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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

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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.

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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.

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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.

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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

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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.

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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.

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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

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- 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

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- 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

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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

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- 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

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- 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

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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.

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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.

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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

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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

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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

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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

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[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).

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(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:

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> 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

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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*

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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

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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

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> 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).

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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.

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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

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.

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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.

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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.

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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*

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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

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> 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

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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

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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

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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.

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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.

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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*).

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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."

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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,*

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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

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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).

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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

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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.

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> 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.

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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.

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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

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> 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*).

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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

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Respectfully submitted,

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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
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