

COUNTER-STATEMENT OF FACTS

I. MICHIGAN'S BIENNIAL LEGISLATURES

The legislature "meet[s] at the seat of government on the second Wednesday in January of each year at twelve o'clock noon." Const 1963, art 4, § 13. A regular session is held each year and a new legislature convenes every two years. "Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session" in an even numbered year. *Id.* But "[b]ills pending upon a final adjournment in an even-numbered year do not [] carry over to the next regular legislative session." OAG, 1981-1982, No. 6,114 (December 22, 1982); 1 Official Record, Constitutional Convention 1961, p 2376-77. Rather, those bills die, and must be re-introduced in a new legislature for consideration by that new body. *Id.* Legislatures are not continuing bodies. Each biennial legislature is separate and distinct from the next. And the "act of one legislature is not binding on, and does not tie the hands of, future legislatures." *LeRoux*, 465 Mich at 615-16.

II. THE PRESENTMENT CLAUSE AND PAST PRACTICES

As the Senate notes, "[e]very bill passed by the legislature shall be presented to the governor before it becomes law." Const 1963, art 4, § 33. Once presented with a bill, "the governor shall have 14 days measured in hours and minutes" to "consider it." *Id.* From there, outcomes depend on whether the governor approves of the bill and, if not, whether the specific legislature that passed the bill has finally adjourned:

- **Governor Approval:** If the governor approves a bill, the analysis is simple: she can "sign and file it with the secretary of state and it shall become law." *Id.*

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

RECEIVED by MSC 12/8/2025 3:54:29 PM

- **Governor Disapproval, Legislative Adjournment:** If the governor "does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed," the analysis is also simple: the bill "shall not become law." *Id.*

- **Governor Disapproval, Legislature Still in Session:** If the governor "disapproves, and the legislature continues the session at which the bill was passed," the governor "shall return it within" the 14-day review period with "objections" and the originating house can reconsider and still pass the bill with a two-thirds majority. *Id.*

- **Governor Inaction, Legislature Still in Session:** "If any bill is not returned by the governor" during the 14-day window to review, and the legislature that passed the bill is still "continuing in session," the bill "shall become law as if [s]he had signed it." *Id.*

Article 4, § 33 is important both for what it does, and does not, say. See *Bronner v City of Detroit*, 507 Mich 158, 173 n.11 (2021) (the "express mention in a statute of one thing implies the exclusion of other similar things"). Section 33 does not specify who shall present a bill to the governor. And Section 33 does not (contrary to other states[3]) specify when a bill must be presented, or otherwise mention any temporal limitations.[4] Section 33 does, however, repeatedly tie the presentment to the legislature that passed the bill. Const 1963, art 4, § 33 (bill "shall not become law" if not approved and "the legislature has . . . finally adjourned the session at which the bill was passed"); *id.* (procedures if "the legislature continues the session at which the bill was passed"); *id.* (procedures if the "bill is not returned" and "the legislature" was "continuing in session").

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

---

[3] See Ohio Const, art 2, § 15(E), requiring that bills "be presented forthwith to the governor[.]"

[4] This is not unusual. The constitution imposes other legislative obligations without designating a person or entity responsible or imposing a time requirement. See, e.g., Const 1963, art 4, § 17 (requiring recording of legislative committee actions and making committee votes available for public inspection); Const 1963, art 4, § 19 (mandating publication of votes in either house or joint convention and votes on appointments); Const 1963, art 4, § 51 (requiring legislature to pass laws suitable for protection and promotion of public health); and Const 1963 art 4, § 52 (indicating legislature must provide for protection of natural resources from pollution, impairment and destruction). That general mandate that a bill be presented to a governor before it becomes law under Article 4, § 33 is no more a duty enforceable by mandamus or otherwise by the judiciary than the legislative mandates described above.

Document received by the MI Court of Claims.

Given that legislatures are not continuing bodies[5] and that one legislature lacks authority to bind a successor, this makes sense. And, contrary to the Senate's assertions, it is consistent with past practices. As the Senate recognizes, "[t]he vast majority of bills passed during a legislative session are presented to the governor during that session." (Senate Brief in Support of Mot. Summ Disp. ("Senate Br."). at 1.) Indeed, many of the examples cited by the Senate in support of its argument did not involve "presentment to the governor" *after* a new legislature had convened.[6]

III. THE 102ND LEGISLATURE'S "CHAOS"

Consistent with the mandate of Const 1963, art 4, § 13, the first regular session of the 102nd Legislature was convened at noon on January 11, 2023. 2023 House Journal 1 (No. 1, January 11, 2023). Richard J. Brown was elected as the Clerk of the House (the "102nd Clerk"). *Id.* The first regular session of the 102nd Legislature adjourned without day at noon on November 14, 2023. 2023 House Journal 2549 (No. 98, November 14, 2023). With 2023 being an odd-numbered year, any business, bill, or joint resolution pending at adjournment of the first regular session in 2023 carried over with the same status to the next regular session in 2024. Const 1963, art 4, § 13.

The second regular session of the 102nd Legislature was convened at noon on January 10, 2024. 2024 House Journal 1 (No. 1, January 10, 2024). After the November 2024 general election, however, the "Republicans flipped" the House "from Democratic control" for the 103rd

[5] *Howard Jarvis Taxpayer Ass'n v Secretary of State*, 62 Cal 4th 486, 512; 363 P3d 628 (2016).

[6] For instance, Senate Bills 200, 201, 530, and 979 of 1982 "were presented to the Governor on January 4, 1983." Compl. ¶ 11. But the new legislature did not convene until January 12. 1983 Senate Journal 1 (No. 1, January 12, 1983). Likewise, the Senate points to bills passed "between January 4 and 16" in 1981. Compl. ¶ 11. But the vast majority of those bills were presented before the new legislature convened on January 14, 1981. 1981 Senate Journal 1 (No. 1, January 14, 1981). This Court can take judicial notice of House journals and records. *Wilson v Atwood*, 270 Mich 317, 321 (1935).

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

Legislature that would convene in January 2025.[7] This created a "lame-duck" Democratic majority in the House for most of November and December 2024, which was marked by "infighting and finger-pointing in the Democratic caucus." Lobo, *supra* note 2. Due in large part to these issues, bills stalled in the House. Many considered were never passed. And several that did pass did so at the last minute. The House Journal for December 31, 2024 indicates that numerous House bills passed the Senate, and that those bills were "referred to the [102nd] Clerk [of the House] for enrollment printing and presentation to the Governor on December 23, 2024." 2024 House Journal 2080-2092, 2094 (No. 89, December 31, 2024). This includes the nine bills at issue—House Bills 4177 and 4665–4667 of 2023, and House Bills 4900 to 4901, 5817–5818, and 6058 of 2024 (together the "Bills")—which were returned to the House after passage by the Senate and referred to the Clerk for enrollment, printing, and presentation to the governor on December 23, 2024. 2024 House Journal 2080–2082, 2090, and 2092 (No. 89, December 31, 2024).

On December 30, 2024, the secretary of the senate declared the Senate adjourned without day. 2024 Senate Journal 2278 (No. 111, Dec. 30, 2024). The next day, the speaker pro tempore of the House declared the House adjourned without day given the lack of a quorum at 1:50 p.m. 2024 House Journal 2095 (No. 89, Dec. 31, 2024). With the 102nd Legislature finally adjourned, and 2024 being an even numbered year, any business, bill, or joint resolution pending at adjournment of the second regular session in 2024 did not carry over to the first regular session of the 103rd Legislature in 2025. Const 1963, art 4, § 13; OAG, 1981-1982, No. 6,114.

IV. THE 103RD LEGISLATURE

Before the 103rd Legislature convened on January 8, 2025, the 102nd Clerk, who had been

[7] https://www.freep.com/story/news/politics/elections/2024/11/06/michigan-republicans-claim-state-house-victory/75997687007/ (accessed February 5, 2025).

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

directed by the House to present the bills on December 23, 2024, sent numerous bills to the governor. Starr Aff. ¶¶ 3-4, Ex. 1. While the Senate states that, "[f]ollowing the well-established practice of the Michigan Legislature, on January 8, 2025, the Clerk of the House presented at least 88 bills to the governor that had been passed by the Legislature in December 2024" (Senate Br. at 2), it was the holdover Clerk elected by the 102nd House that sent the bills, and this was done before the 103rd Legislature had convened, organized, and elected a new speaker and clerk. Starr Aff. ¶¶ 4-6. The 102nd Clerk never presented the nine bills at issue to the governor before the 103rd Legislature convened on January 8, 2025, despite being directed to do so the month before.

The first session of the 103rd Legislature convened at noon on January 8, 2025. 2025 House Journal 1 (No. 1, Jan. 8, 2025). The House was called to order by the 102nd Clerk, consistent with MCL 4.44. *Id.* A short time later, Scott Starr was elected as the new clerk of the newly organized House. 2025 House Journal 24 (No. 1, January 8, 2025). No bills passed during the 102nd Legislature were presented to the governor after the 103rd Legislature convened. Starr Aff. ¶ 7.

V. <u>THIS LAWSUIT</u>

After the 103rd Legislature convened, questions arose about the unpresented bills leftover from the 102nd Legislature. The House was in the process of conducting a legal review when, on January 22, 2025, the Senate introduced a resolution to commence legal action and "compel the House" to "present to the Governor the nine remaining bills passed by" the 102nd Legislature. 2025 Senate Journal 40 (No. 5, January 22, 2025). After waiting 12 days to sue, the Senate then claimed "immediate" relief was needed. An expedited briefing schedule was set, providing the House with 3 days to respond. As of yesterday, Speaker Hall was quoted as saying that the legal review was still in process at the time the lawsuit was filed. See Ex. 2 ("'All the experts and the legal scholars, they're all saying that I don't have to present the bills . . . I haven't even taken the

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

position that I don't have to present the bills. We were doing a very thorough legal review, and now there are all these other questions.'"). As of today, Speaker Hall has not been properly served; pleadings were left at his office while he was not present, on a date the legislature was in session.

LEGAL STANDARDS

Citing no court rule to support its motion, the Senate apparently seeks summary disposition under MCR 2.116(C)(10). In evaluating a motion under this Rule, "a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties."[8] *Maiden v Rozwood*, 461 Mich 109, 119-20 (1999). It is the moving party's burden to show there is no genuine issue of material fact. *Quinto v Cross & Peters Co*, 451 Mich 358, 362-63 (1996).

ARGUMENT

I. SPEAKER HALL IS PRIVILEGED FROM PROCESS AND HAS NOT BEEN PROPERLY SERVED.

To start, the Senate's motion for summary disposition should be denied as to the claims against Speaker Hall because he is immune from process during sessions of the legislature and has not been properly served. Michigan's Speech or Debate Clause states:

> Except as provided by law, senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for five days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either house.

Const 1963, art 4, § 11. The Clause is designed to "protect the legislators from the trouble, worry and inconvenience of court proceedings during the session . . . so that the State could have their undivided time and attention in public affairs" and to "prevent both actual distraction and potential distraction from public duty during the legislative session." *Cotton*, 310 Mich App at 112.

---

[8] While Defendants have endeavored to provide admissible evidence, the House Defendants request the opportunity to supplement the record if needed, given the expedited, three-day period allotted to respond to the dispositive motion served contemporaneously with the Complaint.

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

As the Court of Appeals has recognized, "[b]ecause Michigan's Speech or Debate Clause is substantially similar to the Speech or Debate Clause found in the Constitution of the United States, it should be similarly construed." *Cotton*, 310 Mich App at 112. And the United States Supreme Court has broadly interpreted that Clause to "protect [legislators] not only from the consequences of litigation's results but also from the burden of defending themselves" as "[p]rivate civil actions . . . may be used to delay and disrupt the legislative function." *Id.* at 113 (citation omitted). Thus, "once it is determined that Members are acting within the 'legitimate legislative sphere,' the Speech or Debate Clause is an absolute bar to interference." *Id.* And "in the absence of a waiver of the immunity, the Speech or Debate Clause immunizes a legislator from civil suits premised on actions that he or she took within the legitimate sphere of legislative activity." *Id.*

Here, the Senate has sued Speaker Hall in connection with his review of legislation passed by a prior legislature but not presented to the governor. This review of and activity concerning legislation falls within the legislative sphere. *Gravel v United States*, 408 US 606, 625 (1972) ("[T]he consideration and passage or rejection of proposed legislation" or "other matters which the Constitution places within the jurisdiction of either House" falls within the legislative sphere). And he is therefore "immunize[d] from civil suit" as a result. *Cotton*, 310 Mich at 113.

II. THE SENATE AND SENATE MAJORITY LEADER LACK STANDING TO SUE

A. The Senate Majority Leader lacks standing.

Although ignored by the Senate Majority Leader, "[o]ur Supreme Court [has] noted that to establish standing, a legislator must overcome a heavy burden." *League of Women Voters*, 331 Mich App at 172. "[P]laintiffs who sue as legislators must establish that they have been deprived of a personal and legally cognizable interest peculiar to them individually, rather than assert a generalized grievance that the law is not being followed." *Id.* The Senate Majority Leader claims

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

her "peculiar" interest is that her "vote to pass all nine bills has been completely nullified by the withholding of presentment by the House." (Senate Br. at 5.) But "once votes which lawmakers are entitled to make have been cast and duly counted, their interest as legislators ceases." *Killeen v Wayne County Rd Comm'n*, 137 Mich App 178, 189 (1984) (cleaned up); see also *House Speaker v State Admin Bd*, 441 Mich 547 (1993) ("*Dodak*") (legislator who "did have the opportunity to vote on an issue" was "not suing to maintain the effectiveness of his vote" but rather "to reverse the outcome of a political battle that he lost").

Here, Senator Brinks' vote counted and the bills passed, marking the end of any special interest she may have asserted. *Killeen*, 137 Mich App at 189. She fulfilled her duty as a legislator. And from there, she was in the same position as members of the general public, who may (or may not) wish that the Clerk of the 102nd House had presented the bills as directed, and may (or may not) wish that, if presented, the governor would approve them. Just like the legislators in *Dodak*, Senator Brinks does not allege that anyone interfered with her right *to vote* on the bills. She argues only that the House failed to present bills, after her role as a senator voting on the bills had ended. As in *Dodak* and *Killeen*, once Senator Brinks voted on the bills, any special interest as a legislator ceased, and she was in the same shoes as the general public. Any other result undermines the fundamental principles of standing that Michigan courts have consistently upheld.

B. The Senate lacks standing.

The Senate cites no case supporting its assertion of standing. That alone is fatal. *League of Women Voters*, 331 Mich App at 171 ("While the Legislature asserts that it is the *only* real party in interest . . . and may therefore file a declaratory action . . . it has provided no authority or support for this position. This Court need not search for authority to sustain a party's position."). Regardless, as in *League of Women Voters*, "the Legislature's" unsupported "position [is]

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

unconvincing." *Id.* As with individual legislators, "the legislature," too, "has a heavy burden to show that it has standing." *Id.* at 173. That burden is not met by a claim that a law passed by the legislature is not being "enforced," as "that injury is not personal or unique to the Legislature. Particularly so given that once legislators' votes are counted and a law enacted, 'their special interest as lawmakers has ceased.'" *Id.*, quoting *Killeen*, 137 Mich App at 189. In other words, the standing analysis for the Senate is no different than for the Senate Majority Leader: the Senate's votes were counted, the bills were returned to the House, and the Senate's role was fulfilled. The Senate's interests are currently the same as those of the general public.

C. The Senate and Senate Majority Leader lack standing to turn an intra-branch political dispute into a lawsuit.

Moreover, "courts should not confer standing in matters that have the real possibility of infringing upon the separation of powers." *League of Women Voters*, 331 Mich App at 173, citing *Dodak*. Whether framed as standing or justiciability, the Senate falls short here, too.

The Senate would have this Court interpret Article 4, Section 33 as requiring the 103rd Legislature to not only do the presentation work of the 102nd Legislature, but to do so "immediately." Compl. at 17. But even if Section 33 required the 103rd Legislature to present the bills to the governor (it does not), it is not the judicial branch's role to dictate when and how the legislature should do so. That is a matter the framers left to the legislature by declining to implement any timeframe for presentment. Presentment of bills to the executive, 1 Sutherland Statutory Construction § 16:1 (7th ed.) ("[T]he timing of such a presentment is discretionary and delaying the presentment according to either rule or practice is within the legislative prerogative."). Indeed, the Senate's misplaced reliance on internal House and joint legislative rules (Senate Br. at 8, 14-15) in support of their claim proves as much. As this Court explained in *LeRoux*, "courts do not review claims that actions were taken in violation of a legislative rule." 465 Mich at 609-610.

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

This case was brought in the midst of a legal review by the House. (Senate Br. at 19 ("Since January 9, 2025, Speaker Hall has been reviewing the legal issues he asserts prevent presentment"); see also Ex. 2.) Given the absence of any constitutional text or other authority requiring this Legislature to present the bills, and the lack of any temporal limitations on when a bill must be presented, the Senate's request for judicial intervention on legislative matters, during the House's review (particularly when it has delayed as long 84 days to present bills), is improper.

Put simply, courts do not "serve as political overseers of the executive or legislative branches, weighing the costs and benefits of competing political ideas or the wisdom of the executive or legislative branches in taking certain action." *Hammel v Speaker of the House of Representatives*, 297 Mich App 641, 647 (2012) That is core to Michigan's separation of powers. Const 1963, art 3, § 2. Nor do courts serve "as the arbiter of disputes solely between branches of government to which [it is] coequal, not superior." *League of Women Voters of Mich v Sec'y of State*, 501 Mich 561, 607 (2020) (Clement, C.J., dissenting). "This may help explain why the Legislature does not provide a single example of a legislative body maintaining a declaratory-judgment action against" another legislative body. *Id.*

III. THE SENATE'S MANDAMUS CLAIM FAILS ON THE MERITS

Turning to the merits, the Senate seeks to compel the House to "immediately present the bills" through a claim for mandamus. "To obtain the extraordinary remedy of a writ of mandamus, the plaintiff must show that (1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result." *Berry v Garrett*, 316 Mich App 37, 41 (2016) (cleaned up). *Citizens for Protection of Marriage v Bd of State Canvassers,* 263 Mich App 487, 492 (2004) ("The plaintiff bears the burden of demonstrating

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

entitlement to the extraordinary remedy of a writ of mandamus.”).

A. Article 4, Section 33 does not contemplate a new legislature presenting bills passed by a prior legislature.

To start, the Senate’s claim for mandamus falls short because it misstates how the legislature works, and misreads the Constitution.

The legislature is not a continuing body. Each legislature exists for two years. As relevant here, the 102nd Legislature was in session in 2023 and 2024. The Constitution states that any “bill . . . pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session” in an even numbered year. Const 1963, art 4, § 13. Thus, bills introduced in the first year of the 102nd Legislature carry over into the second year of the 102nd Legislature. But the Constitution omits any similar language for bills pending at final adjournment in an even-numbered year. That is, a bill from the second regular session of the 102nd Legislature does not carry over into the 103rd Legislature. OAG, 1981-1982, No. 6,114. That makes perfect sense. *LeRoux*, 465 Mich 594, 615-16 (2002) (“[A]n act of one legislature is not binding on, and does not tie the hands of, future legislatures.”).

This structure of separate and distinct legislatures that cannot bind future legislatures is entirely consistent with Article 4, Section 33, which provides that “[e]very bill passed by the legislature shall be presented to the governor before it becomes law.” Const 1963, art 4, § 33. As discussed below, this text does not clearly require *anyone* to present a bill; it states only that a bill cannot become law *unless* presented to the governor. But even assuming it requires a legislative body or officer to do so, given that a “legislature” is not a never-ending, continuous body, this raises the question of which “legislature” must. The remainder of Article 4, Section 33’s text helps answer that question. This Section repeatedly ties presentation of bills to the legislature that passed the bill. Const 1963, art IV, § 33 (bill “shall not become law” if not approved and “the legislature

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

RECEIVED by MSC 12/8/2025 3:54:29 PM

has within that time finally adjourned the session at which the bill was passed"); *id.* (procedures if "the legislature continues the session at which the bill was passed"); *id.* (procedures if the "bill is not returned" and "the legislature" was "continuing in session").

And for good reason. Were it otherwise, absurd results would occur. Consider first a discovery by the Clerk in 2025 of an original House bill that the Michigan Senate and House had passed in 1956. It was ordered enrolled and printed that year, but was never presented. Is there a duty to present the bill to the governor in 2025? Under the Senate's argument, yes. But that is entirely inconsistent with the hornbook law that the business of one legislature ends when the legislature adjourns. Or consider the passage of a controversial bill by a lame duck Democratic majority in the legislature. A recently defeated Republican governor has threatened to veto the bill before her term expires. Could the lame duck Democrats deliberately delay presentation of the bill until a new Democratic governor takes office, and then sue the new legislature once the new legislature convenes for failing to present the bill to the new governor? Using the Senate's logic, the answer is again, yes.

These absurd results are only possible based on the Senate's fundamental misunderstanding of how the legislature works, and its misreading of constitutional text. If there is any obligation at all to present a bill to the governor, that obligation must belong to the legislature that passed the bill – not a subsequent and wholly distinct legislative body, which cannot be legally bound by its predecessor. This is not a tall ask. The House Clerk for the 102nd Legislature had ample time to present the bills after being directed to do so on December 23, 2024. 2024 House Journal 2080-2092, 2094 (No. 89, December 31, 2024). The Senate then had ample time to encourage the Clerk to do so before the 102nd Legislature ended. But now, more than a month later, the Senate cries "emergency." If any "emergency" existed (and, given the lack of any presentment deadline, it did

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

Document received by the MI Court of Claims.

not), the appropriate time to remedy that emergency was before the 103rd Legislature convened.[9]

B. Article 4, Section 33 does not clearly impose a duty on the legislature or a legislative officer.

To the extent this Court finds any ambiguity at all in the above, the lens through which this Court must review the question is important. To obtain mandamus relief, the Senate must show the named Defendants have a "clear legal duty" to present bills passed by a prior Legislature. *Hayes v Parole Bd,* 312 Mich App 774, 782, 886 NW2d 725 (2015) (citation omitted). For example, "[a] clear legal duty exists when the defendant has a statutory obligation to perform a specific act." *Dearborn Hts City Council v Mayor of Dearborn Hts*, unpublished per curiam opinion of the Court of Appeals, issued June 11, 2020 (Docket No. 351408), p 8.

But questions abound in the Senate's theory. Lacking citations to any legal authority, the Senate's Complaint states that *the Clerk* "has the ministerial duty of presenting bills passed by the Legislature and originating in the House to the Governor." (Compl. ¶ 7.) The text of Article 4, Section 33 does not say that. Nor does the Senate explain *which* Clerk (102nd or 103rd) would bear that duty, or why, if this duty is the Clerk's, the Senate believed it necessary to also name the Speaker and the House as Defendants. If anyone must do so, the only plausible reading is that the legislature that passed the legislation must present the legislation, and that there is no duty of a

[9] The Senate's basis for the emergency is illusory. It points to "a compelling need for this urgent matter to be immediately and expeditiously considered" because "unless given immediate effect, laws take effect 90 days after the Legislature adjourns. Const 1963, art 4, § 27." (Senate Br. at 19.) But the bills at issue in this case *are not laws*, and Const 1963, art 4, § 27 applies to the effective date *of laws*, not bills. If the bills are presented, the governor may not approve them, and they would not become law. Const 1963, art 4, § 33. Moreover, there are flaws in the bills that may explain why they were never presented. By its terms, 2024 HB 5818 would take effect only upon the enactment of 2024 HB 5317. 2024 HB 5818, enacting § 1. But HB 5317 never passed the House, died with the adjournment of the 102nd Legislature, and can never take effect. 2024 House Journal 17 (No. 3, January 17, 2024). And yet another one of the Bills would take effect "180 days after the date it is enacted into law." 2023 HB 4900, enacting § 1.

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

future legislature to present a prior legislature's bills.

Equally uncertain is whether the Constitution's statement that "[e]very bill passed by the legislature shall be presented to the governor before it becomes law" imposes an affirmative duty on *anyone* to present bills to the governor, or if it just means that a bill cannot become law before it is presented to the governor. In other words, it is unclear if Section 33 is meant to clarify that laws are not effective upon passage by the legislature, but rather become effective only after presentment to the governor and the governor signs the bill. The Senate would have this Court read Article 4, Section 33 as follows: "Every bill passed by the legislature shall be presented to the governor."[10] But the Constitution does not say that. Read in full, it states: "Every bill passed by the legislature shall presented to the governor <u>before it becomes law</u>." This Court must give full effect to every word of the Constitution. *Koontz v Ameritech Servs*, 466 Mich 304, 312 (2002). Doing so establishes that presentation is simply a precondition of a bill becoming a law.

Injecting further uncertainty is Section 33's lack of temporal guidance. Even if read to require someone to present bills to the Legislature, the only temporal constraint is that a bill must be presented "before it becomes law." *Id.* Unlike Section 33's 14-day timeline for the governor to take action, there is no similar timeline to present to the governor. This lack of precision further renders mandamus inappropriate. *Berry*, 316 Mich App at 50.

The lack of any temporal requirement also creates other issues. By the Senate's own admissions, it filed this lawsuit while Speaker Hall was "reviewing the legal issues he asserts

---

[10] The only Michigan case the Senate cites for its position is *Anderson v Atwood*, 273 Mich 316 (1935), which it claims presents a mandatory obligation to present bills. But *Anderson* never says that. In fact, it did not deal with presentment at all. Rather, it dealt with whether a bill returned by the governor retained any legal force. While it stated in an unrelated context that "[c]onstitutional provisions regulating the presentation, approval, and veto of bills by the executive are mandatory," it never says that presentment itself is mandatory, and it certainly never says that presentment by a subsequent legislature is mandatory.

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

prevent presentment." (Senate Br. at 19; see also Ex. 2.) But the Senate fails to specify *when* any constitutional violation occurred as a result of this asserted delay while a legal review occurred. Did the asserted violation occur the day the 103rd Legislature convened? Was it January 22nd, when the Senate authorized the filing of the Complaint? February 3rd, when they filed? And whatever date they claim it is (they have yet to specify), what is the source of that? Would the Senate still claim the constitution was violated if the bills were presented tomorrow? Next week? Within 84 days, as the Senate recently waited? Next year? The absence of any deadline means the absence of any violation. And the absence of any violation means there is no claim or, at the least, that any claim is not ripe. See *City of Huntington Woods v City of Detroit*, 279 Mich App 603, 615-16; 761 NW2d 127 (2008) ("Ripeness prevents the adjudication of hypothetical or contingent claims before an actual injury has been sustained. A claim is not ripe if it rests upon 'contingent future events that may not occur as anticipated, or indeed may not occur at all.'") (citation omitted).

C. To the extent the court determines "the legislature" had a duty to present the bills to the Governor, that duty belonged to the previous Legislature.

Although the Senate fails to identify when presentment of a bill must occur, to the extent there was any duty to present a bill, that duty did not survive the termination of the 102nd Legislature. As discussed above, the 102nd Legislature that passed the bills in 2024 could have ensured that the clerk of the 102nd Legislature presented those bills to the Governor. It failed to do so. And the bills did not carry over to the 103rd Legislature. The business of the 102nd Legislature is old business now that the 103rd Legislature has convened. The Senate neglects to recognize the principle espoused in one of the United States Supreme Court's earliest seminal cases: "To render a mandamus a proper remedy, the officer to whom it is directed must be one to whom, on legal principles, such writ must be directed." *Marbury v Madison*, 5 US 137 (1803). If anyone had a duty to present bills to the Governor, it was a person in the prior legislature. And that

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

duty does not come from the Constitution itself. Rather, the most plausible source of any "duty" to present occurred when the 102nd Legislature directed the 102nd Clerk to do so on December 23, 2024. 2024 House Journal 2080-2092, 2094 (No. 89, December 31, 2024). The Senate points to no similar directive to the 103rd Clerk, the 103rd Speaker, or the 103rd House itself. A writ to the current House, its speaker, or its clerk is improper because they are not the correct person to whom such writ should be directed.

The reason the 102nd Legislature has not been named is straightforward: it no longer exists. If the prior Legislature had a duty it failed to fulfill, then the beginning of a new legislative term renders it impossible for this Court to grant the requested relief because only the prior legislature or its officers could do so. It thus renders any claim moot. *Leemreis v Sherman Twp*, 273 Mich App 691, 703-704; 731 NW2d 787 (2007). And again, given that the Senate did not act on their perceived claim until nearly several weeks after the bills passed (and for the duration of the 102nd Legislature's remaining term after the Clerk had been directed to present the bills), the Senate's supposed emergency is of its own making and its claims barred by laches.

D. Section 33 does not confer a right to have bills presented to the governor.

To prevail on the mandamus claim, the Senate must also establish a "clear, legal right to performance of the specific duty sought," which is a right "clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided." *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518-519 (2014). Further, a plaintiff's clear legal right in the execution of a duty must be more than a right possessed by citizens generally. *Id.* at 519. The Senate seems to misunderstand this requirement and claim that this lawsuit is premised on a "legal right" to have bills presented to the governor. But the Constitution does not confer a special legal right to have

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

bills presented. Indeed, the Constitution does not convey any specific right to have bills presented, and certainly the Plaintiffs do not have any special right beyond any other Michigan citizen.

E. Any Duty of the 103rd Legislature to Present the 102nd Legislature's Bills is Not Ministerial.

As a final matter, this case involves the unchartered and uncertain territory regarding the authority of a new legislature or its officers to act upon direction of a prior legislature. As discussed above, mandamus is available only for ministerial acts. "A ministerial act is one in which the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment." *Berry*, 316 Mich. App. at 42 (citation omitted).

The complaint waffles on *who* might have a clear legal duty to present bills from the 102nd Legislature to the governor. At various places, Plaintiffs say "the House of Representatives" has a duty (without specifying *which* House – the 102nd or 103rd). At other places, it states the "the House Clerk" has a duty. Elsewhere, it alleges that "Defendants" have a duty. Perhaps the only thing that is clear is that the Plaintiffs are not certain who they believe has this supposed duty. They are also unclear on when this duty must be fulfilled. Plaintiffs' inability to allege who has a duty, and when that duty must be satisfied, shows that no duty is precise or certain in a manner that would be required for mandamus relief. Given the threshold fact in dispute regarding who allegedly failed to fulfill a duty, mandamus cannot lie. *Berry*, 316 Mich App at 42; *Dearborn Heights*, *supra*; *Powers v Dignan*, 309 Mich 530, 533 (1944) ("mandamus is not a writ of right but of grace and discretion, and will not lie to compel a public officer to perform a duty dependent upon disputed and doubtful facts.").

IV. THE SENATE IS NOT ENTITLED TO A DECLARATORY JUDGMENT, AND ITS PERMANENT INJUNCTION "CLAIM" IS NOT A CAUSE OF ACTION.

Next, while Plaintiffs also raise a claim for declaratory judgment, in effect, they are seeking

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

to couple that judgment with an injunction that would "enjoin[] Defendants from failing to present the nine bills." (Compl. at 20.) An injunction to stop a party from "not doing something" is the same as an order "to do something." And mandamus is the appropriate mechanism to compel a party to do something. The Senate cannot avoid mandamus and its standards by calling their claim something else. *Minarik v State Hwy Comm'r*, 336 Mich 209, 213 (1953) ("No litigant can mandamus a State officer in the circuit court simply by using the term injunction instead of mandamus when it is the latter remedy that he seeks.").

Finally, Count III of Plaintiffs' Complaint is a "claim" for "permanent injunction." They seek an "injunction enjoining Defendants from failing to present the nine bills to the governor." *Id.* ¶ 48. But "[i]t is well settled that an injunction is an equitable remedy, not an independent cause of action." *Terlecki v Stewart*, 278 Mich App 644; 754 NW2d 899 (2008). To the extent Plaintiffs' motion relies on this "claim" as an independent cause of action, the motion should be denied.

CONCLUSION

The business of the 102nd Legislature ended upon the final adjournment of its second regular session, and did not carry-forward into the 103rd Legislature. The Senate has failed to point to constitutional text, case law, or other authority that would support its novel claim that the 103rd Legislature has a duty—much less a clear one, as is needed to prevail on their mandamus claim—to present bills passed by a prior legislature. That is because none exists. This Court should decline the Senate's request to make old business new again. The Senate's attempt to resurrect dormant legislation should be rejected, its motion should be denied, and the case should be dismissed.

Dated: February 7, 2025

/s/ Kyle M. Asher
Kyle M. Asher (P80359)
Steven C. Liedel (P58852)
DYKEMA GOSSETT PLLC
kasher@dykema.com

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

PROOF OF SERVICE

I hereby certify that on February 7, 2025, I electronically filed the foregoing document with the Clerk of the Court using the MiFile system.

/s/ Kyle M. Asher
Kyle M. Asher

DYKEMA GOSSETT PLLC • Capitol View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

RECEIVED by MSC 12/8/2025 3:54:29 PM

Document received by the MI Court of Claims.

Exhibit 13

RECEIVED by MSC 12/8/2025 3:54:29 PM

1 STATE OF MICHIGAN
CIRCUIT COURT OF CLAIMS
2
MICHIGAN SENATE and MICHIGAN
3 SENATE MAJORITY LEADER WINNIE
BRINKS, in her official capacity,
4
Plaintiffs, Case No: 25-000014-MB
5 v. Hon. Sima G. Patel

6
MICHIGAN HOUSE OF
7 REPRESENTATIVES, MICHIGAN HOUSE
SPEAKER MATT HALL, in his official,
8 capacity, and MICHIGAN House Clerk
SCOTT STARR, in his official capacity,
9
Defendants,
10 ___________________________________/

11 PAGE 1 TO 63
MOTION HEARING
12
Taken at the Michigan Court of Claims,
13
located at 3020 West Grand Boulevard, Suite 1400,
14
Detroit, Michigan 48226, on Monday, February 24, 2025,
15
Commencing at 10:00 a.m.
16
17
18
19
20
21
22
23
24
25

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

1 APPEARANCES:
2
3 MARK BREWER (P35551)
4 ROWAN CONYBEARE (P96751)
5 Goodman Acker, P.C.
6 17000 West Ten Mile Road
7 Southfield, Michigan 48075
8 (248) 483-5000
9 mbrewer@goodmanacker.com
10 Appearing on behalf of Plaintiffs
11 Michigan Senate and Michigan
12 Senate Majority Leader Winnie Brinks.
13
14 KYLE M. ASHER (P80359)
15 STEVEN C. LIEDEL (P58852)
16 Dykema Gossett, PLLC
17 201 Townsend Street, Suite 900
18 Lansing, Michigan 48933
19 (517) 374-9151
20 kasher@dykema.com
21 Appearing on behalf of Defendants Michigan
22 House of Representatives and Michigan House
23 Clerk Scott Starr.
24
25 Reported By: Laura J. Steenbergh, CSR, CRR, RMR

RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 Detroit, Michigan
2 Monday, February 24, 2025
3 About 10:00 a.m.
4 MOTION HEARING
5 JUDGE PATEL: Good morning. I'll call the
6 case. This is Case Number 25-00014, Michigan Senate and
7 Michigan Senate Majority Chair Winnie Brinks versus the
8 Michigan House of Representatives.
9 Good morning. We are here on Plaintiffs'
10 motion for summary disposition.
11 Before we begin, are there any preliminary
12 matters that we need to discuss?
13 MR. ASHER: Your Honor, the only item I was
14 going to note is that the House's response to the
15 Complaint is technically due tomorrow. This is,
16 obviously, the response to the motion for summary that,
17 you know, we had -- we were briefed on an expeditious
18 fashion, so I just didn't know -- I didn't want the
19 Court to think we're trying to get the last word in by
20 submitting our own motion tomorrow or how the Court
21 wanted to address that.
22 JUDGE PATEL: Okay. Have you spoken with
23 opposing counsel about --
24 MR. ASHER: Just briefly this morning.
25 MR. BREWER: I just learned of this this

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 morning, Your Honor. I mean, as our pleadings indicate,
2 we think this should be resolved expeditiously. If you
3 deny us relief, you can dismiss our complaint, and that
4 will give us a final order that we can appeal. Same
5 thing if you grant us relief, that'll be a final order
6 that they can appeal. So we just don't want to prolong
7 this. I think it's in every party's interest that this
8 be resolved expeditiously.
9 JUDGE PATEL: If I deny the motion for summary
10 disposition, that wouldn't be a final order, though,
11 would it, on your --
12 MR. BREWER: You could under the Court rules,
13 as I understand them, grant summary disposition for the
14 Defendants at that point and give us a final order.
15 JUDGE PATEL: Okay. So grant summary
16 disposition under I2. Okay.
17 MR. ASHER: Yes. We have asked for that. I
18 just -- if the Court's ruling doesn't come by tomorrow
19 our response would technically be due tomorrow to the
20 Complaint, and so we're happy to file something, I just
21 didn't know how the Court wanted to treat that.
22 JUDGE PATEL: I can guarantee you that the
23 Court's response will not be coming out tomorrow.
24 MR. ASHER: Okay.
25 JUDGE PATEL: We'd like to take at list a

1 little bit more time than that.
2 MR. ASHER: Yep.
3 JUDGE PATEL: Do you have any objection to
4 giving them an extension to filing an answer, or would
5 you just -- are you prepared to file an answer tomorrow?
6 MR. ASHER: We would file our own cross motion
7 for summary judgment, yes.
8 JUDGE PATEL: Okay.
9 MR. BREWER: Expeditious treatment of this, so
10 if they're prepared to file whatever they want to file
11 tomorrow, that would be great.
12 JUDGE PATEL: Okay. Then I'm going to keep
13 that deadline --
14 MR. ASHER: Okay. Great.
15 JUDGE PATEL: -- in place, and we'll just
16 proceed that way.
17 MR. ASHER: Thank you.
18 JUDGE PATEL: And if it is rendered moot for
19 any reason, we can deal with that within the order, if
20 we need.
21 MR. ASHER: Okay. Thank you.
22 MR. BREWER: Thank you, Your Honor.
23 JUDGE PATEL: Thank you very much.
24 Then Plaintiff, we're ready to proceed with
25 your motion for summary disposition.

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 MR. BREWER: Good morning, Your Honor. May it
2 please the Court, Mark Brewer, and Rowan Conybeare, of
3 Goodman Acker, for the Plaintiffs in this matter.
4 The Plaintiffs are entitled to mandamus in
5 this matter. It's very clear that the House of
6 Representatives and the Defendants have a clear legal
7 duty to present the nine bills at issue to the Governor
8 under the text of Article IV, Section 33, which
9 indicates that every bill passed the Legislature shall
10 be presented to the Governor.
11 The Michigan Supreme Court has long ruled that
12 shall means shall, in, for example, the Stand Up for
13 Democracy case. And the Michigan Supreme Court has also
14 held that the constitutional provisions in the
15 presentment clause are "that which regulate the
16 presentation, approval, and veto of bills by the
17 executive are mandatory. And the procedure as thus
18 established cannot be enlarged, curtailed, changed, or
19 qualified by the legislative body." That was in the
20 case of Anderson v. Atwood, which we briefed.
21 So not only is the text of the Constitution
22 clear, but it's also clear that the Con Con delegates
23 who drafted that text understood that they were imposing
24 a duty on the Legislature and on the legislative body in
25 which a bill originated to present bills to the

1 Governor.
2 In the Con Con record they repeatedly talk
3 about the duty of the particular House, and in that
4 House, either the Secretary of the Senate or the Clerk
5 of the House having an obligation to execute that duty
6 and file passed bills with the Governor.
7 The practice of the Legislature, for decades,
8 as we indicated in our Verified Complaint, acknowledges
9 that they have this duty. Bills have been presented
10 after sessions have adjourned, and in subsequent
11 sessions. So by it's very practice the Legislature has
12 acknowledged that they have a duty to do this.
13 JUDGE PATEL: Counselor, I have a question
14 about the language in Section 33. And this is something
15 that was brought up in opposing counsel's brief. And
16 that's that the language of that section of the
17 Constitution is silent as to who should be the one that
18 presents the bills to the Governor.
19 Does that impact your argument about mandamus
20 in terms of the clear legal duty?
21 MR. BREWER: No, Your Honor. Because, first
22 of all, the language says the Legislature shall present.
23 And at the discussion at the Constitutional Convention
24 they made it very clear that that duty devolves onto the
25 House in which a bill originated, in this case the

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 House, and then it further devolves onto either the
2 Secretary of the Senate, in the case of the Senate, or
3 the Clerk of the House in that case. So the duty passes
4 down.
5 Obviously, institutions can't do anything,
6 they are inanimate objects. They act through their
7 agents. And the agent of the House in this case is the
8 Clerk of the House, who has the duty to present these
9 bills. That was the understanding in the Con Con
10 debates as to how this would be operationalized.
11 We've heard a number of defenses from the
12 Defendants. First was the one you just mentioned, Your
13 Honor, that there's no clear indication of who the duty
14 reposes in. You've just discussed that. They've also
15 indicated that somehow this duty abates in a subsequent
16 legislative session. But again, it's clear that it does
17 not. The language is absolute, there are no exceptions
18 in Section 33 that says, oh, this duty abates at the end
19 of a legislative session or it doesn't continue. It's
20 an absolute clear duty, without exception that the bills
21 have to be presented. And again, the legislative
22 practice indicates that the Legislature has understood
23 that for decades, and indeed the rest of the text of
24 Section 33 goes on to talk about the veto power of the
25 Governor and what happens if the bills are presented and

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 the Legislature adjourns. So it's clearly contemplated
2 by the text, as well as by the Con Con debates that
3 there would be presentation of bills subsequent to the
4 adjournment of a legislative session.
5 As long ago as the late 1800s, Your Honor, in
6 a case arising out of Michigan, a mandamus case, in
7 Thompson versus United States, the United States Supreme
8 Court itself held that a duty enforced in mandamus does
9 not abate when the individuals holding public office
10 change. Because the duty goes to the institution and to
11 the public office, not to the individuals. So the mere
12 fact that legislators change, clerks change, does not
13 abate the duty. It attaches to the Legislature and
14 whoever's occupying the position of Clerk of the House.
15 The Defendants have also asserted that if a
16 bill does not pass in an even-year session, that it dies
17 at the end of the session. That section of the
18 Constitution, Article IV, Section 30, is completely
19 inapplicable here, because the more specific provision
20 is Article IV, Section 33, which deals expressly with
21 passed bills. It controls here under precedent of the
22 Michigan Supreme Court.
23 Defendants have also suggested that the
24 language does not tell them when the bills must be
25 presented. Again, that ignores the text. Passage of

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 the legislation triggers the duty. And in the Con Con
2 debates there was discussion of this. And the only
3 delay brooked by the Con Con delegates was a brief delay
4 to, say, print bills, or, say, there's a long queue of
5 bills that have to be presented. Other than that, there
6 are no excuses, no time delays allowed. And that is
7 also the law in other states as well. We cited in our
8 brief a number of examples of other states where you get
9 a reasonable time to complete ministerial tasks in order
10 to make presentation, but no further delay beyond that.
11 Those ministerial have been completed here. These bills
12 were enrolled, they were ready to be presented, and but
13 for the unconstitutional order of the House Speaker,
14 they would have been presented on or before January 8th.
15 So the time for these ministerial tasks to be performed
16 is over, it's done, and there's no reason why these
17 bills can't be presented immediately upon issuance of
18 the Court order.
19 The Speaker has suggested that because the
20 previous session of the Legislature didn't adjourn sine
21 die, or didn't pass some kind of motion to adjourn, that
22 that is some obstacle to presentation. Again, the
23 language of Section 33 is not conditioned upon
24 adjournment of the Legislature, by any means. It says
25 when the bills pass it must be presented. It's an

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 absolute duty. Adjournment is only a factor in whether
2 the -- how the Governor exercises her veto power, as is
3 detailed later on in Section 33.
4 And finally, we have heard from the Defendants
5 that there are some technical problems with these bills.
6 Again, there's no exception in Section 33 for so-called
7 technical problems. These bills must be presented, and
8 the Clerk has the authority to correct technical
9 problems under the rules of the House, and the Michigan
10 Supreme Court has upheld the authority of the House to
11 correct technical problems. So technical problems are
12 no obstacle to the presentation of these bills. So
13 there's a clear duty, and none of the defenses that
14 they've represented have any merit.
15 Now, the Senate concomitantly has a clear
16 right to presentment. As was held in the Rental
17 Property Owners Case, a clear legal right is one clearly
18 founded in or granted by law, a right which is inferable
19 as a matter of law from uncontroverted facts.
20 Here the right of the Senate to have mandamus
21 is based on the text of Section 33, and can be inferred
22 from the uncontroverted facts here, which are that these
23 nine bills are ready to be presented.
24 In Anderson v. Atwood, the Michigan Supreme
25 Court a century ago recognized that there was a right to

1 bring a mandamus action to enforce the provisions of the
2 presentment clause, then was located under a different
3 portion of the State Constitution. The delegates to the
4 Constitution were aware of the Anderson case and adopted
5 its approach, they didn't reject its approach when they
6 continued the language of the presentment clause in the
7 current Constitution. So the Senate satisfies the
8 second element of mandamus that it has a right to have
9 these bills presented. Clearly the duty is ministerial,
10 that is recognized in the House rules and otherwise, so
11 all the elements of mandamus are satisfied here.
12 We'd also, and we've cited these in our brief,
13 a number of other states have been confronted with
14 similar circumstances under their presentment clause.
15 In Brewer v. Burns, the Arizona Supreme Court recognized
16 the right in that case of the Arizona Governor to
17 enforce its presentment clause by mandamus.
18 In the case of Campaign For Fiscal Equity
19 versus Marino, the New York Court of Appeals, the
20 highest court in that state, recognized the right of a
21 private party to enforce the right of presentment
22 through a mandamus action.
23 And finally, Your Honor, on this point, the
24 Supreme Court in the Bowserman case recognized that
25 having a legal obligation which is unenforceable is what

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 they called a ghost in the law. So it's very clear
2 there's a duty here, but lacking the right to enforce it
3 leaves it as a ghost in the law, an empty letter. So
4 for all these reasons the Senate, I think, clearly has a
5 right to mandamus here.
6 Alternatively, Your Honor, we pled that we are
7 entitled to a declaratory judgment and permanent
8 injunctive relief if the Court denies mandamus, the
9 court rules allow us to plead in the alternative.
10 Plainly there's an actual controversy here
11 between these parties, a dispute over where their
12 presentment must occur. And we believe, for all the
13 reasons we've already indicated, that a declaratory
14 judgment can and should issue indicating that there is a
15 duty on the part of the House to present these bills.
16 Enforcing that declaratory judgment is
17 permissible through an injunction. The Court can issue
18 a permanent injunction enforcing the declaratory
19 judgment, which we have asked for. And as we have
20 detailed in our pleadings, and as you can see from the
21 amicus briefs, all of the elements required for
22 permanent injunctive relief are satisfied here. There
23 is irreparable harm per se because we have a State
24 Constitutional violation. There is irreparable harm to
25 hundreds of thousands of public employees in this state

RECEIVED by MSC 12/8/2025 3:54:29 PM

1 who are suffering from high medical costs, to
2 corrections officer who are being denied the right to
3 have a pension, and to debtors in the state who are
4 being denied exemptions which would help protect some of
5 their assets during bankruptcy proceedings. So the
6 irreparable harm here is quite clear. It's in the
7 public interest to issue that injunction. Plaintiffs'
8 have no alternative remedy if mandamus is denied, so for
9 the reasons indicated in our brief, we would ask the
10 Court to issue a declaratory judgment and permanent
11 injunction if the Court does not see its way clear to
12 issue mandamus.
13 Finally, let me briefly talk about Speaker
14 Hall and his claim to be protected by the Speech and
15 Debate Clause. We think it's very clear under the
16 Cotton v. Banks case, which we discussed in our
17 pleadings, that Speaker Hall is not immune here. In
18 Cotton v. Banks, the Court of Appeals adopted the United
19 States Supreme Court approach in the Forrester case,
20 which we discussed in our pleadings. And in that case
21 the Court distinguished between true legislative acts,
22 those are entitled to absolute immunity, but
23 non-legislative acts are not. And the Court gave
24 numerous examples of those. Committee hearings, floor
25 debates, voting, et cetera. Those are entitled to

RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 absolute immunity. But ministerial and administrative
2 acts are not. And that is clearly what Speaker Hall did
3 here, he gave an unconstitutional order to the Clerk of
4 the House not to present these bills. He is not immune
5 or privileged by the Speech and Debate Clause when he
6 issued that order. That is not within his legislative
7 sphere. So we also urge the Court not allow the Speaker
8 to assert privileges and immunities under the Speech and
9 Debate Clause.
10 So for all these reasons, Your Honor, we ask
11 that you grant mandamus and order the immediate
12 presentment of these nine bills. Alternatively, mandate
13 declaratory judgment indicating that there is a duty to
14 present these bills, and enter a permanent injunction
15 prohibiting the Defendants from failing to present the
16 nine bills. With that, Your Honor, I'd be glad to take
17 any questions.
18 JUDGE PATEL: I have a few, Mr. Brewer.
19 MR. BREWER: Thank you.
20 JUDGE PATEL: First, I was hoping you could
21 talk to me a little bit about the political question
22 issue. I think that the language of the constitutional
23 amendment is clear in that the bills need to be
24 presented to the Governor, but where do you find the
25 authority, other than the Legislature's own rules, where

1 is there any legal authority that the Clerk has to
2 present them or where does the procedures for who has to
3 present the bill generate from?
4 MR. BREWER: That procedure was described in
5 the Constitutional debates, which we cited to Your Honor
6 in the pleadings. And what they were describing there
7 was the procedure under the 1908 Constitution, because
8 obviously, that was the Constitution they were operating
9 under, and that was their understanding of the process.
10 They did not alter that process, they continued to use
11 the same language in the presentment clause from the
12 previous Constitution to the current one, and so under a
13 number of Court decisions the Con Con delegates are
14 presumed to be aware of those procedures, they obviously
15 actually discussed them, and they are presumed to have
16 adopted them when they put forth a presentment clause in
17 the current Constitution, and then the voters adopted
18 it. So that is how this is to operate. And the Court
19 can look to the Con Con debates to resolve any
20 ambiguities, if there are any, in the constitutional
21 language. And that -- those debates are very, very
22 clear, that the duty to present devolves from the
23 Legislature as an institution, to the House, where the
24 bills originated, and then to either the Secretary of
25 the Senate or to the Clerk. And that's the procedure

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 they've been operating under for decades. They
2 acknowledge that.
3 JUDGE PATEL: So other than this procedure
4 that they've been operating under for decades, which is
5 within the legislative rules, is there anything that
6 prevents the Senate from presenting these bills to the
7 Governor?
8 MR. BREWER: Under the understanding of the
9 delegates when they adopted this, the duty in this case
10 devolved to the House where the bills originated. So
11 the duty here is the duty of the House. That seems
12 pretty clear. They didn't discuss an alternative. They
13 didn't say, well, if the House fails to execute its
14 duty, the other House can move forward. The
15 Constitution is silent on that. Understood procedure
16 was that House where the bills originated would make the
17 presentation.
18 JUDGE PATEL: Okay. That's all the questions
19 I have for now.
20 MR. BREWER: Your Honor, a moment ago you
21 mentioned -- you referred justiciability.
22 JUDGE PATEL: Um-hum (affirmatively).
23 MR. BREWER: Did you have some questions about
24 that, the three factor test, which we thoroughly
25 addressed in our pleadings? I just want to make sure

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 I've answered all your questions.
2 JUDGE PATEL: So I understand the three factor
3 test. I think that the part of this that I am still
4 digesting is that we have the Court's obligation to
5 interpret the Constitution and enforce the Constitution,
6 but then we also have the political realm and the
7 legislative realm of the Legislature doing its job. And
8 is there anything that you can point me to other than
9 the Constitutional Convention debates and the fact that
10 this is how the procedure under which the Legislature
11 has operated under for hundreds of years, is there
12 anything that -- because my understanding is that the
13 Legislature is free to change its rules --
14 MR. BREWER: That's correct.
15 JUDGE PATEL: -- as it sees fit. So -- and
16 the, I guess the clear directive of the Clerk having the
17 obligation to present these bills to the Governor is set
18 forth in the legislative rules, in the House rules.
19 MR. BREWER: Yes, Your Honor. We're not here
20 to enforce the legislative rules. I want to be very
21 clear about that, and our pleadings are very clear about
22 that. We cite the rules and legislative practice as
23 reflecting the Legislature's understanding and its
24 acquiescence in that construction of the Constitution.
25 So the Legislature can change its rules. But even if

1 the rules were silent, the Clerk of the House would have
2 a duty to present these bills to the Governor. Even if
3 the rules were completely silent about that. Because
4 that's what the text of the Constitution says, and that
5 was the understanding of the Con Con delegates when they
6 wrote that text.
7 JUDGE PATEL: So but the text of the
8 Constitution doesn't mention the Clerk, correct? It
9 just mentions the Legislature. It doesn't even draw a
10 distinction between the House and the Senate, which was
11 why I asked.
12 MR. BREWER: Right.
13 JUDGE PATEL: Is there -- I know that there
14 isn't a historical precedent for doing it, but is there
15 an impediment to the House presenting these to the
16 Governor?
17 MR. BREWER: Well, I mean, the barrier would
18 be what the delegates to the Constitution Convention,
19 and they described the procedure that they were
20 embodying when they wrote Article IV, Section 33. And
21 their understanding of that duty was that, again, it
22 devolved to the House where the bills originated, and
23 for the Clerk or the Secretary of Senate respectively to
24 make that presentation. Now, that's what, when we look
25 to interpreting the Constitution, that's what we look

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 to.

2 And again, Your Honor has averred to the

3 political sphere. We are in the ministerial sphere

4 here. There's nothing political about this at all.

5 These bills were passed, they were enrolled, they are

6 ready to go. And they could have been walked over on

7 January 8th and presented to the Governor. So we're not

8 in any kind of political or legislative sphere. The

9 Speaker, as I indicated, was completely out of bounds

10 giving that order to the Clerk that you shall not

11 present these to the Governor. It's the duty of the

12 Clerk, the Constitution, and that was an

13 unconstitutional order on the part of the Speaker.

14 JUDGE PATEL: Mr. Brewer, do you know on what

15 date the legislators for the current session were sworn

16 in?

17 THE WITNESS: The Legislature assembled on

18 January 8th. And as you can see from the legislative

19 record, matter of fact, I have a summary of it if Your

20 Honor is interested, and I have copies for counsel, that

21 day on January 8th, the Legislature assembled at noon.

22 Before noon 19 bills which had been passed in the prior

23 legislative session were presented to the Governor.

24 After noon, with the new Legislature adjourned, there

25 were an additional 69 bills which were presented to the

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 **Governor, despite the fact that a new legislative**
2 **session had convened, despite the fact that Defendants'**
3 **argument that we have no duty, the Clerk's office**
4 **continued through the afternoon of January 8th**
5 **presenting bills to the Governor, and but for the**
6 **illegal order of the Speaker, these nine bills would**
7 **have been presented as well.**
8 JUDGE PATEL: You know, I would be interesting
9 in looking at that.
10 MR. BREWER: Yes, Your Honor. This is not new
11 evidence. It's simply a summary of what you'll find in
12 the legislative record.
13 May I tender this? Thank you.
14 You'll see the format, Your Honor. We listed
15 the bills that were presented that morning at the exact
16 time that they were presented. And you can find this,
17 Your Honor, by looking at the legislative history of
18 each of those bills, it will list those times. The
19 Legislature convened at noon, and presentations to the
20 Governor continued that afternoon, with the exception of
21 these nine.
22 JUDGE PATEL: Okay.
23 MR. BREWER: Anything further, Your Honor?
24 JUDGE PATEL: Nothing right now. But you will
25 have rebuttal. Thank you.

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 MR. BREWER: Thank you, Your Honor.
2 MR. ASHER: Good morning, Your Honor. May it
3 please the Court, Kyle Asher, of Dykema Gossett, along
4 with my colleague, Steve Liedel, on behalf of the House
5 of Representatives for the 103rd Michigan Legislature
6 and the Clerk of the House for the 103rd Legislature.
7 JUDGE PATEL: Good morning.
8 MR. ASHER: Good morning. The relief that the
9 Senate asked this Court to grant today is truly
10 unprecedented. From our research, it's the first time
11 in Michigan's nearly 200-year-old history that one body
12 of the Legislature has asked the Court to intervene in a
13 dispute with another body of the Legislature. It's the
14 first time in Michigan that someone's attempted to
15 compel a new body of the Legislature to carry out the
16 business of an old body of the Legislature. We're
17 unaware of any instance where any Court has ever ordered
18 any Legislature to actually present a bill to the
19 Governor, much less a bill that was passed by the prior
20 Legislature. And contrary to the Senate's implications,
21 not a single one of the cases cited in their briefing
22 actually award the relief that they ask you to grant
23 here. And that's for the Judicial Branch to take the
24 extraordinary step of ordering the Legislative Branch to
25 present a bill to the Executive Branch. So there's a

1 lot of issues with the Senate's arguments, and a lot of
2 ways that this Court can dispose of this case, from
3 justiciability, to ripeness, to standing. But if the
4 Senate clears all those hurdles, to grant the relief
5 that the Senate asks for, that's for Defendants to "be
6 ordered to present these bills immediately", I don't
7 think there's any dispute that this Court would have to
8 break new ground in several ways.
9 To start, it would have to find that Article
10 IV, Section 33 of Michigan's Constitution requires
11 someone present to bills to the Governor. And if that's
12 the case, this Court would then have to extend that duty
13 to find that someone in the new Legislature has this
14 duty to present bills that the new Legislature was never
15 involved in.
16 JUDGE PATEL: How do you respond to
17 Plaintiffs' argument that if the Court doesn't find that
18 someone has a duty to present the bills, that you, in
19 effect, have a ghost provision of the Constitution that
20 has absolutely no teeth?
21 MR. ASHER: So I don't think that's a ghost
22 provision of the Constitution. And I think I have two
23 responses to that.
24 So the first response is that, no matter how
25 you read the Constitution, whether it's to require the

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 current Legislature to present bills passed by that same
2 Legislature, which we're not saying is not a correct
3 reading, we're not really taking any issue on that. But
4 the issue that's before you on a mandamus claim is
5 whether there's a clear legal duty for this current
6 Legislature to present bills passed by the prior
7 Legislature.
8 JUDGE PATEL: Can you point me to any
9 authority to support the proposition that it doesn't
10 have that authority or that obligation?
11 MR. ASHER: So I think a good example, Your
12 Honor, and it's not from Michigan, but it's actually a
13 case cited and relied pretty heavily on by the Senate,
14 is the Campaign For Fiscal Equity case out of New York,
15 which the Senate cites the claim that a refusal to
16 present violates the Constitution. And so they're sort
17 of very similar to here. A Senate bill was passed by
18 New York's Legislature in 1994, but it was never
19 presented to the Governor before that Legislature
20 adjourned. And so after that legislative session had
21 ended, the Plaintiffs requested both, one, a declaration
22 stating that the bill should have been presented to the
23 Governor; and two, an order directing the new
24 Legislature to actually present that bill. And so the
25 Court did declare that presentment's required under New

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

1 York's Constitution, notably without ever saying that
2 that duty extends to the new Legislature, but it then
3 declined to take the second step of ordering that new
4 Legislature to actually present the bill. And in doing
5 so, it cited another New York case, King versus Cuomo,
6 that also involved the bill that was not presented
7 before the Legislature adjourned. In the pages of Cuomo
8 cited by Campaign For Fiscal Equity, the Court explained
9 that "the bill in question had lapsed when the 1990
10 session of the Legislature ended." "Resuscitation by
11 judicial decree in the fashion requested would be a
12 disproportionate remedy and would wreak more havoc in
13 society than society's interest in stability will
14 tolerate." And So citing that situation in Cuomo, while
15 Campaign For Fiscal Equity said the prior Legislature
16 should have presented the bill, it declined to do
17 exactly what the Senate asked you to do here, that's to
18 order a bill that had lapsed from a prior Legislature to
19 be presented to the Governor. And again, that's
20 entirely consistent with what we're saying here. We
21 haven't asked you to rule that the Constitution allows a
22 current Legislature to withhold bills passed by that
23 same Legislature, or that the 102nd Legislature should
24 not have presented the bills to the Governor. Although,
25 again, given the mandamus standards, I think that's

RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 still an uphill battle for the Court to actually issue
2 relief in that instance. But what we have said, and all
3 that matters here, and that's consistent with the New
4 York Court's refusal to resuscitate a bill from a prior
5 Legislature, is that the 103rd Legislature lacks any
6 clear legal duty to present a bill passed by the 102nd
7 Legislature. And so --
8 JUDGE PATEL: I have a question. Going to
9 these bills that were presented to the Governor after
10 the 103rd Legislature had been sworn in, had convened,
11 does your argument then -- what would be the legal
12 authority for these bills being presented if everything
13 lapsed from one session of the Legislature to the next?
14 MR. ASHER: I do want to be very clear on that
15 point. And we do dispute that that happened. So that's
16 -- notably that's not anywhere in the Senate Journal,
17 which is what the Court would look to. And we've
18 presented the affidavit of Scott Starr, who is the 103rd
19 Clerk for this -- for the Michigan House of
20 Representatives. And he said explicitly in his
21 affidavit, which is attached as an exhibit to our
22 response, is that after the 103rd Legislature convened,
23 the Clerk did not present a single piece of legislation
24 to the Governor. And so that is a highly disputed fact,
25 I think, that -- you know, I have not had a chance to

1 look at what Mr. Brewer presented there, and again,
2 mandamus cannot lie when there are disputed facts.
3 That's sort of bedrock law in Michigan, and so we do not
4 -- we -- our position is that no bills were passed after
5 the -- presented to the Governor after the 103rd
6 Legislature convened.
7 JUDGE PATEL: Okay.
8 MR. ASHER: So just sort of getting back to,
9 you know, how this Court would have to break new ground.
10 We've touched on some of this, and I think Your Honor
11 touched on some of it during Counsel's presentation, but
12 the Court would, in addition to having defined for the
13 first time that this duty does extend to a new
14 Legislature, the Court would then have to identify who
15 the Constitution requires to present these bills. And
16 the Constitution, as you noted, is entirely silent on
17 that point. So the Senate has said today that it's the
18 Legislature or the Clerk, but if you read the text of
19 that Constitution it doesn't even say the Legislature.
20 It says every bill passed by the Legislature shall be
21 presented to the Governor before it becomes law. It
22 never says who has to present the bill. To issue the
23 relief, this Court would then have to create a judge
24 made deadline as to when the bills actually have to be
25 presented.

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 JUDGE PATEL: Does the Court have the
2 authority to read a reasonableness requirement into the
3 Constitution that's silent as to time?
4 MR. ASHER: So, Your Honor, I would refer you
5 to, and it's -- I apologize, the case is not cited in
6 our brief, it's Gilbert versus Gladden, it's out of the
7 New Jersey Supreme Court, and it's 87 New Jersey at 287
8 to 88.
9 JUDGE PATEL: Can you say that again, please?
10 MR. ASHER: It's 87 New Jersey at 287 to 288.
11 And if I recall correctly, I believe it's footnote four
12 out of that opinion. But the Court there discussed
13 really the extreme problems that would come into play if
14 there is a reasonableness standard put in there. And
15 you've mentioned the political aspect of what we're
16 looking at here, but so for a Court to determine on a
17 case by case, you know, line by line, instance by
18 instance how reasonable is it for a Legislature to hold
19 a bill on X amount of days is a really problematic issue
20 when you get into the separation of powers for a court
21 to say what is reasonable for a Legislature to do. And
22 so as we've noted here, the Senate during the 102nd
23 Legislature had held bills longer than 27 days, I think
24 on 24 separate instances, if I recall correctly,
25 including holding bills for 84 days just this past

RECEIVED by MSC 12/8/2025 3:54:29 PM

1 December. And so what they're really asking you to do,
2 I mean, the question becomes, could the House have
3 brought a lawsuit on all 24 of those occasions. We
4 asked in our response brief, when is this deadline, when
5 does this duty arise, when is this duty violated? And I
6 still have not heard a clear answer to that. Was it a
7 day that the 103rd Legislature convened, was it 14 days
8 later when litigation was authorized? There's been no
9 clear response to that. And I think that fits perfectly
10 with the fact that there's just no clear legal duty
11 here. To accept their position and have to get in the
12 minds of when a Legislature is acting reasonably, I
13 think is going to flood the courts with litigation on
14 purely political disputes between two bodies of the
15 Legislature.
16 JUDGE PATEL: Does your reading, does your
17 analysis then basically just read out this part of the
18 Constitution?
19 MR. ASHER: I don't think so at all, Your
20 Honor. I think what it does is say that a mandamus
21 standard, a mandamus claim, which is what they're
22 looking to do, to bring a claim to compel a state
23 officer to do something, it's a really high bar. You
24 know, if you look at what's required for a mandamus
25 claim, the duty has to be set forth with "such precision

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 and certainty as to leave nothing to the exercise of
2 discretion or judgment". I think all we're doing is
3 saying that, no, it's not appropriate for mandamus claim
4 regardless. And that Gilbert versus Gladden case that I
5 cited, that involved, I think, delays of about 18 months
6 in the New Jersey Legislature, and the Court said, you
7 know, we're not going to get into the minds of what the
8 legislature's doing and actually compel the Legislature
9 to take action there.
10 JUDGE PATEL: What about the alternative
11 relief that Plaintiffs have pleaded for, which is
12 declaratory judgment and injunctive relief?
13 MR. ASHER: Yeah. So I think we've cited,
14 Your Honor, the Minarik case in our briefing. There's
15 also the Ferency versus Secretary of State. I'm just
16 looking for the cite real quick here.
17 So I don't think that the Senate can avoid the
18 mandamus standards by trying to couple a declaratory
19 relief and injunction claim. So in the Ferency versus
20 Secretary of State claim, that's 139 Mich App at 683,
21 the Court said that you have to look at the nature of
22 what's requested to determine what the claim is, and
23 when "the requested relief clearly encompasses a mandate
24 to state officials to perform their duties, it's a claim
25 for mandamus no matter how it's labeled." So they can't

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 sidestep the mandamus standards by calling it something
2 else. You have to look to what the nature of the relief
3 is. And here I think the nature of that relief is
4 clear. The Senate on page 5 of the reply brief said
5 that defendant should "be ordered to present the bills
6 immediately." So they're asking you to force a state
7 officer to do something. So no matter what they call
8 it, it's a mandamus claim, they have to meet the
9 mandamus standards.
10 If they're just asking for an abstract
11 interpretation of what the Constitution means, declare
12 that it says this, without actually requiring us to do
13 something, I think we're looking at a purely advisory
14 opinion there, and they haven't followed the standards
15 to seek an advisory opinion.
16 And so getting back, I think most
17 fundamentally, on the mandamus claim, there's just no
18 basis to find that the 103rd Legislature has any duty to
19 pass a bill presented by the prior Legislature, and we
20 really just have to get back to first principles there.
21 Legislatures are not continuing bodies. Each
22 Legislature lasts for two one-year sessions, and at the
23 end of the those two years the old Legislature's
24 business ceases to exist. That old Legislature can't
25 bind a future Legislature, and we simply have not seen

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 any authority that would support that.
2 JUDGE PATEL: I looked at the authority that
3 you cited in your brief, and those cases dealt with a
4 Legislature trying to tie the hands of a future
5 Legislature from amending a law or enacting new law.
6 That's not what this situation is, right? This is
7 business that was finished, and now you have this
8 constitutional mandate to present it to the Governor.
9 It's not asking the -- there is no argument that this
10 would bind the current Legislature from looking at these
11 statutes and amending them or doing something else with
12 them, correct?
13 MR. ASHER: I think it's forcing the current
14 Legislature who, again, did not vote on these bills, had
15 no involvement whatsoever when it came to these bills,
16 to take an action, and that's to present these bills
17 that it had no involvement in. And so as we've said, I
18 mean, it would have been -- the Clerk for the 102nd
19 Legislature was directed to take this action on December
20 23, 2024. So there was ample time for that Clerk to
21 present the bills. And if the Senate was really
22 concerned that it's brought emergency litigation that
23 resulted in our, you know, briefing, you know, this
24 issue within three days, it could have brought that
25 emergency litigation within that time period. And for

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 whatever reason, the Senate failed to do so. For
2 whatever reason, I don't know what that reason is, the
3 past Court failed to present the bills, but the remedy
4 is not to then force the current Clerk, who under the
5 House rules has a duty -- has an obligation under the
6 House rules, which again, as we've talked about, aren't
7 justiciable, we can freely set those aside. But the
8 only obligation under those rules is to present bills
9 that are passed by that Legislature, not a prior
10 Legislature.
11 JUDGE PATEL: What is your response to all the
12 instances cited in the Plaintiffs' brief where the next
13 Legislature has presented bills that were passed by the
14 prior Legislature?
15 MR. ASHER: So I think they've cited a handful
16 of instances over the last -- I think maybe four
17 instances. Some of those instances, as we've pointed
18 out, similar to what they've discussed here, which we
19 dispute actually occurred before the new Legislature had
20 convened, but I don't think you can look at those past
21 instances to add words into the Constitution. Which,
22 again, whether a past Legislature did that I think is a
23 very separate question from whether this current
24 Legislature has a clear legal duty to present these
25 bills, which that's the only question that's before the

1 Court for a mandamus claim. And again, we've pointed to
2 all this uncertainty, lack of precision, that just
3 presents a mandamus claim.
4 And so I do really want to focus on the
5 timing, which I think is a really clear instance. So
6 the Senate has taken the position, citing pretty much
7 primarily to the Con Con debates, that the
8 Constitutional duty to present brooks no delay, that
9 there's no allowance for delay whatsoever. But I think
10 simply saying that just does not make it true. So
11 Article IV, Section 33 includes some very explicit and
12 detailed deadlines. It requires, for example, that a
13 Governor shall have 14 days measured in hours and
14 minutes, so getting that granular down to the minute, to
15 consider a presented bill, but when it comes to
16 presentment itself, all the Constitution says is that
17 every bill passed by the Legislature shall be presented
18 to the Governor before it becomes law. There's simply
19 no deadline there. And that's important for two
20 reasons. So the first is that, as courts and treatises
21 have explicitly said, it leaves discretion to the
22 Legislature on when to present, and again mandamus is
23 inappropriate when anything is left to the exercise of
24 discretionary judgment. So in the Gilbert versus
25 Gladden case that I cited -- that I mentioned, in

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 response to some 18-month delays in presentment, the New
2 Jersey Supreme Court interpreted its Constitution's
3 similar language to hold that "The timing of such
4 presentment is discretionary, and a rule or practice
5 delaying presentment is well within the Legislative
6 prerogative."
7 The West Virginia Supreme Court has said that,
8 "The section which requires every bill to be presented
9 before it becomes the law prescribes no time within
10 which it must be so presented." That's State versus
11 Heston, 137 West Virginia 375.
12 And we cited Sutherland, which said that, "The
13 timing of such presentment is discretionary, and
14 delaying the presentment according to either the rule or
15 practice is left to a Legislature."
16 And so the Senate brought up the Brewer versus
17 Burns case out of Arizona today, and I'm glad they did.
18 So in that case, unlike our Constitution, the Court
19 there noted that Arizona's Constitution expressly does
20 include a temporal deadline on when to present. The
21 Court then distinguished that language from
22 Constitutions like Michigan stating that, "Many state
23 Constitutions say nothing about the timing of
24 presentment, other than indicating it must occur some
25 time after passage." And it expressly recognized that

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 those "other state courts in construing presentment
2 clauses that lack any specified time requirement have
3 not interpreted their Constitution as requiring prompt
4 presentment of bills to the Governor." That's 222
5 Arizona at 241. And even then, after finding that this
6 distinguishable language in Arizona's Constitution is
7 best read to require the Arizona Legislature to promptly
8 present bills, the Court still did not grant the relief
9 that the Senate asks for here. They found that the
10 issue was a "good faith dispute between the political
11 branches of government", that the Governor
12 "unnecessarily involved the Court further in this
13 dispute among the political branches" and it, therefore,
14 "declined to grant the relief the Governor had
15 requested."
16 And so I think it's really telling that the
17 cases that the Senate, best cases that they can come up
18 with to support their argument between this, Brewer, and
19 Campaign For Fiscal Equity, have expressly rejected the
20 relief that the Senate asks you to grant here.
21 The second point was the lack of any temporal
22 deadline relates to ripeness. So as we mentioned, the
23 Senate authorized this litigation just 14 days after the
24 103rd Legislature convened. It sued just 12 days after
25 that. We've laid out that table in our response to the

1 amicus briefs where there were at least 24 instances
2 during the 102nd Legislature when the Senate under its
3 current majority leader held bills for 27 days or
4 longer. That includes holding bills for 84 days before
5 presentment just two months ago.
6 And so we still, again, as we had just
7 discussed, I think that puts the Court in a very
8 difficult position to draw a deadline as to when
9 presentment's required when the Constitution doesn't
10 include one, and then to have to step in on a
11 case-by-case basis and say, well, this Legislature's
12 holding it for 21 days, so that too long. Again, we're
13 still well, well within when the Senate -- how long the
14 Senate took in its 84 days to present the bills just
15 months ago, and so I just have not heard a clear answer
16 to how this case is ripe as of now.
17 And pointing again to the Gilbert versus
18 Gladden case, to make that determination that Court said
19 would "obtrude the judiciary into the legislative
20 process" and "require courts to make political value
21 judgments." And that Court declined to do so, stating
22 that, "A more blatant breach of the separation of powers
23 is difficult to imagine."
24 JUDGE PATEL: Under your interpretation,
25 though, is it your argument that the Legislature can

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 just hold the bills indefinitely and not present them?
2 And doesn't that eventuality run afoul of the pure
3 language of the Constitution?
4 MR. ASHER: So my argument, Your Honor, first
5 of all, is that the 103rd Legislature has no duty to
6 present a bill passed by a prior Legislature.
7 JUDGE PATEL: So assume --
8 MR. ASHER: Yep.
9 JUDGE PATEL: I'm not saying that I'm ruling
10 this way.
11 MR. ASHER: Yeah.
12 JUDGE PATEL: Assume that I don't agree with
13 your analysis on that.
14 MR. ASHER: Yep.
15 JUDGE PATEL: And that I find that the text of
16 the Constitution and the statutes that we're working
17 with --
18 MR. ASHER: Yep.
19 JUDGE PATEL: -- don't impose any kind of
20 limitation.
21 MR. ASHER: Yep.
22 JUDGE PATEL: What is your argument in terms
23 of what the obligation then is, and what the outer bound
24 of that is.
25 MR. ASHER: My answer to that, again, is that

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 we're -- I really want to focus on this lens that we're
2 viewing this case from, which is under a mandamus
3 standard, where nothing can be left to the exercise of
4 discretion before you're going to compel a state officer
5 to do something. And I think clearly there's no clear
6 legal duty that rises to that standard, regardless of
7 what you or I or the Senate would think the best reading
8 of the Constitution is there. In that Gilbert versus
9 Gladden case that's exactly what happened there.
10 JUDGE PATEL: But you do agree that
11 interpretation of the Constitution is a justiciable
12 issue, like, that is within the confines and parameters
13 of my judicial role.
14 MR. ASHER: Yeah, I do believe -- yes, I don't
15 dispute that a Court can interpret the Constitution.
16 And I think that's a very different thing from what the
17 Senate's asking you to do here. And that's not only to,
18 one, interpret the Constitution, but then two, to be the
19 first Court that I'm aware of to ever order a
20 Legislature to actually present a bill in a certain
21 matter on a certain date. So if they're just asking you
22 to interpret the Constitution, I think we're looking,
23 again, at sort of an advisory opinion that, right,
24 that's what the Constitution says.
25 JUDGE PATEL: Well, it's not advisory; we have

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 a live controversy before us, right?
2 MR. ASHER: Somewhat debatable. I mean, I
3 think the Speaker on the date before -- on the date the
4 Complaint was filed the Speaker said he was still in the
5 process of reviewing what presentation required of him.
6 And again, that was well, well within, you know, the 84
7 days that the Senate had just waited there. And so I
8 think there is a very serious question as to, okay, when
9 do we get this case or controversy in these situations,
10 how many days can pass before we do have a case or
11 controversy. So I do think that the only plausible
12 reading of a constitutional provision that does not say
13 when a bill has to be presented is what courts have
14 said, and that's the New Jersey case again, is that the
15 timing of such presentment is discretionary, and
16 delaying the presentment is within the legislative
17 prerogative. And that means that not only is mandamus
18 inappropriate, but if there's no deadline to present the
19 bills, it also means that the House is not in violation
20 for failing to meet a non-existent deadline. And if
21 that's the case, the claims aren't ripe.
22 The next point on the mandamus that we've
23 discussed is who has a duty to present the bills.
24 There's been some confusion here. So paragraph 7 of the
25 Senate's Complaint says it was -- it's Clerk Scott Starr

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 of the 103rd Legislature. Paragraph 25 says the House
2 has this duty. Paragraphs 40 and 46 say Defendants have
3 this duty. Page 2 of the Senate's reply says it's the
4 duty of the entire Legislature. Other amici have said
5 it's the Speaker who's violating a duty.
6 JUDGE PATEL: Well, the House acts through its
7 employees, right?
8 MR. ASHER: Yeah. I don't think there's a
9 dispute there.
10 JUDGE PATEL: Okay. Yeah.
11 MR. ASHER: But I do think there is a dispute
12 as to who this duty actually falls to. And so today
13 we've heard that this duty falls on the Clerk. But
14 again, the Constitution doesn't say that. While the
15 House rules for the 102nd and 103rd Legislature
16 admittedly delegate this task to the Clerk --
17 JUDGE PATEL: So let me ask you the same
18 question that I asked Plaintiffs' counsel a while
19 earlier. Looking just at the Constitution, what is
20 there to prevent the Senate themselves from presenting
21 these bills to the Governor?
22 MR. ASHER: Your Honor, we have not thought
23 through that question. The Senate has not tried to do
24 that today. I would imagine that there would be some
25 dispute as to whether the Senate attempting to do so is

1 proper, and that's -- I think my first argument to that
2 would, again, be that we're now in the 103rd
3 Legislature, and the rules -- the rules in the House and
4 Senate, which again, are not justiciable, but those fall
5 on the Clerk of those houses to present bills that are
6 passed by the current House and the current Senate. And
7 so I do think there would be some exceeding other
8 authority if they attempted to so here.
9 So again, it was the Clerk of the 102nd
10 Legislature who was directed to present the bills on
11 December 23, 2024. He never did so, for whatever
12 reason, and there's just no basis in the Constitution or
13 the legislative rules, much less a clear legal duty, to
14 transpose this duty to the Clerk of the 103rd
15 Legislature who the 102nd Legislature never directed to
16 present the bills.
17 JUDGE PATEL: Is there any authority for that,
18 or just your reading of it?
19 MR. ASHER: Any authority for what, Your
20 Honor? I apologize.
21 JUDGE PATEL: That the work of the 102nd
22 Legislature, that's still -- not pending, but that is
23 still there, doesn't carry over --
24 MR. ASHER: I think --
25 JUDGE PATEL: -- to the 103rd.

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 MR. ASHER: I think Article IV, Section 13 of
2 the Constitution is good authority there. The Attorney
3 General opinion from 1981 to 1982, I think that's number
4 6014, that mentioned that bills pending at the end of an
5 even year do not carry over into an odd year.
6 JUDGE PATEL: But there's a difference between
7 bills that are pending and bills that are passed, right?
8 Because I was looking at that Section 13, and that is
9 the distinction of the language that struck me, and I
10 think it's one that Plaintiffs pointed out as well.
11 There's a difference between legislative work that is
12 pending versus bills that have been passed and have gone
13 through the legislative process and now are awaiting
14 presentment, correct?
15 MR. ASHER: Yeah. And again, I think we just
16 really have to go back to sort of first principles as to
17 what our legislatures are. They are not continuing
18 bodies. Our Constitution has set each Legislature up to
19 last for two one-year sessions. I have not seen a
20 single piece of authority from the Senate that would
21 indicate that anything left over from a prior
22 Legislature has to be presented by a new Legislature. I
23 have not seen anything out there. And again, we're
24 looking at a clearly legal duty to present.
25 And so, thanks to Mr. Lieder right here,

1 Article IV, Section 13 of the Constitution does say that
2 any business, bill, or joint resolution pending at the
3 final adjournment of a regular session held in an
4 odd-numbered year shall carry over with the same status
5 to the next regular session. It does not say the same
6 about bills pending from -- at the end of an
7 even-numbered year. And so --
8 JUDGE PATEL: But we're getting to that --
9 because I think that's something that I would -- I have
10 a question about, what is the difference between pending
11 versus not? Because I think Mr. Brewer's argument in
12 his brief was that these bills were no longer pending,
13 as that's been interpreted previously. Like, this isn't
14 something that had gone halfway through the legislative
15 process, but was waiting more, a final vote or, et
16 cetera. These bills had been passed on by both houses
17 of the Legislature and the only thing left was
18 presentment to the Governor. So then you have this
19 Constitutional section, Section 33, which says, okay,
20 once that legislative process is over, this is what must
21 be done, which is presentment to the Governor. So can
22 you speak at all about pending versus -- my
23 interpretation of pending versus not pending in that
24 circumstance?
25 MR. ASHER: So two responses. I think it's

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 the difference between, one, a bill, which is,
2 obviously, not enacted by the Governor; and two, a law.
3 And I think that sort of folds nicely into the standing
4 analysis here. And so we cited to the Killeen case that
5 says that "once votes which lawmakers are entitled to
6 make have been cast and duly counted, their interest as
7 legislators ceases." And so I don't think there was any
8 dispute here that the votes were cast and counted. But
9 so in the cases cited by the Senate, like Brewer or
10 Campaign For Fiscal Equity, the lawsuits there didn't
11 arise from the Legislatures claiming harm. So in
12 Campaign For Fiscal Equity, the asserted harm was that
13 retaining bills "effectively blocked executive action in
14 approving or vetoing them"; and Brewer involved a
15 lawsuit brought by the Governor asserting the same harm.
16 And so I think that's sort of we're at, the
17 legislative process is over, and if anybody wants to
18 claim harm I think it's -- it would be the Governor who
19 hasn't gotten the bills. But I think there's a very
20 good reason -- first of all, those lawsuits didn't work.
21 JUDGE PATEL: That's open to the standing
22 argument.
23 MR. ASHER: Yeah, yeah. Those lawsuits didn't
24 work that were brought by the Governor, and in fact
25 Brewer noted that the Governor "unnecessarily involved

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 the Court further in this dispute among the political
2 branches." So that's likely one of the several reasons
3 we don't have the Governor sitting at the other side of
4 the table here, not to mention, as we noted, the issues
5 with some of the bills that would prevent them from
6 becoming law even if they were signed by the Governor.
7 I do want to touch on justiciability.
8 Because, again, this -- I think it's pretty telling that
9 this is the first time that we've had one body of the
10 Legislature, that we've seen at least, in this expedited
11 time frame coming to the Court in a dispute that's
12 purely with another body of the Legislature. And I
13 think that shows that this is a legislative dispute, and
14 so the Senate cites the House Speaker case, and we've
15 discussed this, which I generally read their argument to
16 mean that because the case involves an issue of
17 constitutional interpretation, the Judicial Branch
18 should decide it, and it won't involve any infringement
19 on the Legislature. But again, the Senate's not just
20 asking this Court to interpret the Constitution, it's
21 asking this Court to order the House to present a bill
22 in a certain manner, on a certain date, in an area that
23 doesn't say who should do that. And so, as we've noted,
24 the New Jersey Supreme Court found that this involved a
25 non-justiciable political question. The Arizona Court

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 in Brewer denied mandamus in that case, concluding that
2 it was a "good faith dispute" between the political
3 branches of government about the respective roles in
4 Arizona's law making process. And the Senate's really
5 just doing the same thing here. I've seen no authority
6 where one body of the Legislature in Michigan has
7 involved the Court in a dispute like this, in a purely
8 legislative dispute, and as Justice Clement put it in
9 the League of Women Voters, courts do not serve as "the
10 arbiter of disputes solely between branches of
11 government to which it is coequal, not superior."
12 Just briefly, I do want to touch on service of
13 the Speaker and the Senate's arguments there. So the
14 Constitution says that "Senators and Representatives
15 shall be privileged from civil process during sessions
16 of the Legislature." The Senate's only attempt at
17 service was to lead pleadings at the Speaker's office on
18 a day that a Legislature was in session while the
19 Speaker was not there. So this is not an issue of the
20 Speaker seeking to evade service, as the Senate claims,
21 it's an issue of the Senate ignoring that the Speaker
22 was privileged from civil process under the
23 Constitution.
24 And I've raised this defense on behalf of
25 democratic and republican representatives in the past

RECEIVED by MSC 12/8/2025 3:54:29 PM

1 alike, and it's something I'm somewhat surprised that
2 the Senate wants to uproot. If they're right in their
3 reply brief that simply being aware of a lawsuit during
4 a legislative session amounts to service and takes the
5 Senate out of the Constitution's privilege from process,
6 I think we're going to see a lot more Senators and
7 Representatives alike being hauled into the courtroom.
8 And so as the Court of Appeals noted in Cotton
9 versus Banks, the purpose of this privilege from civil
10 arrest and civil process is to "protect legislators from
11 the trouble, worry, and inconvenience of court
12 proceedings during the session, and for a certain time
13 before and after, so the state could have their
14 undivided time and attention to public affairs." And
15 that's really all that naming the Speaker has done here.
16 The Senate concedes on page 7 of its reply that "The
17 Speaker has no role in presentation." And so it's
18 entirely unclear as to why he's been named as a
19 defendant in lawsuit that seeks to compel presentation.
20 JUDGE PATEL: So -- but the Speaker's kind of
21 gone on record in the press to say that he's the one who
22 stopped these bills from being presented.
23 MR. ASHER: The Speaker has gone on record to
24 say, I was reviewing these bills at the time the
25 legislation was approved, correct.

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 JUDGE PATEL: For whatever reason.
2 MR. ASHER: Yes.
3 JUDGE PATEL: Without putting any aspersions
4 on the wheres or whys, but he has inserted himself into
5 the process and stopped the bills from being presented,
6 so --
7 MR. ASHER: Well, so -- but, again, in -- and
8 I'll try not to keep circling back to it, but we're
9 under a mandamus claim, which -- so what the Court has
10 to do, if it finds that there's this clear legal duty
11 that leaves nothing to the exercise of discretionary
12 judgment, it has to compel the officer with that duty to
13 take action. And so what they're claim -- the relief
14 that they're ultimately seeking is to compel somebody,
15 now they're saying it's the Clerk, to present the bills
16 to the Governor. And so regardless of the Speaker being
17 named as a defendant here, he cannot, under their view,
18 grant the relief that they're seeking from him if he has
19 no role in presentment.
20 JUDGE PATEL: What if it's a little broader?
21 What the mandamus is to tell the Legislature to present
22 these bills to the Governor and leave it to their
23 discretion of how that's done?
24 MR. ASHER: I think that's inappropriate for a
25 mandamus claim because you can't leave anything to the

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 discretion or judgment. That's the Garrett versus Berry
2 case that we've cited. I think the mandamus
3 standards -- and again, there's a reason for this, it's
4 called an extraordinary writ, where you're going to
5 compel a state actor to do something. And so we
6 required that everything has to be crystal clear,
7 leaving nothing to the exercise of discretionary
8 judgment. And so I think a mandamus fashioned to that
9 remedy is inconsistent with the mandamus standards.
10 So I think that's all I have, Your Honor. I'm
11 happy to answer any additional questions the Court may
12 have.
13 JUDGE PATEL: I had a question about Speaker
14 Hall's conduct. Do you think that any of this is ultra
15 vires to his role as a Speaker, or is it firmly within
16 the parameters of what he --
17 MR. ASHER: If you're looking at what he's
18 been sued for, for failing to present these bills on a
19 certain date, which, again if his conduct here is ultra
20 vires, then Senator Brinks' conduct an at least 24
21 separate occasions during the last Legislature,
22 withholding bills for the same amount of time or longer,
23 was ultra vires. But I don't think in either instance
24 there's anything improper about the Speaker, and again,
25 this situation has never been litigated before, not come

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 up often, to say, I am looking to see what our
2 obligations are to present here. I think he could very
3 well have been faced with litigation if he did try to
4 present these bills from somebody who said the 103rd
5 Legislature is not permitted to present these bills. So
6 I don't think there's anything ultra vires about him
7 saying, I'm going to think deeply about this, determine
8 what my obligations are, again, the Senate had just
9 waited 84 days so I have some time to do this, and then
10 the Senate springs a law -- authorizes litigation within
11 14 days after. So I think that's wildly consistent with
12 the Senate's past actions. I think the Speaker, by
13 considering what his obligations are to present
14 legislation, is acting solely in his role in the
15 Legislature. Again, that duty, I don't think, falls to
16 him, but for the Speaker to say I'm going to look at
17 when legislation has to be presented, to say that that's
18 ultra vires and falls outside of the legislative realm I
19 think would be inaccurate.
20 JUDGE PATEL: I have a question about Clerk
21 Starr's independent authority. Does he act at the will
22 of the Speaker, or does he have independent authority to
23 present these bills to the Governor?
24 MR. ASHER: So I think if you look at what
25 happened during the 102nd Legislature, I think that's a

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

1 pretty good description of how this would work. So
2 during the 102nd Legislature the Senate Journal shows
3 that the Clerk for the 102nd Legislature was directed to
4 present the bills. And so that's -- for whatever
5 reason, that never happened there. So I think if this
6 was a bill passed during the 103rd Legislature, that's
7 what would happen, is the Clerk of the House for the
8 103rd Legislature would be directed to do this.
9 And so the Constitution -- frankly, Your
10 Honor, that question right there I think sort of shows
11 the lack of clarity in the Constitution as to what the
12 Clerk's role is. I don't anticipate the Clerk just
13 going off and presenting these bills without being told
14 to do so. That's probably inconsistent with the House
15 rules, but again, that's a purely legislative matter,
16 and for us to -- for me to sort of put my -- or for you
17 to sort of put on your Clerk of the House hat and say,
18 what am I going to do here, I think we leave those
19 decisions to the Legislature.
20 JUDGE PATEL: I think we touched on this a
21 little earlier, but I wanted a more pure, I guess,
22 statement from you.
23 What do we do -- if I take your argument, how
24 do you respond to the fact that the language in Section
25 33 is mandatory? What happens?

RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 MR. ASHER: So in the normal instance I don't
2 think this is likely to come up with a current
3 Legislature, because if you have a bill that the current
4 House and the current Senate have both passed, it's
5 unlikely that one body of that Legislature whose, you
6 know, members have passed that legislation are going to
7 hold that bill back. So I don't think this is an issue
8 that's likely to come up in the future or that really
9 presents this big problem.
10 JUDGE PATEL: I'll be honest with you, I'm
11 struggling with your argument that there is a firm
12 demarcation between the 102nd and 103rd Legislature, and
13 that the work done by one doesn't carry over into the
14 next, especially in this context. And so I'm just
15 trying to understand, given --
16 MR. ASHER: Yep.
17 JUDGE PATEL: -- the parameters of your
18 argument, like, how do we make sure that this
19 constitutional provision isn't rendered meaningless?
20 MR. ASHER: So again, Your Honor, we've --
21 there have been several of these cases that have come up
22 from courts around other states where courts -- in the
23 Campaign For Fiscal Equity case, in the Brewer versus
24 Burns case, both of the those courts did find that the
25 current Legislatures did have an obligation to present

RECEIVED by MSC 12/8/2025 3:54:29 PM

1 bills to the Governor. But in each of those instances
2 the Court, again, declined to actually take that step,
3 which the Senate's asking you to do here, and that's for
4 the Judicial Branch to order the Legislative Branch to
5 present to the Executive Branch. That's partly because
6 of the lack of clarity here in Michigan, we're bound by
7 these demanding mandamus standards that you would have
8 to, again, work through all those questions to find a
9 clear legal duty. I think it's partly because it
10 involves, you know, issues that are left to the
11 Legislature to resolve. The Legislature has at its
12 tools, you know, political maneuvering, things that the
13 Legislature can do to resolve this within the
14 Legislature. It's not something that the Court needs to
15 become involved in. And it's, obviously, never
16 presented this major issue, it's never been litigated in
17 Michigan before in nearly 200 years, so I think it's a
18 very simple task for the existing Legislature to present
19 its own bills. That's not a hard thing to do. The
20 Clerk for the 102nd Legislature could have done that,
21 the Senate could have sued the 102nd Legislature if it
22 wanted to.
23 JUDGE PATEL: Could have. But we're working
24 with the constitutional issue before us, and what to do
25 in this situation that we're presented with. So --

RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 MR. ASHER: And that -- oh, go ahead.
2 JUDGE PATEL: Go ahead.
3 MR. ASHER: Yeah. And I think, candidly, Your
4 Honor, I think out of respect for the other judicial
5 branches, I think the best thing for a court to do in a
6 situation like this is what every other court that has
7 been cited in the Senate's briefing, and in our
8 briefing, the New Jersey Supreme Court in Gladden has
9 done, and that's nothing. It's a legislative problem
10 between two bodies of the Legislature to resolve.
11 JUDGE PATEL: I'm going back to the language
12 of Section 33. And we talked about the fact that there
13 isn't a time limit or a time put into the language of
14 the constitutional provision. Now, we talked about
15 possibly reading and the problems with reading a
16 reasonableness requirement into it. Does that argument,
17 then, maybe militate to an interpretation that says it
18 should be immediate, there shouldn't be any delay?
19 MR. ASHER: Can you say that again, Your
20 Honor? I'm sorry.
21 JUDGE PATEL: Yeah. So we were talking about
22 this constitutional provision.
23 MR. ASHER: Yeah.
24 JUDGE PATEL: And we have the issue of the
25 fact that there is no time limit within it. And we

RECEIVED by MSC 12/8/2025 3:54:29 PM

1 talked previously, earlier in your argument, about
2 reading a reasonableness requirement into the
3 constitutional provision to give it effect, and some of
4 the pitfalls that come with maybe reading a
5 reasonableness requirement. What is reasonable, are we
6 going to look at it case by case. Does that then
7 militate towards reading this constitutional provision,
8 to give it effect, to give it teeth, that the time limit
9 should be immediate, that it should be an immediate
10 presentment, and that should be how this provision
11 should be interpreted?
12 MR. ASHER: No. And I think that would,
13 frankly, require the Court to add words into the
14 Constitution that don't exist. And so, again, the cases
15 that I've --
16 JUDGE PATEL: Well, we're talking about words
17 that don't exist, right? We all agree that Section 33
18 doesn't have a time -- it doesn't have who, and it
19 doesn't have what, correct?
20 MR. ASHER: And I think that's dispositive of
21 mandamus right there.
22 JUDGE PATEL: Right. Well, it says the
23 Legislature, it doesn't say specifically who, it says
24 the Legislature, and it doesn't have a time requirement.
25 But we're also not in the business of making an entire

RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 constitutional provision nugatory. So as a Court, if
2 I'm going to be looking at how it would give effect to
3 this constitutional provision, we talked about reading a
4 reasonableness requirement and the pros and cons of
5 that. What about reading a time that it should be
6 immediate?
7 MR. ASHER: I think several courts have
8 rejected that. Again, in Gilbert, "The timing of such
9 presentment is discretionary, and a rule or practice
10 delaying presentment is well within the legislative
11 prerogative." And so I'm not saying that the
12 Constitution is meaningless.
13 JUDGE PATEL: Correct.
14 MR. ASHER: I'm saying we are under a mandamus
15 standard here, where, as you noted, nothing says who,
16 nothing says when. In order for that clear legal duty
17 to exist, that's exactly what there has to be there.
18 And so under -- it's a -- during the, when the
19 Constitution was passed, like, Schedule 15 of that
20 Constitution, I think, is a good example of what the
21 framers could have said there. That says, it shall be
22 "the duty of the Secretary of State forthwith to give
23 notice of such submission to all other officers required
24 to give or publish any notice in regard to a general
25 election. He shall give notice that this Constitution

1 will be duly submitted to the electors at such election.
2 The notice shall be given in the manner required for the
3 election of Governor."
4 And so there we have, you know, the framers of
5 this Constitution very explicitly knew how to direct
6 somebody to do something like that. They chose not to,
7 and I think -- really I think it would be -- to add
8 words into that Constitution in an attempt to give this
9 some teeth or an attempt to find a remedy for the Senate
10 that should not come through the courts, but that should
11 come through the legislative process I don't think is
12 right step. I think the right step is to afford, you
13 know, comity to the legislative branch. Other courts
14 have looked to nearly identical language and said that
15 when there is no timeline to present, that is a sign
16 that it was left to the Legislature for when to do so.
17 And so, again, I mean, I think we're at, you
18 know, somewhere in day 30, day 40 here. Just looking
19 months ago to an 84-day delay in presentment, I think --
20 could the House have come to this Court at day 50 or 60
21 then, I don't think the Court really wants to get
22 involved with this. It should be left to the
23 Legislature to figure out.
24 And Legislatures can reconsider past bills,
25 bills can be unenrolled, and have been, so the Court

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 can't remit that plenary authority. I would add that as
2 well, so -- thanks to Mr. Liedel.
3 JUDGE PATEL: Okay.
4 MR. ASHER: If there's no further questions,
5 Your Honor, I would ask -- as we did note, we did ask
6 for dismissal under I2 as well. I think this is just,
7 frankly, an issue that's ill-fit for a mandamus claim,
8 so we would ask that the case be dismissed.
9 Thank you, Your Honor.
10 JUDGE PATEL: Thank you.
11 MR. BREWER: Some brief rebuttal, if I may,
12 Your Honor.
13 We've heard a lot of rhetoric here this
14 morning about, this is unique, there's no case law that
15 covers it. Let's bring it back to the facts. Never in
16 the history of Michigan has a Speaker of the House
17 unconstitutionally ordered the Clerk not to present
18 bills that were ready to be presented. You don't need
19 to create a reasonableness standard, Your Honor. You
20 don't need to deal with all these hypotheticals.
21 Mandamus is very fact-specific. On these facts, these
22 bills were enrolled, they were ready to be presented on
23 January 8th, and but for the unconstitutional order of
24 the Speaker, they would have been presented. That is
25 clear. You can issue a mandamus order on that basis and

1 not have to deal with these fantastical hypotheticals
2 about, oh, a reasonableness standard, oh, the Court's
3 going to inject itself into the process. All we are
4 asking for is relief on these facts, and they are very
5 clear. Again, these bills would have been presented but
6 for the unconstitutional conduct of the Speaker
7 injecting himself into what should have been a
8 ministerial action by the House Clerk.
9 That's also why the case is ripe, because
10 again, in the history of Michigan we've never had a
11 leader of a legislative body do what the Speaker did
12 here. It's not like these bills are just sitting there.
13 The Speaker actively ordered them not to be presented by
14 the Clerk of the House.
15 Just a couple of other points, if I may, Your
16 Honor. And I think you touched on this. In terms of
17 the timing of presentation, under the Defendants'
18 arguments, every bill that passed the Legislature could
19 be held hostage by the leader of a legislative body. So
20 we're going to have a whole new level of legislative
21 action in this state. It's not going to be enough that
22 bills pass by a majority of both bodies and they go to
23 the Governor. Every bill then can be held hostage under
24 the Defendants' approach to this, and there's no time
25 limit, it never has to happen. There has to be a time

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 limit. But again, Your Honor, here you can focus on
2 exactly what happened with these facts.
3 In terms of alternative relief, the Minarik
4 case is irrelevant. Minarik had to do with whether a
5 circuit court could acquire jurisdiction over a mandamus
6 action simply by relabeling the mandamus action as
7 injunction. The court rules are very clear that we are
8 entitled to alternative relief in the form of
9 declaratory judgment, and permanent injunctive relief,
10 even if there is an alternative remedy.
11 And then finally, Your Honor, what the risk
12 here, I think, is really anti-majoritarian and
13 anti-democratic. These bills passed by a majority of
14 both bodies. And to enable one Legislature, one
15 legislative leader to basically veto these bills, which
16 is the exclusive prerogative of the Governor, is
17 anti-democratic and anti-majoritarian. That is not the
18 process that the delegates of the Constitutional
19 Convention described in Article IV, Section 33, and if
20 you have to fill the interstices, because there may be
21 ambiguity there, the debates make it very clear what
22 those drafters intended. What they did not intend and
23 what they did not anticipate is this extraordinary
24 situation of a major state leader acting
25 constitutionally. That's what mandamus is for, to

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 compel the House Clerk to do their duty here, and that's
2 to present these nine bills. They are ready, there's no
3 reason for delay.
4 Thank you, Your Honor.
5 JUDGE PATEL: Okay. Thank you very much.
6 Thank you both, for your argument. And we
7 will get an opinion to you as soon as possible.
8 Okay. We are adjourned.
9 (The proceeding was concluded at 11:14 a.m.)
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

1 CERTIFICATE OF REPORTER
2
3
4 STATE OF MICHIGAN)
5) SS
6 COUNTY OF MACOMB)
7
8 I HEREBY CERTIFY that I reported
9 stenographically the foregoing proceedings and testimony
10 under oath at the time and place hereinbefore set forth;
11 that thereafter the same was reduced to computer
12 transcription under my supervision; and that this is a
13 full, true, complete and correct transcription of said
14 proceedings.
15
16 Laura Steenbergh
17 ______________________________
18 LAURA J. STEENBERGH, CSR 3707,
19 Notary Public,
20 Macomb County, Michigan
21 My Commission expires: 2/14/14
22
23
24
25

1

102nd 25:23 26:6 28:22 32:18 37:2 41:15 42:9,15,21 51:25 52:2,3 53:12 54:20,21

103rd 22:5,6 26:5,10,18,22 27:5 29:7 31:18 36:24 38:5 41:1,15 42:2,14,25 51:4 52:6,8 53:12

10:00 3:3

11:14 62:9

12 36:24

13 43:1,8 44:1

137 35:11

139 30:20

14 29:7 34:13 36:23 51:11

15 57:19

18 30:5

18-month 35:1

1800s 9:5

19 20:22

1908 16:7

1981 43:3

1982 43:3

1990 25:9

1994 24:18

2

2 41:3

200 54:17

200-year-old 22:11

2024 32:20 42:11

21 37:12

222 36:4

23 32:20 42:11

24 28:24 29:3 37:1 50:20

241 36:5

25 41:1

25-00014 3:6

27 28:23 37:3

287 28:7,10

288 28:10

3

30 9:18 58:18

33 6:8 7:14 8:18,24 9:20 10:23 11:3,6,21 19:20 23:10 34:11 44:19 52:25 55:12 56:17 61:19

375 35:11

4

40 41:2 58:18

46 41:2

5

5 31:4

50 58:20

6

60 58:20

6014 43:4

683 30:20

69 20:25

7

7 40:24 48:16

8

84 28:25 37:4,14 40:6 51:9

84-day 58:19

87 28:7,10

88 28:8

8th 10:14 20:7,18,21 21:4 59:23

A

a.m. 3:3 62:9

abate 9:9,13

abates 8:15,18

absolute 8:17,20 11:1 14:22 15:1

absolutely 23:20

abstract 31:10

accept 29:11

Acker 6:3

acknowledge 17:2

acknowledged 7:12

acknowledges 7:8

acquiescence 18:24

acquire 61:5

act 8:6 51:21

acting 29:12 51:14 61:24

action 12:1,22 30:9 32:16,19 45:13 49:13 60:8,21 61:6

actions 51:12

actively 60:13

actor 50:5

acts 14:21,23 15:2 41:6

actual 13:10

add 33:21 56:13 58:7 59:1

addition 27:12

additional 20:25 50:11

address 3:21

addressed 17:25

adjourn 10:20,21

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

adjourned 7:10 20:24 24:20 25:7 62:8

adjournment 9:4 10:24 11:1 44:3

adjourns 9:1

administrative 15:1

admittedly 41:16

adopted 12:4 14:18 16:16,17 17:9

advisory 31:13,15 39:23,25

affairs 48:14

affidavit 26:18,21

affirmatively 17:22

afford 58:12

afoul 38:2

afternoon 21:4,20

agent 8:7

agents 8:7

agree 38:12 39:10 56:17

ahead 55:1,2

alike 48:1,7

allowance 34:9

allowed 10:6

alter 16:10

alternative 13:9 14:8 17:12 30:10 61:3,8,10

Alternatively 13:6 15:12

ambiguities 16:20

ambiguity 61:21

amending 32:5,11

amendment 15:23

amici 41:4

amicus 13:21 37:1

amount 28:19 50:22

amounts 48:4

ample 32:20

analysis 29:17 38:13 45:4

Anderson 6:20 11:24 12:4

anti-democratic 61:13,17

anti-majoritarian 61:12,17

anticipate 52:12 61:23

apologize 28:5 42:20

App 30:20

appeal 4:4,6

Appeals 12:19 14:18 48:8

approach 12:5 14:19 60:24

approval 6:16

approved 48:25

approving 45:14

arbiter 47:10

area 46:22

argument 7:19 21:3 23:17 26:11 32:9 36:18 37:25 38:4,22 42:1 44:11 45:22 46:15 52:23 53:11,18 55:16 56:1 62:6

arguments 23:1 47:13 60:18

arise 29:5 45:11

arising 9:6

Arizona 12:15,16 35:17 36:5,7 46:25

Arizona's 35:19 36:6 47:4

arrest 48:10

Article 6:8 9:18,20 19:20 23:9 34:11 43:1 44:1 61:19

Asher 3:13,24 4:17,24 5:2,6,14,17,21 22:2,3,8 23:21 24:11 26:14 27:8 28:4,10 29:19 30:13 32:13 33:15 38:4,8,11,14,18,21,25 39:14 40:2 41:8,11,22 42:19,24 43:1,15 44:25 45:23 48:23 49:2,7,24 50:17 51:24 53:1,16,20 55:1,3,19,23 56:12,20 57:7,14 59:4

asks 23:5 36:9,20

aspect 28:15

aspersions 49:3

assembled 20:17,21

assert 15:8

asserted 9:15 45:12

asserting 45:15

assets 14:5

assume 38:7,12

attached 26:21

attaches 9:13

attempt 47:16 58:8,9

attempted 22:14 42:8

attempting 41:25

attention 48:14

Attorney 43:2

Atwood 6:20 11:24

authority 11:8,10 15:25 16:1 24:9,10 26:12 28:2 32:1,2 42:8,17,19 43:2,20 47:5 51:21,22 59:1

authorized 29:8 36:23

authorizes 51:10

averred 20:2

avoid 30:17

awaiting 43:13

award 22:22

aware 12:4 16:14 39:19 48:3

B

back 27:8 31:16,20 43:16 49:8 53:7 55:11 59:15

bankruptcy 14:5

Banks 14:16,18 48:9

bar 29:23

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

barrier 19:17

based 11:21

basically 29:17 61:15

basis 31:18 37:11 42:12 59:25

battle 26:1

bedrock 27:3

begin 3:11

behalf 22:4 47:24

Berry 50:1

big 53:9

bill 6:9,25 7:25 9:16 16:3 22:18,19,25 24:17,22,24 25:4, 6,9,16,18 26:4,6 27:20,22 28:19 31:19 34:15,17 35:8 38:6 39:20 40:13 44:2 45:1 46:21 52:6 53:3,7 60:18,23

bills 6:7,16,25 7:6,9,18 8:9,20, 25 9:3,21,24 10:4,5,11,17,25 11:5,7,12,23 12:9 13:15 15:4, 12,14,16,23 16:24 17:6,10,16 18:17 19:2,22 20:5,22,25 21:5,6,15,18 23:6,11,14,18 24:1,6 25:22,24 26:9,12 27:4, 15,24 28:23,25 31:5 32:14,15, 16,21 33:3,8,13,25 36:4,8 37:3,4,14 38:1 40:19,23 41:21 42:5,10,16 43:4,7,12 44:6,12, 16 45:13,19 46:5 48:22,24 49:5,15,22 50:18,22 51:4,5,23 52:4,13 54:1,19 58:24,25 59:18,22 60:5,12,22 61:13,15 62:2

bind 31:25 32:10

bit 5:1 15:21

blatant 37:22

blocked 45:13

bodies 29:14 31:21 43:18 55:10 60:22 61:14

body 6:19,24 22:11,13,15,16 46:9,12 47:6 53:5 60:11,19

bound 38:23 54:6

bounds 20:9

Bowserman 12:24

branch 22:23,24,25 46:17 54:4,5 58:13

branches 36:11,13 46:2 47:3, 10 55:5

breach 37:22

break 23:8 27:9

Brewer 3:25 4:12 5:9,22 6:1,2 7:21 12:15 15:18,19 16:4 17:8,20,23 18:14,19 19:12,17 20:14 21:10,23 22:1 27:1 35:16 36:18 45:9,14,25 47:1 53:23 59:11

Brewer's 44:11

briefed 3:17 6:20

briefing 22:21 30:14 32:23 55:7,8

briefly 3:24 14:13 47:12

briefs 13:21 37:1

bring 12:1 29:22 59:15

Brinks 3:7

Brinks' 50:20

broader 49:20

brooked 10:3

brooks 34:8

brought 7:15 29:3 32:22,24 35:16 45:15,24

Burns 12:15 35:17 53:24

business 22:16 31:24 32:7 44:2 56:25

C

call 3:5 31:7

called 13:1 50:4

calling 31:1

Campaign 12:18 24:14 25:8, 15 36:19 45:10,12 53:23

candidly 55:3

carry 22:15 42:23 43:5 44:4 53:13

case 3:6 6:13,20 7:25 8:2,3,7 9:6 11:17 12:4,16,18,24 14:16,19,20 17:9 23:2,12 24:13,14 25:5 28:5,17 30:4,14 34:25 35:17,18 37:16,18 39:2, 9 40:9,10,14,21 45:4 46:14,16 47:1 50:2 53:23,24 56:6 59:8, 14 60:9 61:4

case-by-case 37:11

cases 22:21 32:3 36:17 45:9 53:21 56:14

cast 45:6,8

ceases 31:24 45:7

century 11:25

certainty 30:1

cetera 14:25 44:16

Chair 3:7

chance 26:25

change 9:10,12 18:13,25

changed 6:18

chose 58:6

circling 49:8

circuit 61:5

circumstance 44:24

circumstances 12:14

cite 18:22 30:16

cited 10:7 12:12 16:5 22:21 24:13 25:5,8 28:5 30:5,13 32:3 33:12,15 34:25 35:12 45:4,9 50:2 55:7

cites 24:15 46:14

citing 25:14 34:6

civil 47:15,22 48:9,10

claim 14:14 24:4,15 29:21,22, 25 30:3,19,20,22,24 31:8,17 34:1,3 45:18 49:9,13,25 59:7

claiming 45:11

claims 40:21 47:20

clarity 52:11 54:6

clause 6:15 12:2,6,14,17 14:15 15:5,9 16:11,16

clauses 36:2

clear 6:5,6,22 7:20,24 8:13,16, 20 11:13,15,17 13:1 14:6,11, 15 15:23 16:22 17:12 18:16, 21 24:5 26:6,14 29:6,9,10 31:4 33:24 34:5 37:15 39:5 42:13 49:10 50:6 54:9 57:16 59:25 60:5 61:7,21

clears 23:4

Clement 47:8

Clerk 7:4 8:3,8 9:14 11:8 15:3 16:1,25 18:16 19:1,8,23 20:10,12 22:6 26:19,23 27:18 32:18,20 33:4 40:25 41:13,16 42:5,9,14 49:15 51:20 52:3,7, 12,17 54:20 59:17 60:8,14 62:1

Clerk's 21:3 52:12

clerks 9:12

coequal 47:11

colleague 22:4

comity 58:13

Committee 14:24

compel 22:15 29:22 30:8 39:4 48:19 49:12,14 50:5 62:1

complaint 3:15 4:3,20 7:8 40:4,25

complete 10:9

completed 10:11

completely 9:18 19:3 20:9

Con 6:22 7:2 8:9 9:2 10:1,3 16:13,19 19:5 34:7

concedes 48:16

concerned 32:22

concluded 62:9

concluding 47:1

concomitantly 11:15

conditioned 10:23

conduct 50:14,19,20 60:6

confines 39:12

confronted 12:13

confusion 40:24

cons 57:4

consistent 25:20 26:3 51:11

Constitution 6:21 7:17 9:18 12:3,4,7 16:7,8,12,17 17:15 18:5,24 19:4,8,18,25 20:12 23:10,19,22,25 24:16 25:1,21 27:15,16,19 28:3 29:18 31:11 33:21 34:16 35:18,19 36:3,6 37:9 38:3,16 39:8,11,15,18, 22,24 41:14,19 42:12 43:2,18 44:1 46:20 47:14,23 52:9,11 56:14 57:12,19,20,25 58:5,8

Constitution's 35:2 48:5

constitutional 6:14 7:23 13:24 15:22 16:5,20 18:9 32:8 34:8 40:12 44:19 46:17 53:19 54:24 55:14,22 56:3,7 57:1,3 61:18

constitutionally 61:25

Constitutions 35:22,23

construction 18:24

construing 36:1

contemplated 9:1

context 53:14

continue 8:19

continued 12:6 16:10 21:4,20

continuing 31:21 43:17

contrary 22:20

controls 9:21

controversy 13:10 40:1,9,11

convened 21:2,19 26:10,22 27:6 29:7 33:20 36:24

Convention 7:23 18:9 19:18 61:19

Conybeare 6:2

copies 20:20

correct 11:8,11 18:14 19:8 24:2 32:12 43:14 48:25 56:19 57:13

corrections 14:2

correctly 28:11,24

costs 14:1

Cotton 14:16,18 48:8

counsel 3:23 20:20 41:18

counsel's 7:15 27:11

Counselor 7:13

counted 45:6,8

couple 30:18 60:15

court 3:19,20 4:12,21 6:2,11, 13 9:8,22 10:18 11:10,25 12:15,19,20,24 13:8,9,17 14:10,11,18,19,21,23 15:7 16:13,18 22:3,9,12,17 23:2,7, 12,17 24:25 25:8 26:1,17 27:9,12,14,23 28:1,7,12,16,20 30:6,21 33:3 34:1 35:2,7,18, 21 36:8,12 37:7,18,21 39:15, 19 46:1,11,20,21,24,25 47:7 48:8,11 49:9 50:11 54:2,14 55:5,6,8 56:13 57:1 58:20,21, 25 61:5,7

Court's 4:18,23 18:4 26:4 60:2

courtroom 48:7

courts 29:13 34:20 36:1 37:20 40:13 47:9 53:22,24 57:7 58:10,13

covers 59:15

create 27:23 59:19

cross 5:6

crystal 50:6

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

Cuomo 25:5,7,14

current 12:7 16:12,17 20:15 24:1,5 25:22 32:10,13 33:4,23 37:3 42:6 53:2,3,4,25

curtailed 6:18

D

date 20:15 39:21 40:3 46:22 50:19

day 20:21 29:7 47:18 58:18,20

days 28:19,23,25 29:7 32:24 34:13 36:23,24 37:3,4,12,14 40:7,10 51:9,11

deadline 5:13 27:24 29:4 34:19 35:20 36:22 37:8 40:18, 20

deadlines 34:12

deal 5:19 59:20 60:1

deals 9:20

dealt 32:3

debatable 40:2

Debate 14:15 15:5,9

debates 8:10 9:2 10:2 14:25 16:5,19,21 18:9 34:7 61:21

debtors 14:3

decades 7:7 8:23 17:1,4

December 29:1 32:19 42:11

decide 46:18

decisions 16:13 52:19

declaration 24:21

declaratory 13:7,13,16,18 14:10 15:13 30:12,18 61:9

declare 24:25 31:11

declined 25:3,16 36:14 37:21 54:2

decree 25:11

deeply 51:7

defendant 31:5 48:19 49:17

Defendants 4:14 6:6 8:12 9:15,23 11:4 15:15 23:5 41:2

Defendants' 21:2 60:17,24

defense 47:24

defenses 8:11 11:13

defined 27:12

delay 10:3,10 34:8,9 55:18 58:19 62:3

delaying 35:5,14 40:16 57:10

delays 10:6 30:5 35:1

delegate 41:16

delegates 6:22 10:3 12:3 16:13 17:9 19:5,18 61:18

demanding 54:7

demarcation 53:12

Democracy 6:13

democratic 47:25

denied 14:2,4,8 47:1

denies 13:8

deny 4:3,9

describing 16:6

description 52:1

detailed 11:3 13:20 34:12

determination 37:18

determine 28:16 30:22 51:7

devolved 17:10 19:22

devolves 7:24 8:1 16:22

die 10:21

dies 9:16

difference 43:6,11 44:10 45:1

difficult 37:8,23

digesting 18:4

direct 58:5

directed 32:19 42:10,15 52:3, 8

directing 24:23

directive 18:16

discretion 30:2 34:21 39:4 49:23 50:1

discretionary 34:24 35:4,13 40:15 49:11 50:7 57:9

discuss 3:12 17:12

discussed 8:14 14:16,20 16:15 28:12 33:18 37:7 40:23 46:15

discussion 7:23 10:2

dismiss 4:3

dismissal 59:6

dismissed 59:8

dispose 23:2

disposition 3:10 4:10,13,16 5:25

dispositive 56:20

disproportionate 25:12

dispute 13:11 22:13 23:7 26:15 33:19 36:10,13 39:15 41:9,11,25 45:8 46:1,11,13 47:2,7,8

disputed 26:24 27:2

disputes 29:14 47:10

distinction 19:10 43:9

distinguishable 36:6

distinguished 14:21 35:21

drafted 6:23

drafters 61:22

draw 19:9 37:8

due 3:15 4:19

duly 45:6 58:1

duties 30:24

duty 6:7,24 7:3,5,9,12,20,24 8:3,8,13,15,18,20 9:8,10,13

10:1 11:1,13 12:9 13:2,15 15:13 16:22 17:9,11,14 19:2, 21 20:11 21:3 23:12,14,18 24:5 25:2 26:6 27:13 29:5,10, 25 31:18 33:5,24 34:8 38:5 39:6 40:23 41:2,3,4,5,12,13 42:13,14 43:24 49:10,12 51:15 54:9 57:16,22 62:1

Dykema 22:3

E

earlier 41:19 52:21 56:1

effect 23:19 56:3,8 57:2

effectively 45:13

election 57:25 58:1,3

electors 58:1

element 12:8

elements 12:11 13:21

embodying 19:20

emergency 32:22,25

employees 13:25 41:7

empty 13:3

enable 61:14

enacted 45:2

enacting 32:5

encompasses 30:23

end 8:18 9:17 31:23 43:4 44:6

ended 24:21 25:10

enforce 12:1,17,21 13:2 18:5, 20

enforced 9:8

enforcing 13:16,18

enlarged 6:18

enrolled 10:12 20:5 59:22

enter 15:14

entire 41:4 56:25

entitled 6:4 13:7 14:22,25 45:5 61:8

Equity 12:18 24:14 25:8,15 36:19 45:10,12 53:23

established 6:18

evade 47:20

even-numbered 44:7

even-year 9:16

eventuality 38:2

evidence 21:11

exact 21:15

examples 10:8 14:24

exceeding 42:7

exception 8:20 11:6 21:20

exceptions 8:17

exclusive 61:16

excuses 10:6

execute 7:5 17:13

executive 6:17 22:25 45:13 54:5

exemptions 14:4

exercise 30:1 34:23 39:3 49:11 50:7

exercises 11:2

exhibit 26:21

exist 31:24 56:14,17 57:17

existing 54:18

expedited 46:10

expeditious 3:17 5:9

expeditiously 4:2,8

explained 25:8

explicit 34:11

explicitly 26:20 34:21 58:5

expressly 9:20 35:19,25 36:19

extend 23:12 27:13

extends 25:2

extension 5:4

extraordinary 22:24 50:4 61:23

extreme 28:13

F

faced 51:3

fact 9:12 18:9 20:19 21:1,2 26:24 29:10 45:24 52:24 55:12,25

fact-specific 59:21

factor 11:1 17:24 18:2

facts 11:19,22 27:2 59:15,21 60:4 61:2

failed 33:1,3

failing 15:15 40:20 50:18

fails 17:13

faith 36:10 47:2

fall 42:4

falls 41:12,13 51:15,18

fantastical 60:1

fashion 3:18 25:11

fashioned 50:8

Ferency 30:15,19

figure 58:23

file 4:20 5:5,6,10 7:6

filed 40:4

filing 5:4

fill 61:20

final 4:4,5,10,14 44:3,15

finally 11:4 12:23 14:13 61:11

find 15:24 21:11,16 23:9,13,17 31:18 38:15 53:24 54:8 58:9

finding 36:5

finds 49:10

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

finished 32:7

firm 53:11

firmly 50:15

Fiscal 12:18 24:14 25:8,15 36:19 45:10,12 53:23

fit 18:15

fits 29:9

flood 29:13

floor 14:24

focus 34:4 39:1 61:1

folds 45:3

footnote 28:11

force 31:6 33:4

forcing 32:13

form 61:8

format 21:14

Forrester 14:19

forthwith 57:22

forward 17:14

found 36:9 46:24

founded 11:18

frame 46:11

framers 57:21 58:4

frankly 52:9 56:13 59:7

free 18:13

freely 33:7

fundamentally 31:17

future 31:25 32:4 53:8

G

Garrett 50:1

gave 14:23 15:3

general 43:3 57:24

generally 46:15

generate 16:3

ghost 13:1,3 23:19,21

Gilbert 28:6 30:4 34:24 37:17 39:8 57:8

give 4:4,14 56:3,8 57:2,22,24, 25 58:8

giving 5:4 20:10

glad 15:16 35:17

Gladden 28:6 30:4 34:25 37:18 39:9 55:8

good 3:5,9 6:1 22:2,7,8 24:11 36:10 43:2 45:20 47:2 52:1 57:20

Goodman 6:3

Gossett 22:3

government 36:11 47:3,11

Governor 6:7,10 7:1,6,18 8:25 11:2 12:16 15:24 17:7 18:17 19:2,16 20:7,11,23 21:1,5,20 22:19 23:11 24:19,23 25:19, 24 26:9,24 27:5,21 32:8 34:13,18 36:4,11,14 41:21 44:18,21 45:2,15,18,24,25 46:3,6 49:16,22 51:23 54:1 58:3 60:23 61:16

grant 4:5,13,15 15:11 22:9,22 23:4 36:8,14,20 49:18

granted 11:18

granular 34:14

great 5:11,14

ground 23:8 27:9

guarantee 4:22

guess 18:16 52:21

H

halfway 44:14

Hall 14:14,17 15:2

Hall's 50:14

handful 33:15

hands 32:4

happen 52:7 60:25

happened 26:15 39:9 51:25 52:5 61:2

happy 4:20 50:11

hard 54:19

harm 13:23,24 14:6 45:11,12, 15,18

hat 52:17

hauled 48:7

havoc 25:12

heard 8:11 11:4 29:6 37:15 41:13 59:13

HEARING 3:4

hearings 14:24

heavily 24:13

held 6:14 9:8 11:16 28:23 37:3 44:3 60:19,23

Heston 35:11

high 14:1 29:23

highest 12:20

highly 26:24

historical 19:14

history 21:17 22:11 59:16 60:10

hold 28:18 35:3 38:1 53:7

holding 9:9 28:25 37:4,12

honest 53:10

Honor 3:13 4:1 5:22 6:1 7:21 8:13 9:5 12:23 13:6 15:10,16 16:5 17:20 18:19 20:2,20 21:10,14,17,23 22:1,2 24:12 27:10 28:4 29:20 30:14 38:4 41:22 42:20 50:10 52:10 53:20 55:4,20 59:5,9,12,19 60:16 61:1,11 62:4

hoping 15:20

hostage 60:19,23

hours 34:13

House 3:8 6:5 7:3,4,5,25 8:1, 3,7,8 9:14 10:13 11:9,10 12:10 13:15 15:4 16:23 17:10, 11,13,14,16 18:18 19:1,10,15, 22 22:4,6 26:19 29:2 33:5,6 40:19 41:1,6,15 42:3,6 46:14, 21 52:7,14,17 53:4 58:20 59:16 60:8,14 62:1

House's 3:14

houses 42:5 44:16

hundreds 13:25 18:11

hurdles 23:4

hypotheticals 59:20 60:1

I

I2 4:16 59:6

identical 58:14

identify 27:14

ignores 9:25

ignoring 47:21

ill-fit 59:7

illegal 21:6

imagine 37:23 41:24

immediately 10:17 23:6 31:6

immune 14:17 15:4

immunities 15:8

immunity 14:22 15:1

impact 7:19

impediment 19:15

implications 22:20

important 34:19

impose 38:19

imposing 6:23

improper 50:24

inaccurate 51:19

inanimate 8:6

inapplicable 9:19

inappropriate 34:23 40:18 49:24

include 35:20 37:10

includes 34:11 37:4

including 28:25

inconsistent 50:9 52:14

inconvenience 48:11

indefinitely 38:1

independent 51:21,22

indicating 13:14 15:13 35:24

indication 8:13

individuals 9:9,11

inferable 11:18

inferred 11:21

infringement 46:18

inject 60:3

injecting 60:7

injunction 13:17,18 14:7,11 15:14 30:19 61:7

injunctive 13:8,22 30:12 61:9

inserted 49:4

instance 22:17 26:2 28:17,18 34:5 50:23 53:1

instances 28:24 33:12,16,17, 21 37:1 54:1

institution 9:10 16:23

institutions 8:5

intend 61:22

intended 61:22

interest 4:7 14:7 25:13 45:6

interested 20:20

interesting 21:8

interpret 18:5 39:15,18,22 46:20

interpretation 31:11 37:24 39:11 44:23 46:17 55:17

interpreted 35:2 36:3 44:13 56:11

interpreting 19:25

interstices 61:20

intervene 22:12

involve 46:18

involved 23:15 25:6 30:5 36:12 45:14,25 46:24 47:7 54:15 58:22

involvement 32:15,17

involves 46:16 54:10

irrelevant 61:4

irreparable 13:23,24 14:6

issuance 10:17

issue 6:7 13:14,17 14:7,10,12 15:22 24:3,4 26:1 27:22 28:19 32:24 36:10 39:12 46:16 47:19,21 53:7 54:16,24 55:24 59:7,25

issued 15:6

issues 23:1 46:4 54:10

item 3:13

IV 6:8 9:18,20 19:20 23:10 34:11 43:1 44:1 61:19

J

January 10:14 20:7,18,21 21:4 59:23

Jersey 28:7,10 30:6 35:2 40:14 46:24 55:8

job 18:7

joint 44:2

Journal 26:16 52:2

judge 3:5,22 4:9,15,22,25 5:3,

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

8,12,15,18,23 7:13 15:18,20 17:3,18,22 18:2,15 19:7,13 20:14 21:8,22,24 22:7 23:16 24:8 26:8 27:7,23 28:1,9 29:16 30:10 32:2 33:11 37:24 38:7,9,12,15,19,22 39:10,25 41:6,10,17 42:17,21,25 43:6 44:8 45:21 48:20 49:1,3,20 50:13 51:20 52:20 53:10,17 54:23 55:2,11,21,24 56:16,22 57:13 59:3,10 62:5

judgment 5:7 13:7,14,16,19 14:10 15:13 30:2,12 34:24 49:12 50:1,8 61:9

judgments 37:21

judicial 22:23 25:11 39:13 46:17 54:4 55:4

judiciary 37:19

jurisdiction 61:5

Justice 47:8

justiciability 17:21 23:3 46:7

justiciable 33:7 39:11 42:4

K

Killeen 45:4

kind 10:21 20:8 38:19 48:20

King 25:5

knew 58:5

Kyle 22:3

L

labeled 30:25

lack 34:2 36:2,21 52:11 54:6

lacking 13:2

lacks 26:5

laid 36:25

language 7:14,16,22 8:17 9:24 10:23 12:6 15:22 16:11,21 35:3,21 36:6 38:3 43:9 52:24 55:11,13 58:14

lapsed 25:9,18 26:13

lasts 31:22

late 9:5

law 10:7 11:18,19 13:1,3 27:3, 21 32:5 34:18 35:9 45:2 46:6 47:4 51:10 59:14

lawmakers 45:5

lawsuit 29:3 45:15 48:3,19

lawsuits 45:10,20,23

lead 47:17

leader 37:3 60:11,19 61:15,24

League 47:9

learned 3:25

leave 30:1 49:22,25 52:18

leaves 13:3 34:21 49:11

leaving 50:7

left 34:23 35:15 39:3 43:21 44:17 54:10 58:16,22

legal 6:6 7:20 11:17 12:25 16:1 24:5 26:6,11 29:10 33:24 39:6 42:13 43:24 49:10 54:9 57:16

legislation 10:1 26:23 48:25 51:14,17 53:6

legislative 6:19,24 8:16,19,21 9:4 14:21 15:6 17:5 18:7,18, 20,22 20:8,18,23 21:1,12,17 22:24 24:20 35:5 37:19 40:16 42:13 43:11,13 44:14,20 45:17 46:13 47:8 48:4 51:18 52:15 54:4 55:9 57:10 58:11, 13 60:11,19,20 61:15

legislators 9:12 20:15 45:7 48:10

Legislature 6:9,24 7:7,11,22 8:22 9:1,13 10:20,24 16:23 18:7,10,13,25 19:9 20:17,21, 24 21:19 22:5,6,12,13,15,16, 18,20 23:13,14 24:1,2,6,7,18, 19,24 25:2,4,7,10,15,18,22,23 26:5,7,10,13,22 27:6,14,18, 19,20 28:18,21,23 29:7,12,15 30:6,8 31:18,19,22,24,25 32:4,5,10,14,19 33:9,10,13, 14,19,22,24 34:17,22 35:15 36:7,24 37:2,25 38:5,6 39:20 41:1,4,15 42:3,10,15,22 43:18,22 44:17 46:10,12,19 47:6,16,18 49:21 50:21 51:5, 15,25 52:2,3,6,8,19 53:3,5,12 54:11,13,14,18,20,21 55:10 56:23,24 58:16,23 60:18 61:14

legislature's 15:25 18:23 30:8 31:23 37:11

legislatures 31:21 43:17 45:11 53:25 58:24

lens 39:1

letter 13:3

level 60:20

lie 27:2

Liedel 22:4 59:2

Lieder 43:25

limit 55:13,25 56:8 60:25 61:1

limitation 38:20

list 4:25 21:18

listed 21:14

litigated 50:25 54:16

litigation 29:8,13 32:22,25 36:23 51:3,10

live 40:1

located 12:2

long 6:11 9:5 10:4 37:12,13

longer 28:23 37:4 44:12 50:22

looked 32:2 58:14

lot 23:1 48:6 59:13

M

made 7:24 27:24

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

major 54:16 61:24

majority 3:7 37:3 60:22 61:13

make 10:10 17:16,25 19:24 34:10 37:18,20 45:6 53:18 61:21

making 47:4 56:25

mandamus 6:4 7:19 9:6,8 11:20 12:1,8,11,17,22 13:5,8 14:8,12 15:11 24:4 25:25 27:2 29:20,21,24 30:3,18,25 31:1, 8,9,17 34:1,3,22 39:2 40:17, 22 47:1 49:9,21,25 50:2,8,9 54:7 56:21 57:14 59:7,21,25 61:5,6,25

mandate 15:12 30:23 32:8

mandatory 6:17 52:25

maneuvering 54:12

manner 46:22 58:2

Marino 12:19

Mark 6:2

matter 6:3,5 11:19 20:19 23:24 30:25 31:7 39:21 52:15

matters 3:12 26:3

meaningless 53:19 57:12

means 6:12 10:24 31:11 40:17,19

measured 34:13

medical 14:1

meet 31:8 40:20

members 53:6

mention 19:8 46:4

mentioned 8:12 17:21 28:15 34:25 36:22 43:4

mentions 19:9

mere 9:11

merit 11:14

Mich 30:20

Michigan 3:6,7,8 6:11,13 9:6, 22 11:9,24 22:5,14 24:12 26:19 27:3 35:22 47:6 54:6,17 59:16 60:10

Michigan's 22:11 23:10

militate 55:17 56:7

Minarik 30:14 61:3,4

minds 29:12 30:7

ministerial 10:9,11,15 12:9 15:1 20:3 60:8

minute 34:14

minutes 34:14

moment 17:20

months 30:5 37:5,15 58:19

moot 5:18

morning 3:5,9,24 4:1 6:1 21:15 22:2,7,8 59:14

motion 3:4,10,16,20 4:9 5:6, 25 10:21

move 17:14

N

named 48:18 49:17

naming 48:15

nature 30:21 31:2,3

nicely 45:3

non-existent 40:20

non-justiciable 46:25

non-legislative 14:23

noon 20:21,22,24 21:19

normal 53:1

notably 25:1 26:16

note 3:14 59:5

noted 27:16 28:22 35:19 45:25 46:4,23 48:8 57:15

notice 57:23,24,25 58:2

nugatory 57:1

number 3:6 8:11 10:8 12:13 16:13 43:3

numerous 14:24

O

objection 5:3

objects 8:6

obligation 7:5 12:25 18:4,17 24:10 33:5,8 38:23 53:25

obligations 51:2,8,13

obstacle 10:22 11:12

obtrude 37:19

occasions 29:3 50:21

occupying 9:14

occur 13:12 35:24

occurred 33:19

odd 43:5

odd-numbered 44:4

office 9:9,11 21:3 47:17

officer 14:2 29:23 31:7 39:4 49:12

officers 57:23

officials 30:24

one-year 31:22 43:19

open 45:21

operate 16:18

operated 18:11

operating 16:8 17:1,4

operationalized 8:10

opinion 28:12 31:14,15 39:23 43:3 62:7

opposing 3:23 7:15

order 4:4,5,10,14 5:19 10:9, 13,18 15:3,6,11 20:10,13 21:6 24:23 25:18 39:19 46:21 54:4 57:16 59:23,25

ordered 22:17 23:6 31:5 59:17 60:13

ordering 22:24 25:3

originated 6:25 7:25 16:24 17:10,16 19:22

outer 38:23

Owners 11:17

P

pages 25:7

paragraph 40:24 41:1

Paragraphs 41:2

parameters 39:12 50:16 53:17

part 13:15 18:3 20:13 29:17

parties 13:11

partly 54:5,9

party 12:21

party's 4:7

pass 9:16 10:21,25 31:19 40:10 60:22

passage 9:25 35:25

passed 6:9 7:6 9:21 20:5,22 22:19 24:1,6,17 25:22 26:6 27:4,20 33:9,13 34:17 38:6 42:6 43:7,12 44:16 52:6 53:4, 6 57:19 60:18 61:13

passes 8:3

past 28:25 33:3,20,22 47:25 51:12 58:24

PATEL 3:5,22 4:9,15,22,25 5:3,8,12,15,18,23 7:13 15:18, 20 17:3,18,22 18:2,15 19:7,13 20:14 21:8,22,24 22:7 23:16 24:8 26:8 27:7 28:1,9 29:16 30:10 32:2 33:11 37:24 38:7, 9,12,15,19,22 39:10,25 41:6, 10,17 42:17,21,25 43:6 44:8 45:21 48:20 49:1,3,20 50:13 51:20 52:20 53:10,17 54:23 55:2,11,21,24 56:16,22 57:13 59:3,10 62:5

pending 42:22 43:4,7,12 44:2, 6,10,12,22,23

pension 14:3

perfectly 29:9

perform 30:24

performed 10:15

period 32:25

permanent 13:7,18,22 14:10 15:14 61:9

permissible 13:17

permitted 51:5

piece 26:23 43:20

pitfalls 56:4

place 5:15

Plainly 13:10

Plaintiff 5:24

Plaintiffs 6:3,4 24:21 30:11 43:10

Plaintiffs' 3:9 14:7 23:17 33:12 41:18

plausible 40:11

play 28:13

plead 13:9

pleaded 30:11

pleadings 4:1 13:20 14:17,20 16:6 17:25 18:21 47:17

pled 13:6

plenary 59:1

point 4:14 12:23 18:8 24:8 26:15 27:17 36:21 40:22

pointed 33:17 34:1 43:10

pointing 37:17

points 60:15

political 15:21 18:6 20:3,4,8 28:15 29:14 36:10,13 37:20 46:1,25 47:2 54:12

portion 12:3

position 9:14 27:4 29:11 34:6 37:8

possibly 55:15

power 8:24 11:2

powers 28:20 37:22

practice 7:7,11 8:22 18:22 35:4,15 57:9

precedent 9:21 19:14

precision 29:25 34:2

preliminary 3:11

prepared 5:5,10

prerogative 35:6 40:17 57:11 61:16

prescribes 35:9

present 6:7,25 7:22 8:8 13:15 15:4,14,15 16:2,3,22 18:17 19:2 20:11 22:18,25 23:6,11, 14,18 24:1,6,16,24 25:4 26:6, 23 27:15,22 31:5 32:8,16,21 33:3,8,24 34:8,22 35:20 36:8 37:14 38:1,6 39:20 40:18,23 42:5,10,16 43:24 46:21 49:15, 21 50:18 51:2,4,5,13,23 52:4 53:25 54:5,18 58:15 59:17 62:2

presentation 6:16 9:3 10:10, 22 11:12 17:17 19:24 27:11 40:5 48:17,19 60:17

presentations 21:19

presented 6:10 7:9 8:21,25 9:25 10:5,12,14,17,25 11:7,23 12:9 15:24 20:7,23,25 21:7, 15,16 24:19,22 25:6,16,19,24 26:9,12,18 27:1,5,21,25 31:19 33:13 34:15,17 35:8,10 40:13 43:22 48:22 49:5 51:17 54:16, 25 59:18,22,24 60:5,13

presenting 17:6 19:15 21:5 41:20 52:13

presentment 6:15 11:16 12:2, 6,14,17,21 13:12 15:12 16:11,

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

16 34:16 35:1,4,5,13,14,24 36:1,4 37:5 40:15,16 43:14 44:18,21 49:19 56:10 57:9,10 58:19

presentment's 24:25 37:9

presents 7:18 34:3 53:9

press 48:21

presumed 16:14,15

pretty 17:12 24:13 34:6 46:8 52:1

prevent 41:20 46:5

prevents 17:6

previous 10:20 16:12

previously 44:13 56:1

primarily 34:7

principles 31:20 43:16

print 10:4

prior 20:22 22:19 24:6 25:15, 18 26:4 31:19 33:9,14 38:6 43:21

private 12:21

privilege 48:5,9

privileged 15:5 47:15,22

privileges 15:8

problem 53:9 55:9

problematic 28:19

problems 11:5,7,9,11 28:13 55:15

procedure 6:17 16:4,7,25 17:3,15 18:10 19:19

procedures 16:2,14

proceed 5:16,24

proceeding 62:9

proceedings 14:5 48:12

process 16:9,10 37:20 40:5 43:13 44:15,20 45:17 47:4,15, 22 48:5,10 49:5 58:11 60:3 61:18

prohibiting 15:15

prolong 4:6

prompt 36:3

promptly 36:7

proper 42:1

Property 11:17

proposition 24:9

pros 57:4

protect 14:4 48:10

protected 14:14

provision 9:19 23:19,22 40:12 53:19 55:14,22 56:3,7,10 57:1,3

provisions 6:14 12:1

public 9:9,11 13:25 14:7 48:14

publish 57:24

pure 38:2 52:21

purely 29:14 31:13 46:12 47:7 52:15

purpose 48:9

put 16:16 28:14 47:8 52:16,17 55:13

puts 37:7

putting 49:3

Q

qualified 6:19

question 7:13 15:21 25:9 26:8 29:2 33:23,25 40:8 41:18,23 44:10 46:25 50:13 51:20 52:10

questions 15:17 17:18,23 18:1 50:11 54:8 59:4

queue 10:4

quick 30:16

R

raised 47:24

read 23:25 27:18 28:2 29:17 36:7 46:15

reading 24:3 29:16 39:7 40:12 42:18 55:15 56:2,4,7 57:3,5

ready 5:24 10:12 11:23 20:6 59:18,22 62:2

real 30:16

realm 18:6,7 51:18

reason 5:19 10:16 33:1,2 42:12 45:20 49:1 50:3 52:5 62:3

reasonable 10:9 28:18,21 56:5

reasonableness 28:2,14 55:16 56:2,5 57:4 59:19 60:2

reasons 13:4,13 14:9 15:10 34:20 46:2

rebuttal 21:25 59:11

recall 28:11,24

recognized 11:25 12:10,15, 20,24 35:25

reconsider 58:24

record 7:2 20:19 21:12 48:21, 23

refer 28:4

referred 17:21

reflecting 18:23

refusal 24:15 26:4

regard 57:24

regular 44:3,5

regulate 6:15

reject 12:5

rejected 36:19 57:8

relabeling 61:6

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

relates 36:22

relied 24:13

relief 4:3,5 13:8,22 22:8,22 23:4 26:2 27:23 30:11,12,19, 23 31:2,3 36:8,14,20 49:13,18 60:4 61:3,8,9

remedy 14:8 25:12 33:3 50:9 58:9 61:10

remit 59:1

rendered 5:18 53:19

Rental 11:16

repeatedly 7:2

reply 31:4 41:3 48:3,16

reposes 8:14

representatives 3:8 6:6 22:5 26:20 47:14,25 48:7

represented 11:14

republican 47:25

requested 24:21 25:11 30:22, 23 36:15

require 23:25 36:7 37:20 56:13

required 13:21 24:25 29:24 37:9 40:5 50:6 57:23 58:2

requirement 28:2 36:2 55:16 56:2,5,24 57:4

requires 23:10 27:15 34:12 35:8

requiring 31:12 36:3

research 22:10

resolution 44:2

resolve 16:19 54:11,13 55:10

resolved 4:2,8

respect 55:4

respective 47:3

respond 23:16 52:24

response 3:14,16 4:19,23 23:24 26:22 29:4,9 33:11 35:1 36:25

responses 23:23 44:25

rest 8:23

resulted 32:23

resuscitate 26:4

Resuscitation 25:10

retaining 45:13

reviewing 40:5 48:24

rhetoric 59:13

ripe 37:16 40:21 60:9

ripeness 23:3 36:22

rises 39:6

risk 61:11

role 39:13 48:17 49:19 50:15 51:14 52:12

roles 47:3

Rowan 6:2

rule 25:21 35:4,14 57:9

ruled 6:11

rules 4:12 11:9 12:10 13:9 15:25 17:5 18:13,18,20,22,25 19:1,3 33:5,6,8 41:15 42:3,13 52:15 61:7

ruling 4:18 38:9

run 38:2

S

satisfied 12:11 13:22

satisfies 12:7

Schedule 57:19

Scott 26:18 40:25

Secretary 7:4 8:2 16:24 19:23 30:15,20 57:22

section 6:8 7:14,16 8:18,24 9:17,18,20 10:23 11:3,6,21 19:20 23:10 34:11 35:8 43:1,8 44:1,19 52:24 55:12 56:17 61:19

seek 31:15

seeking 47:20 49:14,18

seeks 48:19

sees 18:15

Senate 3:6,7 7:4 8:2 11:15,20 12:7 13:4 16:25 17:6 19:10,23 22:9 23:4,5 24:13,15,17 25:17 26:16 27:17 28:22 30:17 31:4 32:21 33:1 34:6 35:16 36:9, 17,20,23 37:2,13,14 39:7 40:7 41:20,23,25 42:4,6 43:20 45:9 46:14 47:20,21 48:2,5,16 51:8,10 52:2 53:4 54:21 58:9

Senate's 22:20 23:1 39:17 40:25 41:3 46:19 47:4,13,16 51:12 54:3 55:7

Senator 50:20

Senators 47:14 48:6

separate 28:24 33:23 50:21

separation 28:20 37:22

serve 47:9

service 47:12,17,20 48:4

session 8:16,19 9:4,16,17 10:20 20:15,23 21:2 24:20 25:10 26:13 44:3,5 47:18 48:4,12

sessions 7:10,11 31:22 43:19 47:15

set 18:17 29:25 33:7 43:18

shows 46:13 52:2,10

side 46:3

sidestep 31:1

sign 58:15

signed 46:6

silent 7:17 17:15 19:1,3 27:16 28:3

similar 12:14 24:17 33:18 35:3

simple 54:18

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

simply 21:11 31:25 34:10,18 48:3 61:6

sine 10:20

single 22:21 26:23 43:20

sitting 46:3 60:12

situation 25:14 32:6 50:25 54:25 55:6 61:24

situations 40:9

so-called 11:6

society 25:13

society's 25:13

solely 47:10 51:14

someone's 22:14

sort 24:16 27:3,8 39:23 43:16 45:3,16 52:10,16,17

speak 44:22

Speaker 10:13,19 14:13,17 15:2,7 20:9,13 21:6 40:3,4 41:5 46:14 47:13,19,20,21 48:15,17,23 49:16 50:13,15, 24 51:12,16,22 59:16,24 60:6, 11,13

Speaker's 47:17 48:20

specific 9:19

specifically 56:23

Speech 14:14 15:5,8

sphere 15:7 20:3,8

spoken 3:22

springs 51:10

stability 25:13

Stand 6:12

standard 28:14 29:21 39:3,6 57:15 59:19 60:2

standards 25:25 30:18 31:1,9, 14 50:3,9 54:7

standing 23:3 45:3,21

Starr 26:18 40:25

Starr's 51:21

start 23:9

state 12:3,20 13:23,25 14:3 29:22 30:15,20,24 31:6 35:10, 22 36:1 39:4 48:13 50:5 57:22 60:21 61:24

statement 52:22

states 9:7 10:7,8 12:13 14:19 53:22

stating 24:22 35:22 37:21

status 44:4

statutes 32:11 38:16

step 22:24 25:3 37:10 54:2 58:12

Steve 22:4

stopped 48:22 49:5

struck 43:9

struggling 53:11

submission 57:23

submitted 58:1

submitting 3:20

subsequent 7:10 8:15 9:3

sued 36:24 50:18 54:21

suffering 14:1

suggested 9:23 10:19

summary 3:10,16 4:9,13,15 5:7,25 20:19 21:11

superior 47:11

support 24:9 32:1 36:18

Supreme 6:11,13 9:7,22 11:10,24 12:15,24 14:19 28:7 35:2,7 46:24 55:8

surprised 48:1

Sutherland 35:12

sworn 20:15 26:10

T

table 36:25 46:4

takes 48:4

taking 24:3

talk 7:2 8:24 14:13 15:21

talked 33:6 55:12,14 56:1 57:3

talking 55:21 56:16

task 41:16 54:18

tasks 10:9,15

technical 11:5,7,8,11

technically 3:15 4:19

teeth 23:20 56:8 58:9

telling 36:16 46:8

temporal 35:20 36:21

tender 21:13

terms 7:20 38:22 60:16 61:3

test 17:24 18:3

text 6:8,21,23 8:23 9:2,25 11:21 19:4,6,7 27:18 38:15

that'll 4:5

thing 4:5 39:16 44:17 47:5 54:19 55:5

things 54:12

Thompson 9:7

thought 41:22

thousands 13:25

tie 32:4

time 5:1 10:6,9,15 21:16 22:10,14 27:13 28:3 32:20,25 35:9,25 36:2 46:9,11 48:12, 14,24 50:22 51:9 55:13,25 56:8,18,24 57:5 60:24,25

timeline 58:15

times 21:18

timing 34:5 35:3,13,23 40:15

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MCOA 3/13/2025 5:12:36 PM

57:8 60:17

today 22:9 27:17 35:17 41:12, 24

told 52:13

tolerate 25:14

tomorrow 3:15,20 4:18,19,23 5:5,11

tools 54:12

touch 46:7 47:12

touched 27:10,11 52:20 60:16

transpose 42:14

treat 4:21

treatises 34:20

treatment 5:9

triggers 10:1

trouble 48:11

true 14:21 34:10

U

ultimately 49:14

ultra 50:14,19,23 51:6,18

Um-hum 17:22

unaware 22:17

uncertainty 34:2

unclear 48:18

unconstitutional 10:13 15:3 20:13 59:23 60:6

unconstitutionally 59:17

uncontroverted 11:19,22

understand 4:13 18:2 53:15

understanding 8:9 16:9 17:8 18:12,23 19:5,21

understood 6:23 8:22 17:15

undivided 48:14

unenforceable 12:25

unenrolled 58:25

unique 59:14

United 9:7 14:18

unlike 35:18

unnecessarily 36:12 45:25

unprecedented 22:10

upheld 11:10

uphill 26:1

uproot 48:2

urge 15:7

V

Verified 7:8

versus 3:7 9:7 12:19 25:5 28:6 30:4,15,19 34:24 35:10,16 37:17 39:8 43:12 44:11,22,23 48:9 50:1 53:23

veto 6:16 8:24 11:2 61:15

vetoing 45:14

view 49:17

viewing 39:2

violated 29:5

violates 24:16

violating 41:5

violation 13:24 40:19

vires 50:15,20,23 51:6,18

Virginia 35:7,11

vote 32:14 44:15

voters 16:17 47:9

votes 45:5,8

voting 14:25

W

waited 40:7 51:9

waiting 44:15

walked 20:6

wanted 3:21 4:21 52:21 54:22

ways 23:2,8

West 35:7,11

whatsoever 32:15 34:9

wheres 49:4

whoever's 9:14

whys 49:4

wildly 51:11

Winnie 3:7

withhold 25:22

withholding 50:22

Women 47:9

word 3:19

words 33:21 56:13,16 58:8

work 42:21 43:11 45:20,24 52:1 53:13 54:8

working 38:16 54:23

worry 48:11

wreak 25:12

writ 50:4

wrote 19:6,20

Y

year 43:5 44:4,7

years 18:11 31:23 54:17

York 12:19 24:14 25:5 26:4

York's 24:18 25:1

RECEIVED by MSC 12/8/2025 3:54:29 PM
RECEIVED by MCOA 3/13/2025 5:12:36 PM

Exhibit 14

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

HOUSE RESOLUTION NO. 41

Rep. Smit offered the following resolution:

1 A resolution to direct the Clerk of the House of
2 Representatives to only present to the Governor enrolled House
3 bills finally passed by both houses of the One Hundred Third
4 Legislature.

5 Whereas, Article IV, Section 13 of the Michigan Constitution
6 states, in part, that "The legislature shall meet at the seat of
7 government on the second Wednesday in January of each year at
8 twelve o'clock noon. Each regular session shall adjourn without
9 day, on a day determined by concurrent resolution, at twelve
10 o'clock noon"; and

11 Whereas, The second regular session of the One Hundred Second
12 Legislature adjourned for the last time on January 1, 2025; and

13 Whereas, Pursuant to the requirements of Article IV, Section
14 13 of the Michigan Constitution, the Representatives-elect to the

RECEIVED by MSC 12/8/2025 3:54:29 PM

1 House of Representatives for the One Hundred Third Legislature
2 assembled in Representative Hall in the Capitol at Lansing on
3 Wednesday, January 8, 2025, at 12 o'clock noon for the purpose of
4 taking and subscribing to the constitutional oath of office and
5 organizing and proceeding with the business of the first regular
6 session of the One Hundred Third Legislature; and
7 Whereas, Article IV, Section 13 of the Michigan Constitution
8 also states that "Any business, bill or joint resolution pending at
9 the final adjournment of a regular session held in an odd numbered
10 year shall carry over with the same status to the next regular
11 session"; and
12 Whereas, The implication of this final sentence of Article IV,
13 Section 13 of the Michigan Constitution is that any business
14 pending at the final adjournment of a regular session held in an
15 even-numbered year does not carry over to the next regular session
16 of a new Legislature; and
17 Whereas, The business of a Legislature includes the
18 presentation to the Governor of enrolled bills that have passed
19 both houses of that Legislature; and
20 Whereas, The business of the One Hundred Second Legislature
21 pending at the final adjournment of that Legislature on January 1,
22 2025, did not carry over to the first regular session of the One
23 Hundred Third Legislature; and
24 Whereas, Until the House of Representatives for the One
25 Hundred Third Legislature was organized, under Section 4 of 1877 PA
26 67, MCL 4.44, it was the duty of the Clerk of the House of
27 Representatives for the preceding House of Representatives, being
28 the House of Representatives of the One Hundred Second Legislature,
29 to "call to order and preside over the house until a speaker, or

RECEIVED by MSC 12/8/2025 3:54:29 PM

1 speaker pro tempore, is elected," and to "act as clerk of the house
2 until his successor is elected"; and
3 Whereas, By unanimously adopting House Resolution 3 of 2025 on
4 January 8, 2025, the House of Representatives elected Scott E.
5 Starr to the office of Clerk of the House of Representatives for
6 the One Hundred Third Legislature, ending the duties of the Clerk
7 of the House of Representatives for the One Hundred Second
8 Legislature; and
9 Whereas, Article IV, Section 16 of the Michigan Constitution
10 provides, in part, that "Each house . . . shall choose its own
11 officers and determine the rules of its proceedings"; and
12 Whereas, By adopting House Resolution 1 of 2025 on January 8,
13 2025, the House of Representatives prescribed the Standing Rules of
14 the House of Representatives for the One Hundred Third Legislature,
15 in accordance with Article IV, Section 16 of the Michigan
16 Constitution; and
17 Whereas, In the One Hundred Third Legislature, the House of
18 Representatives and the Senate have not adopted any joint rules;
19 and
20 Whereas, Rule 19 of the Standing Rules of the House of
21 Representatives for the One Hundred Third Legislature provides, in
22 part, that "When a House bill has been finally passed by the two
23 houses, the Clerk shall present to the Governor an enrolled copy
24 thereof." Because these rules were adopted for the One Hundred
25 Third Legislature, this provision of Rule 19 only applies to House
26 bills finally passed by both houses of the One Hundred Third
27 Legislature; and
28 Whereas, Nothing in the Standing Rules of the House of
29 Representatives for the One Hundred Third Legislature permits the

1 Clerk of the House of Representatives for the One Hundred Third
2 Legislature or any other officer of the House of Representatives
3 for the One Hundred Third Legislature to conduct the business of
4 the One Hundred Second Legislature or any other prior Legislature
5 by presenting to the Governor a bill that passed both houses of a
6 prior Legislature but that has not passed both houses of the One
7 Hundred Third Legislature; and
8 Whereas, After the convening of the One Hundred Third
9 Legislature, presentation to the Governor of any bills passed by
10 both houses of the One Hundred Second Legislature, or the conduct
11 of any other business relating to the One Hundred Second
12 Legislature or its bills, would not be in compliance with the
13 Standing Rules of the House of Representatives for the One Hundred
14 Third Legislature; and
15 Whereas, Given the accountability of this House of
16 Representatives to the voters who elected its members, it is
17 imperative that its rules of procedure be adopted by a majority of
18 its members and that those rules be administered in a manner that
19 reflects the will of a majority of the members of this House of
20 Representatives; now, therefore, be it
21 Resolved by the House of Representatives, That the Clerk of
22 the House of Representatives is hereby directed to only present to
23 the Governor enrolled House bills finally passed by both houses of
24 the One Hundred Third Legislature; and be it further
25 Resolved, That copies of this resolution be transmitted to the
26 Clerk of the House of Representatives, the Governor, and the
27 President of the Senate.

RECEIVED by MSC 12/8/2025 3:54:29 PM

Exhibit 15

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

29TH DISTRICT
P.O. BOX 30036
LANSING, MI 48909-7536
PHONE: (517) 373-1801
FAX: (517) 373-5801
senwbrinks@senate.michigan.gov

Winnie Brinks
SENATE MAJORITY LEADER
MICHIGAN SENATE

March 17, 2025

Hon. Matt Hall, Speaker
Michigan House of Representatives
100 N. Capitol Ave.
Lansing, MI 48933

Hon. Scott Starr, Clerk
Michigan House of Representatives
100 N. Capitol Ave.
Lansing, MI 48933

Re: *Michigan Senate et al. v. Michigan House of Representatives et al.*
Court of Claims Case No. 25-000014-MB

Dear Speaker Hall and Clerk Starr,

I am writing to demand that you comply with the February 27, 2025, Declaratory Judgment in this case and present House Bills 4177 and 4665–4667 of 2023 and House Bills 4900–4901, 5817–5818, and 6058 of 2024 to the Governor by March 19, 2025. Alternatively, you can deliver the original bills to the Secretary of the Senate, who will present them to the Governor.

Please be aware that if you do not present, or provide the bills to the Secretary to present, we will seek enforcement with the Court of Claims. I look forward to hearing from you on how you intend to proceed.

Sincerely,

Winnie Brinks
Senate Majority Leader
29th District

Recycled Paper

Exhibit 16

RECEIVED by MSC 12/8/2025 3:54:29 PM

RECEIVED by MSC 12/8/2025 3:54:29 PM

SENATE RESOLUTION NO. 20

Senator Brinks offered the following resolution:

1 A resolution to amend the Standing Rules of the Senate.

2 Resolved by the Senate, That Rule 1.114 of the Standing Rules
3 of the Senate be hereby amended to read as follows:

4 1.114 ENROLLMENT OF BILLS AND PRESENTATION TO THE GOVERNOR

5 a) After a Senate bill has passed both houses, the Secretary
6 of the Senate shall attend to the enrollment printing of the bill.
7 The Secretary of the Senate shall present the enrolled bill to the
8 Governor and obtain a receipt verifying the exact date and time the
9 bill was deposited in the Executive Office.

10 b) Unless otherwise ordered by the Senate, the Secretary of
11 the Senate may enroll a Senate bill while the Senate is not in
12 session if that bill has passed both houses and no action is
13 pending on the bill. If the only action pending on such a bill is
14 the granting of immediate effect, and the Senate has adjourned sine

RECEIVED by MSC 12/8/2025 3:54:29 PM

1 die, immediate effect shall not be given, and the Secretary shall
2 enroll the bill. The Secretary of the Senate shall notify the
3 Senate of such action on the next Senate legislative day.
4 c) When a Senate bill is approved by the Governor, the
5 Secretary of the Senate shall obtain a receipt from the Executive
6 Office verifying the exact date and time the bill was filed with
7 the Secretary of State. At the end of each year, the Secretary of
8 the Senate shall deposit with the Secretary of State the official
9 printed copy of the Senate bill as passed by both houses and obtain
10 a receipt.
11 **d) If a House bill has passed both houses, if the House**
12 **previously enrolled that bill, and if the House provides that bill**
13 **to the Senate for the purpose of presentation to the Governor, the**
14 **Secretary of the Senate shall present the enrolled bill to the**
15 **Governor and obtain a receipt verifying the exact date and time the**
16 **bill was deposited in the Executive Office.**

Exhibit 17

RECEIVED by MSC 12/8/2025 3:54:29 PM

Order

Michigan Supreme Court
Lansing, Michigan

April 2, 2025

168269 & (10)(15)

Elizabeth T. Clement,
Chief Justice

Brian K. Zahra
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas,
Justices

RECEIVED by MSC 12/8/2025 3:54:29 PM

SENATE and SENATE MAJORITY LEADER,
Plaintiffs-Appellants,

v

SC: 168269
COA: 374786
Ct of Claims: 25-000014-MB

HOUSE OF REPRESENTATIVES and HOUSE CLERK,
Defendants-Appellees,

and

HOUSE SPEAKER,
Defendant.

____/

On order of the Court, the motion for immediate consideration and the motion of the Service Employees International Union, American Federation of State, County and Municipal Employees, American Federation of Teachers Michigan, Michigan Education Association, Michigan Nurses Association, and the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America to file a brief amicus curiae are GRANTED. The amicus brief submitted on March 28, 2025, is accepted for filing. The application for leave to appeal prior to decision by the Court of Appeals is considered, and it is DENIED, because the Court is not persuaded that the questions presented should be reviewed by this Court before consideration by the Court of Appeals. However, we ORDER the Court of Appeals to expedite its consideration and resolution of this case.

a0402

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 2, 2025

Clerk