

No. 14
STATE OF MICHIGAN
Journal of the Senate
101st Legislature
REGULAR SESSION OF 2021

Senate Chamber, Lansing, Tuesday, February 23, 2021.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor Garlin D. Gilchrist II.

The roll was called by the Secretary of the Senate, who announced that a quorum was present.

Alexander—present
Ananich—present
Barrett—present
Bayer—present
Bizon—present
Brinks—present
Bullock—present
Bumstead—present
Chang—present
Daley—present
Geiss—present
Hertel—present

Hollier—present
Horn—present
Irwin—present
Johnson—present
LaSata—present
Lauwers—present
MacDonald—present
McBroom—present
McCann—present
McMorrow—excused
Moss—present
Nesbitt—present

Outman—present
Polehanki—present
Runestad—present
Santana—present
Schmidt—present
Shirkey—present
Stamas—present
Theis—present
VanderWall—present
Victory—present
Wojno—present
Zorn—present

Senator Lana Theis of the 22nd District offered the following invocation:

Dear Lord, thank You. Thank You for the opportunity for leadership. Please help us to hear Your will, to speak it, and to operate within it. I thank You for all of our constituents. I pray for their health and their safety and I pray for the health and safety of all of my colleagues. Help us to first seek You, help us to first seek Your will, and help us to understand what that means as we move forward through our day. It is so easy to get off track. And what we meant to say, God, was thank You for all the blessings and all the benefits within our lives.

I pray these things in the name of our Lord Jesus Christ. Amen.

The President, Lieutenant Governor Gilchrist, led the members of the Senate in recital of the *Pledge of Allegiance*.

Senators Hollier, Outman and Moss entered the Senate Chamber.

Motions and Communications

Senator Lauwers moved that Senators Shirkey and Schmidt be temporarily excused from today's session. The motion prevailed.

Senator Chang moved that Senator Bullock be temporarily excused from today's session. The motion prevailed.

Senator Chang moved that Senator McMorrow be excused from today's session. The motion prevailed.

The following communications were received:
Office of Senator Stephanie Chang

February 18, 2021

Per Senate Rule 1.110(c) I am requesting that my name be added as a co-sponsor to Senate Bill 0002 which was introduced on January 13, 2021 and was referred to the Senate Committee on Economic and Small Business Development.

February 18, 2021

Per Senate Rule 1.110(c) I am requesting that my name be added as a co-sponsor to Senate Bill 0123 which was introduced on February 10th, 2021 and was referred to the Senate Committee on Environmental Quality.

February 18, 2021

Per Senate Rule 1.110(c) I am requesting that my name be added as a co-sponsor to Senate Bill 124 which was introduced on February 10th, 2021 and was referred to the Senate Committee on Environmental Quality.

Sincerely,
Stephanie Chang
State Senator, District 1

The communications were referred to the Secretary for record.

Senator Schmidt entered the Senate Chamber.

Messages from the Governor

Senators Shirkey and Bullock entered the Senate Chamber.

The following message from the Governor was received on February 20, 2021, and read:

EXECUTIVE ORDER
No. 2021-3

Declaration of State of Energy Emergency

Extreme cold across most of the Central United States caused by an arctic air mass, coupled with people spending more time at home due to the global pandemic, has created a strong demand for home heating fuel.

At the same time, these conditions have caused longer delivery times. Heavy snowfall has produced hazardous road conditions and increased demand has led to longer wait times at supply and distribution terminals. As a result, many drivers are nearing or reaching maximum weekly driving and on-duty limits, which are set by federal and state law in 49 CFR Part 395, and adopted in Public Act 181 of 1963, MCL 480.11 *et seq.* In short, while supply is available, the current weather event has hindered distribution of that supply.

At present, Michigan's neighboring states and a majority of states in the nation are under some form of federal or state energy emergency declaration due to the extreme weather event.

Under Public Act 191 of 1982, "the governor may declare, by executive order...a state of emergency...upon the governor's own initiative if the governor finds that an energy emergency exists or is imminent." MCL 10.83(1). An "energy emergency" means a "condition of danger to the health, safety, or welfare of the citizens of this state due to an impending or present energy shortage." MCL 10.81(b). Moreover, an "energy shortage" means a "lack of adequate available energy resources in the state, or any part of the state." MCL 10.81(e).

Among other powers, during a declared state of energy emergency, the governor may issue an executive order to "suspend a statute or an order or rule of a state agency or a specific provision of a statute, rule, or order, if strict compliance with the statute, rule, or order or a specific provision of the statute, rule, or order will prevent, hinder, or delay necessary action in coping with the energy emergency." MCL 10.84(c).

Therefore, acting under the Michigan Constitution of 1963 and Michigan law, including 1982 PA 191, MCL 10.81 to 10.87, I order the following:

1. A state of energy emergency is declared across the State of Michigan.
2. Motor carriers and drivers transporting propane and heating oil are exempt from compliance with MCL 480.11a and any other applicable state statute, order, or rule substantially similar to MCL 480.11a, and 49 CFR Part 395. Any provision of a state statute, order, or rule pertaining to the hours-of-service is suspended. This exemption and suspension apply to all highways in Michigan, including the national system of interstate and defense highways.
3. No motor carrier or driver operating under the terms of this order may require or allow an ill or fatigued driver to operate a motor vehicle. Any driver who informs a carrier that he or she needs immediate rest must be given at least ten consecutive off-duty hours before the driver is required to return to work.
4. Nothing in this order creates an exemption from applicable controlled substances and alcohol use and testing requirements (49 CFR Part 382 and any similar state statute, order, or rule); the commercial driver's license requirements (49 CFR Part 383 and any similar state statute, order, or rule); the financial responsibility requirements (49 CFR Part 387 and any similar state statute, order, or rule); driver qualifications (49 CFR Part 391); driving of commercial motor vehicle requirements (49 CFR Part 392); requirements for equipment, parts, and accessories necessary for the safe operation of vehicles (49 CFR Part 393); applicable size and weight requirements; or any portion of federal and state regulations not specifically identified.
5. Motor carriers or drivers currently subject to an out-of-service order are not eligible for the exemption and suspension until the out-of-service order expires or the conditions for rescission have been satisfied.
6. Upon expiration of this order, or when a motor carrier or driver ceases to provide direct assistance to the emergency relief effort, a driver that has had at least 34 consecutive off-duty hours must be permitted to start his or her on-duty hours and 60/70-hour clock at zero.
7. This order applies only to propane and heating oil. No other petroleum products are covered by the exemption and suspension under this order.
8. The Commercial Vehicle Enforcement Division of the Michigan Department of State Police must coordinate state compliance with this order.
9. This order is effective upon filing and remains in effect for the duration of the emergency or until Sunday, February 28, 2021, at 11:59 p.m., whichever comes first.

Date: February 20, 2021

Time: 9:44 a.m.

[SEAL]

Gretchen Whitmer
Governor

By the Governor:
Jocelyn Benson
Secretary of State

The executive order was referred to the Committee on Government Operations.

Recess

Senator Lauwers moved that the Senate recess subject to the call of the Chair.
The motion prevailed, the time being 10:05 a.m.

11:14 a.m.

The Senate was called to order by the President, Lieutenant Governor Gilchrist.

General Orders

Senator Lauwers moved that the Senate resolve itself into the Committee of the Whole for consideration of the General Orders calendar.

The motion prevailed, and the President, Lieutenant Governor Gilchrist, designated Senator MacDonald as Chairperson.

After some time spent therein, the Committee arose; and the President, Lieutenant Governor Gilchrist, having resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 119, entitled

A bill to amend 1911 PA 163, entitled “An act to provide for the election of inspectors of mines in certain cases and the appointment of their deputies, for the appointment of such inspectors of mines and their deputies until the election and qualification of the first inspectors of mines, to prescribe their powers and duties and to provide for their compensation, and to repeal Act No. 213 of the Public Acts of 1887,” by amending the title and sections 1 and 6 (MCL 425.101 and 425.106), section 1 as amended by 1984 PA 116; and to repeal acts and parts of acts.

Substitute (S-2).

The Senate agreed to the substitute recommended by the Committee of the Whole, and the bill as substituted was placed on the order of Third Reading of Bills.

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senator MacDonald introduced

Senate Bill No. 159, entitled

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” by repealing sections 3, 4, 5, 6, 6a, and 6b of chapter VII (MCL 767.3, 767.4, 767.5, 767.6, 767.6a, and 767.6b), section 6 of chapter VII as amended by 1999 PA 250.

The bill was read a first and second time by title and referred to the Committee on Judiciary and Public Safety.

Senator McBroom introduced

Senate Bill No. 160, entitled

A bill to amend 1994 PA 451, entitled “Natural resources and environmental protection act,” by amending section 1602 (MCL 324.1602), as added by 1995 PA 60, and by adding section 1507.

The bill was read a first and second time by title and referred to the Committee on Judiciary and Public Safety.

Senators McCann, Chang, Polehanki, Alexander, Bullock, Geiss, Moss, Brinks, Santana, Ananich, Bayer, Wojno, Hertel and Hollier introduced

Senate Bill No. 161, entitled

A bill to amend 1969 PA 317, entitled “Worker’s disability compensation act of 1969,” by amending section 405 (MCL 418.405), as amended by 2014 PA 515.

The bill was read a first and second time by title and referred to the Committee on Economic and Small Business Development.

Senators Chang, Hollier, Alexander, Bullock, Geiss, Moss, Santana, Polehanki, Brinks, McCann, Ananich, Bayer, Wojno and Hertel introduced

Senate Bill No. 162, entitled

A bill to amend 1974 PA 154, entitled “Michigan occupational safety and health act,” by amending section 35 (MCL 408.1035), as amended by 1991 PA 105.

The bill was read a first and second time by title and referred to the Committee on Economic and Small Business Development.

Senators Santana, Chang, Alexander, Bullock, Geiss, Moss, Brinks, Polehanki, McCann, Ananich, Bayer, Wojno, Hertel and Hollier introduced

Senate Bill No. 163, entitled

A bill to prohibit an employer from retaliating against an employee who engages in certain activities that address the employer’s response to or management of coronavirus; and to provide remedies.

The bill was read a first and second time by title and referred to the Committee on Economic and Small Business Development.

Senators Moss, Chang, Alexander, Bullock, Geiss, Brinks, Santana, Polehanki, McCann, Ananich, Bayer, Wojno, Hertel and Hollier introduced

Senate Bill No. 164, entitled

A bill to prohibit an employer from taking certain actions against employees who engage in certain activities during a declared emergency related to COVID-19; to prohibit discrimination and retaliation for engaging in certain activities; and to provide remedies.

The bill was read a first and second time by title and referred to the Committee on Economic and Small Business Development.

Senators Brinks, Santana, Chang, McCann, Ananich, Geiss, Alexander, Bayer, Wojno, Polehanki, Bullock and Hertel introduced

Senate Bill No. 165, entitled

A bill to require employers to post information concerning coronavirus testing sites; and to prohibit certain acts and provide sanctions.

The bill was read a first and second time by title and referred to the Committee on Economic and Small Business Development.

House Bill No. 4018, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2020; and to provide for the expenditure of the appropriations.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Appropriations.

House Bill No. 4020, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2021; and to provide for the expenditure of the appropriations.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Appropriations.

House Bill No. 4021, entitled

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2021; and to provide for the expenditure of the appropriations.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Appropriations.

Statements

Senators McBroom and Bayer asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator McBroom's statement is as follows:

Over this weekend I became aware of a rather odd occurrence when our Governor decided to declare that there was a propane emergency in the state, which, we've had propane emergencies before. It's not something that's totally uncommon or unfamiliar for the people of this state, particularly those of us in the Upper Peninsula who have lived through true emergencies, particularly in 2014 when the price of propane more than tripled in places where Line 5 had been shut down for a long period of time. A bad fall had led to huge shortages where they literally ended up having to reverse the direction of flow of the transit of propane to get it to come back up to the north-Midwest in order to meet the incredible demands that we had for one of the worst winters in history.

So it was a big surprise to everybody when, in one of the more mild winters that we've experienced in the Upper Peninsula in a long time and the whole state of Michigan, to hear that we were suddenly in a propane emergency. What was even more frustrating was to discover that nobody in the propane industry had been consulted. In fact, they had already issued statements saying they weren't interested in declaring an emergency in Michigan. And nobody from the administration calls them. And suddenly we're having an emergency. Of course the irony can't be missed here that we're also shutting down Line 5 in May—which supplies 65 percent of the propane to the Upper Peninsula, 55 percent of propane to the entire state of Michigan—shut that down, have a propane emergency. I talked to one of the Governor's advisors a few months ago and found out that the U.P. was not even going to need propane in 30 years. What the heck is going on? It makes one's head spin to try and keep up with all of this. Nobody provides me with a program so I don't even know who the players are anymore. It's nuts. What is going on? What were the reasons for declaring this emergency? Why wasn't the industry being consulted about this? Maybe there are more industry players than I speak to—there probably are—but you know, the ones I speak with represent the vast bulk of propane suppliers in this state and they weren't consulted, so who was?

And it's very difficult to not draw some important parallels here in regards to how all the rest of the state of emergency that we've had in this state over the last year has been executed. Who's being consulted? What are the metrics? How do we know when it's going to end? What are the actual limitations on power at this point for this executive—an executive who has said that they refuse to accept any limitations, so what limitations does she actually put on herself? Where are they? Why don't they get discussed? Why aren't we told, Here's a line that I won't cross and I promise, if I did, please let me know. We don't get any of that. And so all of us are left in this conundrum of trying to say, Are we going too far? We watch videos around the United States and around the world of people being arrested by policemen for not having a mask on; for being tased for not having a mask on; for having a party at their home busted up. We've watched businesses get closed, people losing their livelihoods. Where's the line? What are the limitations on power? What are the limitations on the police state—of the police powers that we are saying are legitimately being used? Especially when they're being utilized in ways that are unprecedented by any crisis this country has faced before, far beyond times of war. We are facing a limitation on peoples' rights and freedoms and yet we don't hear from our executive, Here's why I'm doing this; here's who I called; here are the reasons and when this is met, then it goes away. What's going on? A microcosm is presented to us with this propane emergency, but it's just part of the bigger problem that we continue to face.

Senator Bayer's statement is as follows:

At the end of last year, we got \$660 million from the federal government to support housing—to keep people from being evicted. \$660 million sitting here not helping people. We've already had more than 14,000 filings in this state for evictions and that number is going to start screaming upward, right? People are going through the last of their supports from last year. We've got to take action. I know we're working on these budget bills—the supplemental budget. This is federal money for supporting our people to keep them from being evicted. Let's get that \$660 million appropriated now so we can keep people in their homes.

Announcements of Printing and Enrollment

The Secretary announced that the following House bills were received in the Senate and filed on Thursday, February 18:

House Bill Nos. 4018 4020 4021

The Secretary announced the enrollment printing and presentation to the Governor on Thursday, February 18, for her approval the following bill:

Enrolled Senate Bill No. 30 at 12:59 p.m.

The Secretary announced that the following bills and resolutions were printed and filed on Thursday, February 18, and are available on the Michigan Legislature website:

Senate Bill Nos.	145	146	147	148	149	150	151	152	153	154	155	156	157
	158												
Senate Resolution Nos.	14	15	16	17	18								
House Bill Nos.	4263	4264	4265	4266	4267	4268	4269	4270	4271	4272	4273	4274	4275
	4276												

Committee Reports

COMMITTEE ATTENDANCE REPORT

The Committee on Advice and Consent submitted the following:

Meeting held on Thursday, February 18, 2021, at 12:00 noon, Room 1100, Binsfeld Office Building

Present: Senators Nesbitt (C), Bumstead, McBroom and Hertel

COMMITTEE ATTENDANCE REPORT

The Committee on Economic and Small Business Development submitted the following:

Meeting held on Thursday, February 18, 2021, at 12:00 noon, Harry T. Gast Appropriations Room, 3rd Floor, Capitol Building

Present: Senators Horn (C), VanderWall, Lauwers, Schmidt, LaSata, MacDonald, Geiss and Moss

Excused: Senator McMorrow

COMMITTEE ATTENDANCE REPORT

The Appropriations Subcommittee on Military and Veterans Affairs/State Police submitted the following:

Meeting held on Thursday, February 18, 2021, at 1:00 p.m., Room 1300, Binsfeld Office Building

Present: Senators Barrett (C), Runestad and Hollier

COMMITTEE ATTENDANCE REPORT

The Appropriations Subcommittee on Agriculture and Rural Development submitted the following:

Meeting held on Thursday, February 18, 2021, at 3:00 p.m., Room 1300, Binsfeld Office Building

Present: Senators Victory (C) and McCann

Excused: Senator Daley

Scheduled Meetings

Advice and Consent – Thursday, February 25, 12:00 noon, Room 1100, Binsfeld Office Building (517) 373-5314

Appropriations – Wednesday, February 24, 2:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (517) 373-5307

Subcommittees –

Corrections and Judiciary – Wednesdays, February 24 and March 10, 11:30 a.m. or immediately following session, Room 1200, Binsfeld Office Building (517) 373-2768

General Government – Wednesday, February 24, 3:00 p.m., Room 1100, Binsfeld Office Building (517) 373-2768

K-12 and Michigan Department of Education – Thursday, February 25, 9:00 a.m., Harry T. Gast Appropriations Room, 3rd Floor, Capitol Building (517) 373-2768

Licensing and Regulatory Affairs/Insurance and Financial Services – Thursday, February 25, 8:30 a.m., Room 1300, Binsfeld Office Building (517) 373-2768

Military and Veterans Affairs/State Police – Thursday, February 25, 1:00 p.m., Room 1300, Binsfeld Office Building (517) 373-2768

Natural Resources and Environment, Great Lakes, and Energy – Tuesday, March 2, 3:00 p.m., Room 1100, Binsfeld Office Building (517) 373-2768

Universities and Community Colleges – Thursday, February 25, 3:00 p.m., Harry T. Gast Appropriations Room, 3rd Floor, Capitol Building (517) 373-2768

Economic and Small Business Development – Thursday, February 25, 12:00 noon, Harry T. Gast Appropriations Room, 3rd Floor, Capitol Building (517) 373-1721

Families, Seniors, and Veterans – Wednesday, February 24, 3:00 p.m., Room 403, 4th Floor, Capitol Building (517) 373-1721

Finance – Wednesday, February 24, 12:00 noon, Room 403, 4th Floor, Capitol Building (517) 373-5312

Health Policy and Human Services – Thursday, February 25, 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (517) 373-5323

Judiciary and Public Safety – Thursday, February 25, 9:00 a.m., Room 403, 4th Floor, Capitol Building (517) 373-5312

Natural Resources – Wednesday, February 24, 8:00 a.m., Room 403, 4th Floor, Capitol Building (517) 373-5312

Senator Lauwers moved that the Senate adjourn.
The motion prevailed, the time being 11:31 a.m.

The President, Lieutenant Governor Gilchrist, declared the Senate adjourned until Wednesday, February 24, 2021, at 10:00 a.m.

MARGARET O'BRIEN
Secretary of the Senate