

No. 26
STATE OF MICHIGAN
Journal of the Senate
101st Legislature
REGULAR SESSION OF 2021

Senate Chamber, Lansing, Tuesday, March 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 Ed McBroom of the 38th District offered the following invocation:

Dear Father, we come before You this morning and ask for Your gracious goodness to us, that You would bless us with discernment and wisdom, with patience and kindness, and with love. Father, we pray that in the midst of all this turmoil and fear, that we would rest in the knowledge of You, in the knowledge that nothing that is happening is outside of Your control—Your sovereignty. Father, we need Your help. We need Your love. We need Your mercy and Your grace. And Father, help us, particularly at this time of recalling Easter and Your Son's sacrifice, that we would be mindful that You are not unconcerned about our problems. That You have made a way to know You, to be close to You, and to have eternal life with You.

Father, bless this state, save us from this plague, and help us as leaders of these people to think of their needs before our own. Help us to do good work for these people, to pass righteous laws, to think of widows, orphans, homeless, outcasts, prisoners, and the needy. Father, we ask that this week would be a productive week, one that would bring honor to You in the work that we do. We pray for truth. We pray that You would help us know right from wrong and that we would look to You as the source of all wisdom. I pray this in Jesus' name.

Amen.

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

Motions and Communications

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

Senator Chang moved that Senator Geiss 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 and read:
Office of the Auditor General

March 18, 2021

Enclosed is a copy of the following reports:

- Financial audit including the report on internal control, compliance, and other matters of the Michigan Education Trust Plan D, a discretely presented component unit of the State of Michigan, for the fiscal year ended September 30, 2020 (271-0283-21).
- Financial audit including the report on internal control, compliance, and other matters of the Michigan Education Trust Plans B and C, a discretely presented component unit of the State of Michigan, for the fiscal year ended September 30, 2020 (271-0284-21).

March 19, 2021

Enclosed is a copy of the following report:

- Single audit for the Michigan State Housing Development Authority for the fiscal year ended June 30, 2020 (000-0800-21).

Sincerely,
Doug Ringler
Auditor General

The audit reports were referred to the Committee on Oversight.

The following communication was received:
Office of Senator Ed McBroom

March 18, 2021

Pursuant to rule 1.110(c), I am requesting to be added as a co-sponsor to Senate Bill Numbers 196, 199, 200, 201, and 202.

Sincerely
Ed McBroom
State Senator
38th District

The communication was referred to the Secretary for record.

The following communication was received:
Office of Senator Dale W. Zorn

March 23, 2021

Per Senate Rule 3.105, I request to be added as an official cosponsor to SB 263 and SB 264.

Signed,
Dale W. Zorn
State Senator – District 17

The communication was referred to the Secretary for record.

Senators Ananich and Schmidt entered the Senate Chamber.

Senator Lauwers moved that the Committee on Government Operations be discharged from further consideration of the following bill:

Senate Bill No. 257, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending sections 2253 and 2453 (MCL 333.2253 and 333.2453), section 2253 as amended by 2006 PA 157.

The motion prevailed, a majority of the members serving voting therefor, and the bill was placed on the order of General Orders.

Senator Lauwers moved that the rules be suspended and that the following bill, now on the order of General Orders, be placed on the General Orders calendar for consideration today:

Senate Bill No. 257

The motion prevailed, a majority of the members serving voting therefor.

Senator Lauwers moved that the rules be suspended and that the following bills, now on Committee Reports, be placed on the General Orders calendar for consideration today:

Senate Bill No. 181

Senate Bill No. 182

Senate Bill No. 183

Senate Bill No. 190

The motion prevailed, a majority of the members serving voting therefor.

Senators Santana and Geiss entered the Senate Chamber.

Recess

Senator Lauwers moved that the Senate recess subject to the call of the Chair.

The motion prevailed, the time being 10:07 a.m.

11:12 a.m.

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

By unanimous consent the Senate proceeded to the order of
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 Daley 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 without amendment, the following bills:

Senate Bill No. 125, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 525 (MCL 436.1525), as amended by 2016 PA 434.

Senate Bill No. 126, entitled

A bill to amend 1972 PA 382, entitled "Traxler-McCauley-Law-Bowman bingo act," by amending section 4a (MCL 432.104a), as amended by 2019 PA 159.

Senate Bill No. 181, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 22203 (MCL 333.22203), as amended by 2002 PA 619.

Senate Bill No. 182, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 22211 and 22215 (MCL 333.22211 and 333.22215), section 22211 as amended by 2014 PA 107 and section 22215 as amended by 2002 PA 619.

Senate Bill No. 183, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 20145, 22201, 22207, 22208, 22209, and 22221 (MCL 333.20145, 333.22201, 333.22207, 333.22208, 333.22209, and 333.22221), section 20145 as amended by 2015 PA 104, section 22201 as added by 1988 PA 332, sections 22207, 22209, and 22221 as amended by 2002 PA 619, and section 22208 as amended by 2011 PA 51.

The bills were placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 166, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16106, 17708, and 17751 (MCL 333.16106, 333.17708, and 333.17751), section 16106 as amended by 2002 PA 643, section 17708 as amended by 2020 PA 4, and section 17751 as amended by 2020 PA 136.

Substitute (S-1).

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.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 190, entitled

A bill to amend 1974 PA 258, entitled "Mental health code," by amending section 137 (MCL 330.1137), as amended by 2015 PA 59, and by adding section 137b.

Substitute (S-1).

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.

The Committee of the Whole reported back to the Senate, favorably and with amendments, the following bill:

Senate Bill No. 257, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 2253 and 2453 (MCL 333.2253 and 333.2453), section 2253 as amended by 2006 PA 157.

The following are the amendments recommended by the Committee of the Whole:

1. Amend page 2, following line 21, by inserting:

“(d) Prohibits an individual from traveling between 1 or more properties that the individual owns.”.

2. Amend page 2, following line 21, by inserting:

“(e) Prohibits a high school graduation commencement ceremony sponsored by a school.”.

3. Amend page 2, following line 21, by inserting:

“(f) Prohibits an individual from buying a good in a store.”.

4. Amend page 4, following line 2, by inserting:

“(d) Prohibits an individual from traveling between 1 or more properties that the individual owns.”.

5. Amend page 4, following line 2, by inserting:

“(e) Prohibits a high school graduation commencement ceremony sponsored by a school.”.

6. Amend page 4, following line 2, by inserting:

“(f) Prohibits an individual from buying a good in a store.”.

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

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator Lauwers moved that the rules be suspended and that the following bill, now on Third Reading of Bills, be placed on its immediate passage:

Senate Bill No. 257

The motion prevailed, a majority of the members serving voting therefor.

By unanimous consent the Senate proceeded to the order of

Third Reading of Bills

Senator Lauwers moved that the Senate proceed to consideration of the following bills:

Senate Bill No. 25

Senate Bill No. 257

The motion prevailed.

The following bill was read a third time:

Senate Bill No. 25, entitled

A bill to amend 1967 PA 281, entitled “Income tax act of 1967,” by amending section 30 (MCL 206.30), as amended by 2020 PA 65.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 69

Yeas—35

Alexander	Daley	MacDonald	Schmidt
Ananich	Geiss	McBroom	Shirkey
Barrett	Hertel	McCann	Stamas
Bayer	Hollier	Moss	Theis
Bizon	Horn	Nesbitt	VanderWall
Brinks	Irwin	Outman	Victory
Bullock	Johnson	Polehanki	Wojno
Bumstead	LaSata	Runestad	Zorn
Chang	Lauwers	Santana	

Nays—0

Excused—1

McMorrow

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

The following bill was read a third time:

Senate Bill No. 257, entitled

A bill to amend 1978 PA 368, entitled “Public health code,” by amending sections 2253 and 2453 (MCL 333.2253 and 333.2453), section 2253 as amended by 2006 PA 157.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 70

Yeas—20

Barrett	Johnson	Nesbitt	Stamas
Bizon	LaSata	Outman	Theis
Bumstead	Lauwers	Runestad	VanderWall
Daley	MacDonald	Schmidt	Victory
Horn	McBroom	Shirkey	Zorn

Nays—15

Alexander	Bullock	Hollier	Polehanki
Ananich	Chang	Irwin	Santana
Bayer	Geiss	McCann	Wojno
Brinks	Hertel	Moss	

Excused—1

McMorrow

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

Senator MacDonald asked and was granted unanimous consent to make a statement and moved that the statement be printed in the Journal.

The motion prevailed.

Senator MacDonald's statement is as follows:

I want to briefly speak about my bill. Senate Bill No. 257 seeks to protect families, especially large families, many of which have been targeted by these emergency orders. When state or local officials take the extraordinary step of issuing an emergency order, we need to think of the effect it has on families, especially larger families, when restricting the number of people allowed to gather. During this pandemic we've seen officials restrict the number of family members who can gather at a parent's house, watch a child's soccer game, and eat together at a restaurant. This has had a huge impact on the mental wellness of many people during this pandemic. Families of all sizes deserve equal treatment by their government. My belief is that as long as workers and customers at restaurants, supporters at sporting events, and families in their homes are taking the proper steps to protect people from this virus, they shouldn't be subjected to arbitrary restrictions.

By unanimous consent the Senate proceeded to the order of

Introduction and Referral of Bills

Senators Barrett, Theis, McBroom, Runestad, MacDonald, Lauwers, Bumstead, Stamas, Daley, Johnson, Bizon, Outman, Zorn, Horn, VanderWall, LaSata, Victory, Nesbitt, Shirkey, Schmidt, Moss and Hollier introduced

Senate Joint Resolution G, entitled

A joint resolution proposing an amendment to the state constitution of 1963, by adding section 9 to article XI, to protect certain communications with members of the legislature.

The joint resolution was read a first and second time by title and referred to the Committee on Oversight.

Senators McBroom, Daley, Victory and VanderWall introduced

Senate Bill No. 269, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 43504, 43523a, and 43523b (MCL 324.43504, 324.43523a, and 324.43523b), section 43504 as amended by 2004 PA 587, section 43523a as amended by 2018 PA 3, and section 43523b as added by 2013 PA 108, and by adding section 43523c.

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

Senators VanderWall, McBroom, Daley and Victory introduced

Senate Bill No. 270, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 43527a, 43528b, and 43532 (MCL 324.43527a, 324.43528b, and 324.43532), section 43527a as added by 2013 PA 108, section 43528b as amended by 2013 PA 108, and section 43532 as amended by 2020 PA 271.

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

House Bill No. 4115, entitled

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 1114 (MCL 436.2114), as amended by 2011 PA 27, and by adding section 1116.

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 Regulatory Reform.

House Bill No. 4383, entitled

A bill to amend 1976 PA 442, entitled "Freedom of information act," (MCL 15.231 to 15.246) by adding part 2.

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 Oversight.

House Bill No. 4384, entitled

A bill to amend 1976 PA 442, entitled "Freedom of information act," (MCL 15.231 to 15.246) by adding sections 26, 27, 28, and 29.

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 Oversight.

House Bill No. 4385, entitled

A bill to amend 1976 PA 442, entitled “Freedom of information act,” (MCL 15.231 to 15.246) by adding sections 29a and 29b.

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 Oversight.

House Bill No. 4386, entitled

A bill to amend 1976 PA 442, entitled “Freedom of information act,” by amending sections 1, 2, 3, 4, 5, 6, 10, 10a, and 10b (MCL 15.231, 15.232, 15.233, 15.234, 15.235, 15.236, 15.240, 15.240a, and 15.240b), section 1 as amended by 1997 PA 6, section 2 as amended by 2018 PA 68, section 3 as amended by 2018 PA 523, section 4 as amended by 2020 PA 38, section 5 as amended by 2020 PA 36, section 6 as amended by 1996 PA 553, and section 10 as amended and sections 10a and 10b as added by 2014 PA 563, and by designating sections 1 to 16 as part 1.

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 Oversight.

House Bill No. 4387, entitled

A bill to amend 1976 PA 442, entitled “Freedom of information act,” (MCL 15.231 to 15.246) by adding section 24.

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 Oversight.

House Bill No. 4388, entitled

A bill to amend 1976 PA 442, entitled “Freedom of information act,” (MCL 15.231 to 15.246) by adding section 25.

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 Oversight.

House Bill No. 4389, entitled

A bill to amend 1976 PA 442, entitled “Freedom of information act,” (MCL 15.231 to 15.246) by adding sections 29e and 29f.

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 Oversight.

House Bill No. 4390, entitled

A bill to amend 1986 PA 268, entitled “Legislative council act,” by amending section 104a (MCL 4.1104a), as amended by 2013 PA 241.

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 Oversight.

House Bill No. 4391, entitled

A bill to amend 1976 PA 442, entitled “Freedom of information act,” (MCL 15.231 to 15.246) by adding sections 29c and 29d.

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 Oversight.

House Bill No. 4392, entitled

A bill to amend 1976 PA 442, entitled “Freedom of information act,” by amending section 13 (MCL 15.243), as amended by 2018 PA 68.

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 Oversight.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator Lauwers moved that the Committee on Advice and Consent be discharged from further consideration of the following appointment:

Director of the Department of Health and Human Services

Ms. Elizabeth Hertel of 1860 Boxwood Lane, East Lansing, Michigan 48823, county of Ingham, succeeding Robert Gordon, appointed for a term commencing January 22, 2021 and expiring at the pleasure of the Governor.

(This appointment was referred to the Committee on Advice and Consent on January 26. See Senate Journal No. 2, p. 57.)

The motion prevailed, a majority of the members serving voting therefor, and the appointment was placed on the order of Messages from the Governor.

Messages from the Governor

Director of the Department of Health and Human Services

Ms. Elizabeth Hertel of 1860 Boxwood Lane, East Lansing, Michigan 48823, county of Ingham, succeeding Robert Gordon, appointed for a term commencing January 22, 2021 and expiring at the pleasure of the Governor.

Senator Lauwers moved that the Senate advise and consent to the appointment.

The question being on advising and consenting to the said appointment to office,

The Senate did not advise and consent to the appointment, a majority of the members serving not voting therefor, as follows:

Roll Call No. 71

Yeas—18

Alexander
Ananich
Bayer
Brinks
Bullock

Chang
Geiss
Hollier
Horn
Irwin

McCann
Moss
Polehanki
Santana

Schmidt
Shirkey
Stamas
Wojno

Nays—16

Barrett
Bizon
Bumstead
Daley

Johnson
LaSata
Lauwers
MacDonald

McBroom
Nesbitt
Outman
Runestad

Theis
VanderWall
Victory
Zorn

Excused—1

McMorrow

Not Voting—1

Hertel

In The Chair: President

Point of Order

Senator Chang raised the Point of Order that considering article V, section 6 of the Constitution only provides the Senate with the right of disapproval, by the fact that the vote to advise and consent to the appointment did not prevail, has the appointment been disapproved?

The President, Lieutenant Governor Gilchrist, ruled that a failure to approve is not a disapproval. Pursuant to article V, section 6 of the Constitution, any appointment not disapproved within 60 session days shall stand confirmed.

Protests

Senators Johnson, Runestad, Barrett, Theis and Nesbitt, under their constitutional right of protest (Art. 4, Sec. 18), protested against advising and consenting to the gubernatorial appointment and moved that the statements they made during the discussion of the appointment be printed as their reasons for voting “no.”

The motion prevailed.

Senator Johnson’s statement is as follows:

I rise to give comments in regard to the confirmation of Elizabeth Hertel as the Director of the Michigan Department of Health and Human Services. Ms. Hertel has been a senior leader in the department throughout the COVID-19 pandemic in our state. Throughout the pandemic, the department has promoted policies over the objection of experts and of the Legislature that put some of our most vulnerable residents at risk. The department and our Governor have also stonewalled transparency, refusing to share the specific data and metrics being used to make decisions that affect the lives and livelihoods of Michiganders. During confirmation hearings, Ms. Hertel stated that she could not foresee a situation where she would not disagree with the Governor. She stated during one of her confirmation hearings, “It’s difficult for me to say what would have been a mistake or what we could have done differently.”

The Health Care Association of Michigan told the administration in writing in March of 2020 not to put COVID-positive patients back into nursing homes to avoid widespread infection. They said that their members had facilities available which could be used as quarantine centers until patients no longer tested positive. In addition, the TCF Center, also known as Cobo Hall, and the Suburban Showplace were both opened at a total cost to taxpayers of \$22 million and together they served 55 people. In the summer of 2020 the Legislature sent the Governor a bill to begin doing what the Healthcare Association initially recommended—a bill to stop the administration’s practice of placing COVID-positive patients back in nursing homes, threatening the health and the lives of this very vulnerable population. The Governor vetoed the bill and the department, in which Ms. Hertel served as Chief Deputy Director, continued the practice.

The administration continues to hide nursing home data and it’s now being sued by a reporter to obtain it. Ms. Hertel, also in her confirmation hearings, continued to refuse to provide the specific metrics and data her department has been using to make decisions. For example, Michigan is the only state in the country not using a matrix to inform its policy and restrictions and closures of restaurants and other businesses. Over 3,000 restaurants in our state have permanently closed and yet there is zero transparency. The people of Michigan deserve to know how decisions are being made. Michigan is currently 39th out of 50 states for unemployment, yet we rank 10th in the United States for the highest total number of deaths. This is a perverse and tragic disconnect in these numbers and I will not vote to confirm a director for our state’s health department who cannot admit that mistakes were made, nor will I vote to confirm a health director who continues to obscure the data her department is using to make very important decisions. I will be voting “no” to confirm this appointment and I would ask my colleagues to join me.

Senator Runestad’s statement is as follows:

Like many of my colleagues, I kept an open mind on this appointment. I had hoped that things would change after the last director left. Unfortunately for the people of the state of Michigan, the interim director has not indicated that she would do anything substantively different to improve the department’s response to this pandemic.

When asked at the February Senate committee hearing what the biggest mistake was that the department had made in managing the pandemic, her response was, “It is difficult for me to say what would have been a mistake or what we could have done differently.” That seems unbelievable to me. Early on you could buy the essential recreational marijuana, the essential booze, the essential lottery tickets, but you couldn’t—in the spring and the summer—go and purchase paint and woodchips and do all of these outdoor activities

because those are dangerous, but booze, marijuana, and lottery tickets were essential. You could paddle your kayak and your canoe, but you couldn't take a motor boat. That was dangerous. You could go and fill your tank—20 customers go fill the tank with gas and mow their lawn, but you couldn't hire one guy to fill one tank because that was dangerous to have that person mow your lawn. This stuff is just unacceptable.

The administration's executive order to put COVID-infected patients into the same facilities as our most vulnerable through her order 2020-50—which by the way, I keep hearing it was voluntary—the language is very clear you must create these dedicated units under penalty of misdemeanor, so it wasn't voluntary. Yet, she still could not think of anything at all that could have been done differently by the administration. The families who had loved ones in this nursing home fiasco deserve to know why. They deserve to know why the administration is still stonewalling on the nursing home deaths—how many died in the nursing homes, how many contracted it, how many went to the hospital and died there—we can't get these numbers. It is stonewalling up and down the line. These victims' families deserve this information.

When asked what metrics the department is using and when they would indicate that the state is out of the pandemic, Director Hertel said, "I don't believe there is a way to put a threshold number that says here's yes and here's no." This is unacceptable. We need some kind of matrix. Upon questioning by the Senate committee, the interim director provided vague and abstract answers, refused to provide specific metrics used to make decisions, and refused to offer follow-up answers to specific questions. Nothing, absolutely nothing, is indicated that anything is going to be new under this new director. The same one-size-fits-all, strong-armed, unconstitutional approach will continue. According to the Michigan Restaurant and Lodging Association, last year Michigan was the only state in the country closing restaurants without data-driven metrics to guide their decisions. Over 3,000 restaurants in the state have already closed permanently while Michigan's unemployment rate is among the worst in the nation.

The orders given by the Michigan Department of Health and Human Services have closed down restaurants and stores, disrupted schools, changed families' lives forever, and without demonstrating the science for the decisions. And despite all the unconstitutional orders, our state's response to the COVID pandemic has been chaotic at best. Michigan deserves better answers from the department than we have gotten before. The people's trust in government cannot be maintained if their leaders—elected or otherwise—are not transparent and fail to listen to the people they serve. I cannot in good conscience vote to affirm the new director when I see no signs that things will change.

Senator Barrett's statement is as follows:

Three hundred and seventy-eight days. That's how long Michigan's been under emergency rule, and emergency order. On March 10, 2020, which seems like a lifetime ago, Governor Whitmer issued Executive Order No. 2020-4 on the COVID-19 Pandemic. Since that time, we've had countless restrictions, orders, many of which didn't make any sense, some of which have been articulated by previous speakers. I remember when we couldn't buy tomato seeds because of COVID, and if you challenged that authority you were a science denier. Next came court challenges, which we won, followed by the absolutely absurd position by this administration that their orders actually continued for three additional weeks after the Supreme Court had ruled them unconstitutional, while they tried to figure out a new way to micromanage our lives. Then came the pandemic health orders from the Department of Health and Human Services, which looked suspiciously like the orders the Governor herself had issued, that were later found to be unconstitutional. Later, Director Gordon resigned abruptly under circumstances that are still not fully understood, but we do know that he received \$155,000 to stay silent about his time working as a public employee. That's pretty good work if you can get it. Consistently throughout this entire process, we as a chamber, and the Legislature as an equal branch of government, have been demanding to have a seat at the table in managing this disruption in our lives. Nothing in this happens in a vacuum. Every single order and decision that is made may have a benefit in one regard, but has a cost in another regard, and to ignore that is wrong.

That brings us to today—378 days later—concerning the confirmation of Governor Whitmer's appointed director of the Department of Health and Human Services, the person responsible for perpetuating this micromanagement of our lives. In the Advice and Consent Committee, Director Hertel stated that she felt that her authority to bypass the Legislature to make orders that impact each and every facet of our lives could go on for more than a year. She could not articulate any limit to how long she could hold that authority. She admitted that she believes that could last forever. Let me say that again: forever. I don't know why any of you ran for office, but certainly I did to have a role in making decisions in this state.

She also could not articulate any specific metric, or scientific standard, for the decisions being made to lord over our lives, nor could she identify any mistake that the administration has made in managing the pandemic over the last year. Not one single mistake. Not the political contact tracing contract, with the Governor's campaign consultants, nor the disastrous nursing home policies, or the go-it-alone strategy bypassing the Legislature.

We have the right and the responsibility to vet these nominees. We have to stand up for those that have been harmed by these orders. People like Marlena Pavlos-Hackney, owner of Marlena's Bistro and Pizzeria in Holland, who is Michigan's first political prisoner of the pandemic. Marlena fled communism in Poland to come to the United States. She was detained after refusing to continue the absurd shutdown requirement unilaterally imposed on people like her. While the state of Michigan is engaging in catch-and-release policies for her habitual criminal offenders, Marlena was arrested and jailed on a civil warrant. Perhaps the worst of all, the state deployed enforcement officers to stake out her home and business and arrested her in a pre-dawn traffic stop where they just happened to observe her driving to work. I guess all the real criminals have been captured.

I have a proposition for our Governor: if you want a political prisoner, at least take a politician. You let Marlena go, and I'll take her place in the Ingham County Jail. Governor, you know where to find me, you can send your secret police to get me if you want. You don't even need to snatch me up before dawn. Come in the broad daylight. I just need a minute to pack my toothbrush. In the meantime, let's see if we can pay Robert Gordon another \$155,000 to come back to work. At least he didn't lock up political prisoners while he was the director.

We cannot sit by and let abuses of power like this stand. We must vote down this nominee responsible for the perpetuation of this abuse of power. Anyone who believes their bureaucratic authority exceeds the authority of those elected and serving in this chamber and the one across the rotunda, is unfit for this position. Vote "no" on Director Hertel, and stand against any future nominee who does not respect the separation of powers. Three hundred and seventy-eight days is too long, make it stop.

Senator Theis' statement is as follows:

I don't think any of us are taking this vote lightly. I would absolutely agree that Director Hertel is an extraordinarily hardworking person. Frankly, I hope and pray we can take a significant amount of that workload off her shoulders and legislate again—378 days later. What the Governor was prohibited from doing, she is doing through her director, through her own director's admission. Yesterday I had an amazing opportunity to talk to a restaurant owner from Kosovo who came here for freedom. She is watching her restaurant fail. She is doing everything she possibly can to employ her employees to be able to pay their mortgage; to be able to get them back in college because they had to drop out because they had no money. Her dad was also a restaurant owner. He died because he no longer had a purpose. Last November, not of COVID, but his restaurant was also shut down. The thing he had been working for, for decades. This needs to be a conversation with the Legislature. The Legislature, we don't just need a seat at the table, we need to be able to legislate again; to do our jobs again. The authority to legislate is not vested with the director of health. It is vested with the Legislature. This is not personal. This is a recognition of what the proper authority of government is and what the appropriate balance of powers should be, and 378 days is way too long.

Senator Nesbitt's statement is as follows:

There is no doubt that Director Hertel possesses significant experience in public policy, specifically in health policy. We listened to hours of committee testimony in the Advice and Consent Committee. She was a top official in the Department of Health and Human Services throughout this pandemic. And she did generously provide hours of testimony during the Advice and Consent hearing and we did learn much. We learned that the director stands in lockstep with the Whitmer-Gordon era nursing home policies, business and school shutdown orders, and failures to properly engage the private sector to solve these challenges. We learned that the director believes unelected bureaucrats can continue to issue these orders for years without the approval of this body, of the Legislature. And she opposes a regional approach.

Despite repeated questions by myself and committee members, she was unable to explain the science and data behind the administration's decisions and failed to show the matrix and guidelines for the pathway ahead to reopen the state. Disappointingly, she struggled to identify any real mistakes by the administration over the last year from which they could learn and improve. No mistakes involving nursing homes, no mistakes involving the administration rejecting Michigan-made, FDA-approved testing supplies during the outset of the pandemic. No mistakes involving giving former Director Gordon a \$155,000 payout. I understand that experience matters. I understand that this is probably the most pragmatic choice that the Governor could probably select, but I do know that a year later into this pandemic, I'm not seeing the relief that's needed for my small business owners, for the folks changing the course of where the administration has been on this, and where the Governor has pushed the state, so I do believe that the people of Michigan do deserve a fresh start at the Department of Health and Human Services.

Senator Hertel asked and was granted unanimous consent to make a statement and moved that the statement be printed in the Journal.

The motion prevailed.

Senator Hertel's statement is as follows:

I rise to give my reasons to recuse myself from this vote.

Lieutenant Governor, this will be the hardest vote that I will ever skip in this body. And it's not because it concerns my wife, who is the love of my life and the mother of my children, my best friend. That's the reason why I should recuse myself from this vote, and I will do the right thing.

The difficult part is that she is, by far, the most qualified person that could be nominated. The difficult part is that I see her speak to members of this body, care about the input that they give, care about their lives, their families. I see her up late at night writing letters to staff, to thank them for the hard work that they've done. I have seen her drop everything on a family vacation, on a weekend, because somebody somewhere needs help. I've seen her do that for many people in this room, regardless of political party. She is one of the least partisan people that I know. How many people in town have worked for the Republicans and Democrats at different times in their career, and been respected universally by both?

I cannot ask this body to vote a specific way. It would be inappropriate for me to do so. What I will ask is that each of you search inside yourself, and do what you believe is right. At the end of the day, this job is not worth ever doing what you don't believe is right. John Kennedy wrote a book about profiles in courage. I'll tell you that I think that term limits, while they've taken away the institutional memory of this body, and they've taken away the long-term planning, and they've taken away the knowledge base, and they've taken away a lot of other things, the biggest thing they've stolen from this body is courage. See, people used to feel that you ran for office so that you could do what was right, what you believed in. But the next election wasn't the most important thing, you ran so hard, and you did all that work in order to get here. Now, too often, the whole point of this place is some other election or some other time. Maybe I'm old school, but I care about this place too much for that, and this seat is not worth doing what I don't think is right.

So I'm going to do the right thing, which is to recuse myself from this vote, as hard as it's going to be to not push that green button. In fact, it's probably the green button that I want to press more than any other vote that I've had here. But I will do it because it's the right thing to do, and I can only ask for my colleagues, that they do the same.

Messages from the House

Senate Bill No. 100, entitled

A bill to amend 1973 PA 116, entitled "An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts," by amending section 13a (MCL 722.123a), as added by 2020 PA 8.

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

The question being on concurring in the committee recommendation to give the bill immediate effect,

The recommendation was concurred in, 2/3 of the members serving voting therefor.

The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

By unanimous consent the Senate proceeded to the order of

Statements

Senators Daley, Hollier and Geiss asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Daley's statement is as follows:

Agriculture provides almost everything we eat, use, and wear on a daily basis. It's the backbone of our state and is made possible by the hard work of Michigan farms and their families. Michigan is a leading state in the production of tart cherries, supplying 65 percent of the United States' total yield. Michigan also ranks number one in the production of cucumbers, asparagus, and squash; number three in apple production; number four in blueberries and sugar beets; and number five in potatoes, maple syrup, and pumpkins. National Agriculture Day recognizes and celebrates the essential role agriculture plays not only at the national level, but at the local level as well. Today is a day to thank your local farmers for what they do and continue to do for Michigan and the United States as a whole. As chair of the Senate Committee on Agriculture, I invite my colleagues to join me in recognizing and celebrating National Agriculture Day.

Senator Hollier's statement is as follows:

I'd just like to reference as we talk about Agriculture Day the importance that it has both as Detroiters in the way that it's brought folks together. The Senator from the 30th District and I have become incredibly close friends because he's a root vegetable farmer and for all of you who know, I really love root vegetables in a way that most people can't relate to. The man grows beets and they're delicious. People say, How do you eat these beets? I say, I slice them and I eat them. That's atypical, I know. When you grow up in the city of Detroit and as much as we talk about food deserts and access to produce and things like that, it was pretty much life-changing to have a friend who is a farmer and to be able to go from the very small golden beets—I'm talking tiny, they're like the size of those little small potatoes—to these giant softball-sized golden beets that I get from Senator Victory.

I just bring this up to say that in this chamber so often amongst ourselves, we can get so charged up about so many things, but we forget all the things we agree on. I think, maybe, as a chamber we can all agree that golden beets are delicious and we should eat more of them. They're great for you, and as we talk about agriculture and healthy nutrition and talking about all those kinds of things, I think there's a lot of space for us to work together to find some of those different things and to share over food, something that has always brought us together, but on days like this we should be reminded that Michigan has the second-most diverse agriculture in all the country, that we are a national leader in berries. I went up to my colleague from the 37th District earlier this year to give me that cherry pie—which incidentally I also love.

As you can tell, I really like fruits and vegetables. They come from people and they come from Michiganders and Michiganders do that. We're also seeing an incredibly diverse group of urban farmers as we grow and as we see the Future Farmers of America programs that proliferate in rural communities, you're starting to see those very beginnings in urban communities. I was grateful to have helped start one at Southeastern High School a number of years back. Agriculture plays a huge role in our state and in all of our lives, and we've spent a great deal of discussion and time talking about grocery store workers and the work and how essential they've been, and I think it's a great opportunity to say that those groceries are grown here in Michigan and that we have a number of farmers who serve in this chamber and we're grateful that you grow things because I like to eat those things.

I just want to say thank you to all the farmers across the state and particularly those who have started to grow things in their local communities. I know last year all of my relatives had their own gardens and we grew kale and all those kinds of things which for me was just building all kinds of planters. Maybe this year we'll see a couple more folks with gardens and we'll have opportunities to talk more about the things that we're growing and how that brings us together.

Senator Geiss' statement is as follows:

Colleagues, I rise today to talk about Music in Our Schools Month. Since 1985, the National Association for Music Education has held this yearly tradition to celebrate and honor the importance of music and music education throughout the month of March. Music education is an integral development activity that teaches imagination, intellectual curiosity, creative thinking, self-confidence, and teamwork.

During these trying times, a love of music and arts has helped countless children and adults manage the ongoing difficulties of the COVID-19 pandemic. It was the arts that first stepped up at the beginning of the pandemic to help people get through; for entertainment and for mental health. Through the arts, we have a unique and revolutionary way to help children deal with—and handle—the complex and difficult emotions that come with a once-in-a-generation pandemic, which has cost us countless lives. Not only that, but music classes also set students up for lifelong skills, hobbies, and careers.

As someone who started playing the violin 45 years ago, in school, and who still plays—yeah, I know you're doing the math—who because of school music, participated in honors orchestra, state competitions, summer music camp, the Greater Boston Youth Symphony, the New England Conservatory of Music preparatory program in high school, and eventually taught private music lessons prior to coming to the Legislature, I can attest to the importance of music education in our schools. It's also in school that I participated in chorus and honors chorale and took voice lessons. I am not alone in being someone whose foundation in music in the schools has impacted their lives. I have never had a legislative team that did not have at least one other musician, in fact, one of my former team members, Tim Michling, in the House, is an accomplished musician and principal oboist of the Michigan Philharmonic; and Mark Lawrence, an accomplished drummer having been in the drum line at MSU and for the Pistons, to name just two examples.

The work done by Michigan music teachers in music classes has directly created some of the most influential musical movements in American history. Countless musicians have roots in Michigan—historically, Stevie Wonder, Diana Ross, Smoky Robinson, Bob Seger, Madonna, and Grand Funk Railroad. Today, legendary musicians such as Eminem, Jack White, Lizzo, and Big Sean are still playing their trade, changing the course of modern music for the next generation. Electronic music started in Michigan.

This starts in the classroom with the hardworking teachers who from choir to band to orchestra, pick up batons to lead choruses of voices, strings, woodwinds, brass and percussion. Michigan also has some of the finest musical institutions in the world, including the world-renowned Interlochen and Blue Lake Fine Arts Camp, along with the University of Michigan and Michigan State University Schools of Music, the Brass Band of Battle Creek, and the Detroit Symphony Orchestra and their Civic Youth Ensemble program, which turns 50 this year. Despite our international institutions, it's the important work that goes on in Michigan's middle and high schools that inspire another generation to change the world in their own way, with the help of music. I have two student musicians in our house and even throughout the pandemic and virtual learning, band and chorus still happened.

Thank you, Mr. President, and thank you to all music teachers in the state of Michigan who work hard every day to enrich the lives of our children. I would like my remarks printed in the Journal and if I may, Mr. President, through you, ask our colleagues who took music in school to rise or raise their hands to show just how far music in schools impacts us.

Announcements of Printing and Enrollment

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

House Bill Nos. 4115 4383 4384 4385 4386 4387 4388 4389 4390 4391 4392

The Secretary announced the enrollment printing and presentation to the Governor on Friday, March 19, for her approval the following bill:

Enrolled Senate Bill No. 186 at 10:02 a.m.

The Secretary announced the enrollment printing and presentation to the Governor on Tuesday, March 23, for her approval the following bills:

Enrolled Senate Bill No. 29 at 8:44 a.m.

Enrolled Senate Bill No. 114 at 8:46 a.m.

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

Senate Bill Nos.	256	257	258	259	260	261	262	263	264	265	266	267	268
Senate Resolution Nos.	29	30	31	32									
House Bill Nos.	4534	4535	4536	4537	4538	4539	4540	4541	4542	4543	4544	4545	4546
	4547												

Committee Reports

The Committee on Economic and Small Business Development reported

Senate Bill No. 250, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 2253 and 2453 (MCL 333.2253 and 333.2453), section 2253 as amended by 2006 PA 157, and by adding sections 2253a and 2453a.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

The committee further recommends that the bill be given immediate effect.

Ken Horn
Chairperson

To Report Out:

Yeas: Senators Horn, VanderWall, Lauwers, Schmidt, LaSata and MacDonald

Nays: Senators Geiss and Moss

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

The Committee on Economic and Small Business Development reported

House Bill No. 4040, entitled

A bill to amend 1943 PA 148, entitled "Proprietary schools act," by amending section 1a (MCL 395.101a), as amended by 2016 PA 146.

With the recommendation that the bill pass.

Ken Horn
Chairperson

To Report Out:

Yeas: Senators Horn, VanderWall, Lauwers, Schmidt, LaSata, MacDonald, Geiss and Moss

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Economic and Small Business Development reported

Senate Resolution No. 16.

A resolution to express support for mining and the mining industry and encourage the Governor, state agencies, local governments, members of the public, and labor organizations to support mining by taking certain actions.

(For text of resolution, see Senate Journal No. 13, p. 180.)

With the recommendation that the resolution be adopted.

Ken Horn

Chairperson

To Report Out:

Yeas: Senators Horn, VanderWall, Lauwers, Schmidt, LaSata, MacDonald, Geiss and Moss

Nays: None

The resolution was placed on the order of Resolutions.

COMMITTEE ATTENDANCE REPORT

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

Meeting held on Thursday, March 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

The Committee on Health Policy and Human Services reported

Senate Bill No. 12, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 22203 (MCL 333.22203), as amended by 2002 PA 619.

With the recommendation that the bill pass.

Curtis S. VanderWall

Chairperson

To Report Out:

Yeas: Senators VanderWall, Bizon, Johnson, LaSata, MacDonald and Theis

Nays: Senators Brinks, Santana and Wojno

The bill was referred to the Committee of the Whole.

The Committee on Health Policy and Human Services reported

Senate Bill No. 181, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 22203 (MCL 333.22203), as amended by 2002 PA 619.

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Curtis S. VanderWall

Chairperson

To Report Out:

Yeas: Senators VanderWall, Bizon, Johnson, LaSata, MacDonald and Theis

Nays: Senators Brinks, Santana and Wojno

The bill was referred to the Committee of the Whole.

The Committee on Health Policy and Human Services reported

Senate Bill No. 182, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 22211 and 22215 (MCL 333.22211 and 333.22215), section 22211 as amended by 2014 PA 107 and section 22215 as amended by 2002 PA 619.

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Curtis S. VanderWall
Chairperson

To Report Out:

Yeas: Senators VanderWall, Bizon, Johnson, LaSata, MacDonald, Theis, Brinks, Santana and Wojno

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Health Policy and Human Services reported

Senate Bill No. 183, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 20145, 22201, 22207, 22208, 22209, and 22221 (MCL 333.20145, 333.22201, 333.22207, 333.22208, 333.22209, and 333.22221), section 20145 as amended by 2015 PA 104, section 22201 as added by 1988 PA 332, sections 22207, 22209, and 22221 as amended by 2002 PA 619, and section 22208 as amended by 2011 PA 51.

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Curtis S. VanderWall
Chairperson

To Report Out:

Yeas: Senators VanderWall, Bizon, Johnson, LaSata, MacDonald, Theis, Brinks, Santana and Wojno

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Health Policy and Human Services reported

Senate Bill No. 190, entitled

A bill to amend 1974 PA 258, entitled "Mental health code," by amending section 137 (MCL 330.1137), as amended by 2015 PA 59, and by adding section 137b.

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

The committee further recommends that the bill be given immediate effect.

Curtis S. VanderWall
Chairperson

To Report Out:

Yeas: Senators VanderWall, Bizon, Johnson, LaSata, MacDonald, Theis, Brinks, Santana and Wojno

Nays: None

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Health Policy and Human Services submitted the following:

Meeting held on Thursday, March 18, 2021, at 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower

Present: Senators VanderWall (C), Bizon, Johnson, LaSata, MacDonald, Theis, Brinks, Santana and Wojno

Excused: Senator Hertel

COMMITTEE ATTENDANCE REPORT

The Appropriations Subcommittee on Licensing and Regulatory Affairs/Insurance and Financial Services submitted the following:

Meeting held on Thursday, March 18, 2021, at 8:30 a.m., Room 1300, Binsfeld Office Building

Present: Senators Nesbitt (C), MacDonald and Santana

COMMITTEE ATTENDANCE REPORT

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

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

Present: Senators Victory (C), Daley and McCann

COMMITTEE ATTENDANCE REPORT

The Appropriations Subcommittee on Universities and Community Colleges submitted the following:
Meeting held on Thursday, March 18, 2021, at 3:00 p.m., Harry T. Gast Appropriations Room, 3rd Floor, Capitol

Present: Senators LaSata (C), Bizon, MacDonald and Irwin

Excused: Senators Horn, Zorn and Hertel

Scheduled Meetings

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

Subcommittees –

Agriculture and Rural Development – Thursday, March 25, 3:00 p.m., Room 1300, Binsfeld Office Building (517) 373-2768

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

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

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

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

Energy and Technology – Wednesday, March 24, 12:30 p.m., Harry T. Gast Appropriations Room, 3rd Floor, Capitol Building (517) 373-1721

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

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

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

Natural Resources – Wednesday, March 24, 8:30 a.m., Room 403, 4th Floor, Capitol Building (517) 373-5312

Senator Lauwers moved that the Senate adjourn.

The motion prevailed, the time being 12:18 p.m.

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

MARGARET O'BRIEN
Secretary of the Senate