

STATE OF MINNESOTA
COUNTY OF RAMSEYDISTRICT COURT
SECOND JUDICIAL DISTRICT

Minnesota Gun Owners Caucus,

Plaintiff,

v.

Tim Walz, Governor of Minnesota, in his official capacity;

Keith Ellison, Attorney General of Minnesota, in his official capacity;

Mary Moriarty, Hennepin County Attorney, in her official capacity;

Drew Evans, Superintendent of the Minnesota Bureau of Criminal Apprehension, in his official capacity,

Defendants.

Case Type: Civil Other/Misc.

The Honorable Leonardo Castro
Court File No. 62-CV-25-1083**PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO DEFENDANTS'
MOTIONS TO DISMISS****INTRODUCTION**

The parties are in remarkable agreement: if any bill ever violates the Constitution's Single-Subject Clause or Title Clause, this Jumbo Omnibus Bill does. Defendants say not a single word to defend the Jumbo Bill's constitutionality. Nor could they reasonably do so: the Bill's 1,400-plus pages, 73 articles, and 1,342 paragraphs cannot possibly be corralled into a single subject. And they certainly are not all germane to "taxation," which was the subject stated in the Jumbo Bill's title when the Legislature passed it.

Instead, Defendants ask this Court to defy a century and a half of Minnesota Supreme Court precedent and hold that the courts simply cannot enforce the Single-Subject Clause—or at least not once the Revisor of Statutes has codified an unconstitutional law. The Minnesota Supreme

Court has never hinted at either rule. To the contrary, the Supreme Court and the Court of Appeals have consistently reviewed the merits of single-subject challenges—including challenges brought after codification—and struck down multi-subject bills when appropriate. Indeed, among the 40 other States that have single-subject requirements for legislation, ***not one*** appears to treat this as nonjusticiable, and only a minority bar post-codification challenges—and even then, only in circumstances not remotely present here.

In sum, although the Supreme Court has been warning repeatedly for decades that the Legislature needs to take the single-subject rule seriously, Defendants here demand a radically different approach: they want the Supreme Court to ***stop*** taking the single-subject rule seriously. Defendants apparently recognize that they have no alternative; if the courts give the single-subject rule any meaning at all, then the Jumbo Omnibus Bill must fall. Defendants can try to make their audacious suggestion, if they wish, to the Supreme Court itself—but it is badly out of place in this Court. Under established principles of Minnesota law, the Jumbo Omnibus Bill is unconstitutional and summary judgment should be entered in favor of Plaintiff.

LEGAL AND FACTUAL BACKGROUND

Article IV, section 17 of the Minnesota Constitution states that “No law shall embrace more than one subject, which shall be expressed in its title.” This section imposes two requirements: (1) the Single Subject Clause requires that every law must embrace only one subject, and (2) the Title Clause requires that each law’s single subject be expressed in its title. (Compl. ¶¶ 39-40.)

This case is about an enormous, last-minute bill passed by the Legislature and signed by the Governor at the very end of the 2024 legislative session. It was called H.F. 5247-4 (Chapter 127; the “Jumbo Omnibus Bill”) and was entitled “An Act Relating to Taxation.” But it actually

combined nine omnibus bills that the Legislature had previously been considering separately, with distinct subjects and titles:

1. Transportation, Housing, and Labor Omnibus, “relating to state government,” H.F. 5242 (CCR-HF5242A); *compare with* Jumbo Omnibus Bill, Articles 1-17.
2. Health Omnibus, “relating to health,” H.F. 4247 (CCR-HF4247A); *compare with* Jumbo Omnibus Bill, Articles 18-33;
3. Higher Education Omnibus, “relating to higher education,” H.F. 4024 (CCR-HF4024); *compare with* Jumbo Omnibus Bill, Articles 34-35;
4. Firearms Provisions, “relating to public safety,” H.F. 2609 (CCR-HF2609); *compare with* Jumbo Omnibus Bill, Article 36;
5. Energy and Agriculture Omnibus, “relating to state government,” S.F. 4942 (CCR-SF4942); *compare with* Jumbo Omnibus Bill, Articles 37-45;
6. Human Services Omnibus, “relating to human services,” S.F. 5335 (CCR-SF5335); *compare with* Jumbo Omnibus Bill, Articles 46-53;
7. Health and Human Services Omnibus, “relating to state government,” S.F. 4699 (CCR-SF4699); *compare with* Jumbo Omnibus Bill, Articles 54-67;
8. Tax Omnibus, “relating to taxation,” H.F. 5247 (CCR-HF5247); *compare with* Jumbo Omnibus Bill, Articles 68-72;
9. Paid Leave Omnibus, “relating to employees,” H.F. 5363 (4th Engrossment); *compare with* Jumbo Omnibus Bill, Article 73.

(Compl. ¶¶ 30-31, 35 46-50.)

All told, the Jumbo Omnibus Bill addresses at least thirteen subjects: transportation (Articles 1-3, 17), labor (Articles 4, 6, 8-11), combative sports (Article 5), state employees (Articles 12, 72-73), housing (Articles 14-16), health occupations and licensing (Articles 18-33, 61, 65), higher education (Articles 34-35), firearms (Article 36), agriculture (Articles 37-38), energy (Articles 13, 39-45, 58), human services (Articles 46-55, 62-64, 66-67), healthcare (Articles 56-57, 59-60), and taxes (Articles 68-71). (Compl. ¶¶ 51-52.)

The Jumbo Omnibus bill did not even come into existence until the nighttime hours of May 19, 2024—which was the last day of the 2024 legislative session in which bills could be passed, because the session ended the next day. *See* Minn. Const. art. IV, §21. On May 19, the House Tax

Omnibus Conference Committee began its scheduled meeting at approximately 9:45 PM, and after less than nine minutes of consideration passed its Conference Committee Report on H.F. 5247, which combined the nine originally distinct omnibus bills into the Jumbo Omnibus Bill. That report was posted at 10:49 PM. In the following 25 minutes, the full House took up the report, adopted its recommended changes, and passed the bill at approximately 11:14 PM, by a 70-50 vote. (Compl. ¶¶ 29, 32-34.)

Thus, with just minutes left until the clock would strike midnight on passing legislation for the session, the 1,400-plus-page bill went to the Senate. The Senate took it up at approximately 11:36 PM—and in a mere eight minutes, it adopted the House report’s recommended changes, and passed the Jumbo Bill in a 34-14 vote. (*Id.* ¶¶ 36-37.)

Throughout this entire process—from House Tax Committee to Senate passage—the bill’s title remained “[a] bill for an act relating to taxation...”¹ However, before the Jumbo Bill was presented to Governor Walz for signature, someone changed its title and subject to be more accurate, but also far more unwieldy. The revised title, all by itself, was hundreds of lines long. The more readable portions of this gargantuan revised title—which are less than one-sixth of the title’s total length—stated that the bill was

relating to the operation and financing of state government; modifying trunk high way bonds, transportation policy, combative sports, construction codes and licensing, the Bureau of Mediation Services, the Public Employee Labor Relations Act, employee misclassification, earned sick and safe time, University of Minnesota collective bargaining, broadband and pipeline safety, housing policy, and transportation network companies; expediting rental assistance; establishing registration for transfer care specialists; establishing licensure for behavior analysts; establishing licensure for veterinary technicians and a veterinary institutional license; modifying

¹ “Relating to taxation” was the beginning of the bill’s 11-line title. The remaining lines mostly identified more specific tax measures contained in the bill. See https://www.revisor.mn.gov/bills/text.php?number=HF5247&type=bill&version=0&session_year=2024&session_number=0

provisions of veterinary supervision; modifying specialty dentist licensure and dental assistant licensure by credentials; removing additional collaboration requirements for physician assistants to provide certain psychiatric treatment; modifying social worker provisional licensure; establishing guest licensure for marriage and family therapists; modifying pharmacy provisions for certain reporting requirements and change of ownership or relocation; modifying higher education policy provisions; amending the definition of trigger activator; increasing penalties for transferring firearms to certain persons who are ineligible to possess firearms; amending agriculture policy provisions; establishing and modifying agriculture programs; providing broadband appropriation transfer authority; requiring an application for federal broadband aid; adding and modifying provisions governing energy policy; establishing the Minnesota Energy Infrastructure Permitting Act; modifying provisions related to disability services, aging services, substance use disorder treatment services, priority admissions to state-operated programs and civil commitment, and Direct Care and Treatment; modifying provisions related to licensing of assisted living facilities; modifying provisions governing the Department of Human Services, human services health care policy, health care finance, and licensing policy; modifying provisions governing the Department of Health, health policy, health insurance, and health care; modifying provisions governing pharmacy practice and behavioral health; establishing an Office of Emergency Medical Services and making conforming changes; modifying individual income taxes, minerals taxes, tax-forfeited property, and miscellaneous tax provisions; modifying state employee compensation; modifying paid leave provisions; imposing penalties; authorizing administrative rulemaking; making technical changes; requiring reports; [and] appropriating money

(Compl. ¶¶ 9, 48-50, 58.)

This post-passage change in the enacted bill’s title was far out of the ordinary. Indeed, the Legislature has made it a felony to “fraudulently alter[] the engrossed copy or enrollment of a bill which has been passed by the legislature, with intent to procure its approval by the governor ... in language different from that in which it was passed by the legislature.” Minn. Stat. §3.191.

Nevertheless, on May 24, 2024, Governor Walz signed the Jumbo Omnibus Bill into law.
(Compl. ¶ 38.)

The Jumbo Omnibus Bill Harms Plaintiff MGOC And Its Members.

Plaintiff Minnesota Gun Owners Caucus (“MGOC”) is a non-profit organization that advocates on behalf of its members to defend the right to keep and bear arms. MGOC monitored and

opposed the passage of the Jumbo Omnibus Bill because of the inclusion of H.F. 2609 (the Firearms Provisions) in addition to other concerning provisions. (Compl. ¶¶ 16-17, 60-67.)

The Jumbo Omnibus Bill contains three sections relating to firearms. Preexisting Minnesota law prohibited owning, possessing, or operating a “trigger activator.” Minn. Stat. §609.67, subd. 2(a) (2023); (*see* Compl. ¶ 63). One section of the Jumbo Omnibus Bill expanded the definition of prohibited “trigger activators” to include what are known as “binary triggers” (Jumbo Omnibus Bill, art. 36, sect. 2; the “Binary Trigger Amendment.”) As the Jumbo Bill’s amended definition of “trigger activator” puts it, Minnesota law now prohibits owning or using “a device that allows a firearm to shoot one shot on the pull of the trigger and a second shot on the release of the trigger without requiring a subsequent pull of the trigger.” (*see* Compl. ¶¶ 61-62; Jumbo Omnibus Bill, Art. 36, sect. 2). Neither the Jumbo Omnibus Bill nor any other provision of Minnesota law includes a grandfather provision protecting people who already were lawfully in possession of binary triggers. (Compl. ¶¶ 68-69.)

Numerous MGOC members own binary triggers of the kind that the Jumbo Omnibus Bill purports to criminalize. As the Complaint pleads, they include three MGOC members and supporters who do not wish to be identified by name for fear of reprisal (*see id.* ¶¶ 17-18, 66-67):

- Member A is a member/supporter of MGOC and resident of Wright County, Minnesota. Member A owns and would like to continue to own a Fostech AR Echo II binary trigger. Member A lawfully purchased the binary trigger prior to 2025. (*Id.* ¶ 18(a).)
- Member B is a member/supporter of MGOC and resident of Goodhue County, Minnesota. Member B owns and would like to continue to own three Franklin Armory BFSIII binary triggers. Member B lawfully purchased the binary triggers prior to 2025. (*Id.* ¶ 18(b).)
- Member C is a member/supporter of MGOC and resident of Hennepin County, Minnesota. Member C owns and would like to continue to own two Fostech triggers for his or her AR-15 rifle and two Franklin Armory triggers for his or her 10/22 rifles. Member C lawfully purchased the binary triggers prior to 2025. (*Id.* ¶ 18(c).)

The Binary Trigger Amendment threatens these and other MGOC members and supporters with felony liability for the mere possession of uninstalled binary triggers. (*Id.* ¶¶ 60-71.) These members are grievously harmed by the Binary Trigger Amendment, and MGOC advocates on their behalf. (*Id.* ¶¶ 66-71.)

Moreover, the prosecution threatened against MGOC's members by the Binary Trigger Amendment would come from the government officials who are Defendants in this case. County Attorney Moriarty enforces Minn. Stat. §609.67 pursuant to Minn. Stat. §388.051, subd. 1(3). Superintendent Evans or the Minnesota Bureau of Criminal Apprehension may confiscate firearms which are possessed in violation of chapter 609 pursuant to Minn. Stat. §609.531, *et seq.* Attorney General Ellison may prosecute felonies as requested by County Attorney Moriarty or the governor, pursuant to Minn. Stat. §8.01. And Governor Walz has also threatened enforcement of the Binary Trigger Amendment. (Compl. ¶¶ 72-76.)

LEGAL STANDARD

When assessing a motion to dismiss under Rule 12.02(e), a court “must consider only the facts alleged in the complaint, accepting those facts as true and must construe all reasonable inferences in favor of the nonmoving party.” *Bodah v. Lakeville Motor Express, Inc.*, 663 N.W.2d 550, 553 (Minn. 2003) (citation omitted). “A claim is sufficient against a motion to dismiss for failure to state a claim if it is possible on any evidence which might be produced, consistent with the pleader’s theory, to grant the relief demanded.” *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 603 (Minn. 2014).

ARGUMENT

Defendants do not contend that the Jumbo Omnibus Bill actually complies with the Constitution's Single Subject or Title Clauses. Instead, Defendants identify four purported non-merits bases for dismissal: (1) that a statute's compliance with the Single Subject and Title Clauses is a non-justiciable political question, (2) that Single Subject and Title Clause claims somehow disappear once the Revisor codifies an unconstitutional statute, (3) that MGOC cannot seek declaratory relief without naming as defendants every state official who could possibly enforce the Binary Trigger Amendment, and (4) that the Constitution's Remedies Clause does not provide a cause of action for violations of constitutional rights.

The first three of these arguments directly contradict more than a century of Minnesota Supreme Court decisions spanning many dozens of cases. They also contradict good sense. The final argument is immaterial because MGOC undisputedly has a cause of action for injunctive and declaratory relief—but it also is mistaken, because the ability to challenge the Legislature's statutes as unconstitutional surely derives from the Constitution itself, and does not depend on legislative grace in leaving open a judicial remedy.

I. MGOC's Single Subject and Title Clause Challenges Are Justiciable.

A. A tidal wave of caselaw supports judicial enforcement of the single-subject requirement.

From the time Minnesota adopted our Constitution through recent years, the Minnesota Supreme Court has decided the merits of nearly 100 cases claiming that statutes violated the Single Subject Clause, the Title Clause, or both.² Indeed, just 34 years after the Constitution was adopted,

² *Otto v. Wright Cty.*, 910 N.W.2d 446, 455 (Minn. 2018); *Wallace v. State*, 820 N.W.2d 843, 851 (Minn. 2012); *Townsend v. State*, 767 N.W.2d 11, 13 (Minn. 2009); *Assoc. Builders & Contractors v. Ventura*, 610 N.W.2d 293, 295 (Minn. 2000); *Metro. Sports Facilities Com v. Cty. of Hennepin*, 478 N.W.2d 487, 491 (Minn. 1991); *Blanch v. Suburban Hennepin Reg'l Park Dist.*, 449 N.W.2d

150, 154 (Minn. 1989); *England v. England*, 337 N.W.2d 681, 683 (Minn. 1983); *Lifteau v. Metro. Sports Facilities Com.*, 270 N.W.2d 749, 753 (Minn. 1978); *State v. Dick*, 253 N.W.2d 277, 279 (Minn. 1977); *Wass v. Anderson*, 252 N.W.2d 131, 135 (Minn. 1977); *Sorenson v. Minneapolis-St. Paul Metro. Airports Com.*, 183 N.W.2d 292, 294 (Minn. 1971); *Hunt v. Nev. State Bank*, 172 N.W.2d 292, 313 (Minn. 1969); *State v. Houge*, 159 N.W.2d 265, 268 (Minn. 1968); *State v. Bell*, 157 N.W.2d 760, 761 (Minn. 1968); *State v. Harris*, 152 N.W.2d 728, 730 (Minn. 1967); *State ex rel. McGregor v. Rigg*, 109 N.W.2d 310, 314 (Minn. 1961); *Govt'l Research Bureau v. St. Louis Cty.*, 104 N.W.2d 411, 416 (Minn. 1960); *Visina v. Freeman*, 89 N.W.2d 635, 653 (Minn. 1958); *W. States Utils. Co. v. Waseca*, 65 N.W.2d 255, 264 (Minn. 1954); *Duluth v. Northland Greyhound Lines*, 52 N.W.2d 774, 776 (Minn. 1952); *Thomas v. Hous. & Redevelopment Auth.*, 48 N.W.2d 175, 189 (Minn. 1951); *State v. Meyer*, 37 N.W.2d 3, 8 (Minn. 1949); *State ex rel. Finnegan v. Burt*, 29 N.W.2d 655, 656 (Minn. 1947); *Kuhnle v. Swedlund*, 20 N.W.2d 396, 398 (Minn. 1945); *Duluth v. Cerveney*, 16 N.W.2d 779, 785 (Minn. 1944); *Blanton v. N.P.R. Co.*, 10 N.W.2d 382, 386 (Minn. 1943); *State v. Stein*, 9 N.W.2d 763, 765 (Minn. 1943); *C. Thomas Stores Sales Sys. v. Spaeth*, 297 N.W. 9, 13 (Minn. 1941); *Vorbeck v. Glencoe*, 288 N.W. 4, 6 (Minn. 1939); *State ex rel. Pearson v. Prob. Ct. of Ramsey Cty.*, 287 N.W. 297, 300 (Minn. 1939); *Sverkerson v. Minneapolis*, 283 N.W. 555, 557 (Minn. 1939); *Blaisdell v. Home Bldg. & Loan Ass'n*, 249 N.W. 334, 338 (Minn. 1933); *Luzier Special Formula Labs. v. State Bd. of Hairdressing*, 248 N.W. 664, 666 (Minn. 1933); *In re Detachment of Agric. Lands from Owatonna*, 246 N.W. 905, 906 (Minn. 1933); *Egekvist Bakeries, Inc. v. Benson*, 243 N.W. 853, 854 (Minn. 1932); *State ex rel. Benson v. Bd. of Comm'rs*, 243 N.W. 851, 852 (Minn. 1932); *State ex rel. Sargeant v. Cty. of Mower*, 241 N.W. 60, 62 (Minn. 1932); *Lyman v. Chase*, 226 N.W. 842, 842 (Minn. 1929); *Fraser v. Vermilion Mining Co.*, 221 N.W. 13, 13 (Minn. 1928); *State v. Palmquist*, 217 N.W. 108, 108 (Minn. 1927); *State v. Helmer*, 211 N.W. 3, 3 (Minn. 1926); *State v. Rudin*, 189 N.W. 710, 711 (Minn. 1922); *State v. Women's & Children's Hosp. Ass'n*, 184 N.W. 1022, 1022 (Minn. 1921); *State v. Brothers*, 175 N.W. 685, 686 (Minn. 1919); *Seamer v. Great N.R. Co.*, 172 N.W. 765, 766 (Minn. 1919); *State ex rel. Graff v. Prob. Ct. of St. Louis Cty.*, 150 N.W. 1094, 1098 (Minn. 1915); *State v. Brooks-Scanlon Lumber Co.*, 150 N.W. 912, 913 (Minn. 1915); *State v. Droppo*, 147 N.W. 829, 829 (Minn. 1914); *State ex rel. Olson v. Erickson*, 146 N.W. 364, 365 (Minn. 1914); *State v. People's Ice Co.*, 144 N.W. 962, 963 (Minn. 1914); *Gard v. Otter Tail Cty.*, 144 N.W. 748, 748 (Minn. 1913); *State v. Sharp*, 141 N.W. 526, 526 (Minn. 1913); *State v. Armour & Co.*, 136 N.W. 565, 569 (Minn. 1912); *State v. Pioneer Press Co.*, 110 N.W. 867, 868 (Minn. 1907); *State v. Tower Lumber Co.*, 110 N.W. 254, 255 (Minn. 1907); *Berman v. Cosgrove*, 104 N.W. 534, 534 (Minn. 1905); *Merchants' Nat'l Bank v. E. Grand Forks*, 102 N.W. 703, 703 (Minn. 1905); *State ex rel. Day v. Hanson*, 102 N.W. 209, 210 (Minn. 1904); *Atwell v. Parker*, 101 N.W. 946, 946 (Minn. 1904); *Watkins v. Bigelow*, 100 N.W. 1104, 1108 (Minn. 1904); *State ex rel. Skyllingstad v. Gunn*, 100 N.W. 97, 98 (Minn. 1904); *State v. Boehm*, 100 N.W. 95, 96 (Minn. 1904); *State ex rel. Jonason v. Crosby*, 99 N.W. 636, 637 (Minn. 1904); *State v. Leland*, 98 N.W. 92, 93 (Minn. 1904); *Gaare v. Bd. of Cty. Comm'rs*, 97 N.W. 422, 423 (Minn. 1903); *State ex rel. Olsen v. Bd. of Control*, 88 N.W. 533, 534 (Minn. 1902); *Ek v. St. Paul Permanent Loan Co.*, 87 N.W. 844, 845 (Minn. 1901); *State ex rel. Olson v. Bd. of Comm'rs*, 85 N.W. 830, 831 (Minn. 1901); *Winters v. Duluth*, 84 N.W. 788, 789 (Minn. 1901); *Crookston v. Bd. of Cty. Comm'rs*, 82 N.W. 586, 587 (Minn. 1900); *Hamilton v. Minneapolis Desk Mfg. Co.*, 80 N.W. 693, 694 (Minn. 1899); *State ex rel. Bazille v. Sullivan*, 76 N.W. 223, 224 (Minn. 1898); *State ex rel. Schulman v. Phillips*, 75 N.W. 1029, 1030 (Minn.

the Supreme Court noted without disapproval that single-subject challenges were “made to almost every act of the legislature.” *Willis v. Standard Oil Co.*, 52 N.W. 652, 654 (Minn. 1892). Never has the Court suggested that it somehow lacked power to hear or decide such challenges. To the contrary, it has stated that treating the single-subject rule as “directory” and unenforceable would be “contrary to the unbroken line of decisions in [the Minnesota Supreme] court.” *Sjoberg v. Sec. Sav. & Loan Ass’n*, 75 N.W. 1116, 1117 (Minn. 1898). Indeed, the Supreme Court’s very first decision under the Single Subject Clause—rendered the same year the Constitution was adopted—decided this debate. The Court held that “[i]f it is only directory, it is senseless, but if held to mean what it imports, it is an advance in the science of government worthy of imitation by all states and countries whose legislatures are not absolute.” *Bd. of Supervisors v. Heenan*, 2 Minn. 330, 336 (1858).

Since the Minnesota Court of Appeals was established, it too has heard and precedentially decided the merits of several Single Subject Clause and Title Clause cases (beyond those decided by the Supreme Court).³ Even the local federal courts have decided the merits of several such

1898); *Simard v. Sullivan*, 74 N.W. 280, 280 (Minn. 1898); *Fleckten v. Lamberton*, 72 N.W. 65, 66 (Minn. 1897); *State ex rel. Keith v. Chapel*, 65 N.W. 940, 940 (Minn. 1896); *State v. Anderson*, 65 N.W. 265, 266 (Minn. 1895); *In re Duluth*, 61 N.W. 678, 679 (Minn. 1894); *State ex rel. Shissler v. Porter*, 55 N.W. 134, 136 (Minn. 1893); *State ex rel. Wilson v. Bigelow*, 54 N.W. 95, 96 (Minn. 1893); *Johnson v. Harrison*, 50 N.W. 923, 924 (Minn. 1891); *Stolz v. Thompson*, 46 N.W. 410, 410 (Minn. 1890); *State ex rel. Smith v. Gallagher*, 44 N.W. 529, 529 (Minn. 1890); *State ex rel. Holman v. Murray*, 42 N.W. 858, 859 (Minn. 1889); *State ex rel. Rice v. Smith*, 28 N.W. 241, 242 (Minn. 1886); *Miss. & Rum River Boom Co. v. Prince*, 24 N.W. 361, 363 (Minn. 1885); *State v. Cassidy*, 22 Minn. 312, 322 (1875); *Barton v. Drake*, 21 Minn. 299, 303 (1875); *State ex rel. Stuart v. Kinsella*, 14 Minn. 524, 525 (1869); *State v. Gut*, 13 Minn. 341, 349 (1868); *St. Paul v. Colter*, 12 Minn. 41, 50 (1866); *Winona & St. P. R.R. Co. v. Waldron*, 11 Minn. 515, 529 (1866); *Bd. of Supervisors v. Heenan*, 2 Minn. 330, 339 (1858).

³ *Unity Church v. State*, 694 N.W.2d 585, 591 (Minn. Ct. App. 2005); *Defs. of Wildlife v. Ventura*, 632 N.W.2d 707, 711 (Minn. Ct. App. 2001); *Masters v. Comm’r, Minn. Dep’t of Nat. Res.*, 604 N.W.2d 134, 137 (Minn. Ct. App. 2000); *Caprice v. Gomez*, 552 N.W.2d 753, 759 (Minn. Ct. App. 1996); *Inv. Co. Inst. v. Hatch*, 477 N.W.2d 747, 750 (Minn. Ct. App. 1991); *Metro. Sports Facilities Com. v. Gen. Mills, Inc.*, 460 N.W.2d 625, 629 (Minn. Ct. App. 1990); *Bernstein v. Comm’r of Pub. Safety*, 351 N.W.2d 24, 25 (Minn. Ct. App. 1984).

cases, spanning from modern times back to the 1800s.⁴ These courts too have never said, or even suggested, that Single Subject Clause or Title Clause cases are beyond the judicial power.

This appears to be the unanimous view of other States as well. As Defendants note (State Mem. 11), at least 40 state constitutions require that statutes cover only a single subject. Despite this, Defendants cite *not a single State* that treats the enforcement of this requirement as a non-justiciable political question, and Plaintiff is not aware of any such State either.⁵ Indeed, the courts of several States have expressly held that single-subject challenges *are* justiciable, for reasons that go back to *Marbury v. Madison*: when a statute purports to govern the outcome of a case, it is the most fundamental duty of the courts to determine whether the statute is valid law under the constitution.⁶ These courts thus recognize that their constitutional provisions do not “vest[] the Legislature with the responsibility to judge its own compliance with the constitutional requirements for the legislative process.” *League of Women Voters of Honolulu*, 499 P.3d at 393; *see Ariz. Sch. Bds. Ass’n*, 501 P.3d at 742 (Bolick, J, concurring).

⁴ *BHGDN, LLC v. State*, 598 F. Supp. 2d 995, 1003 (D. Minn. 2009); *Van Bergen v. Minnesota*, 59 F.3d 1541, 1549 (8th Cir. 1995); *Indep. Sch. Dist. No. 197 v. W.R. Grace & Co.*, 752 F. Supp. 286, 294 (D. Minn. 1990); *Clagett v. Duluth Tp.*, 143 F. 824 (8th Cir. 1906); *South St. Paul v. Lambrecht Bros. Co.*, 88 F. 449, 451 (8th Cir. 1898).

⁵ In *Sjoberg*, the Minnesota Supreme Court noted—and rejected—the Ohio Supreme Court’s view that its constitutional one-subject requirement was “directory” and unenforceable. 75 N.W. at 1117. But the Ohio high court abrogated that rule in 2004, holding that “the one-subject provision is capable of invalidating an enactment” and so “cannot be considered merely directory in nature.” *In re Nowak*, 820 N.E.2d 335, 344 (Ohio 2004).

⁶ *Planned Parenthood v. Hilgers*, 9 N.W.3d 604, 609-11 (Neb. 2024); *Ariz. Sch. Bds. Ass’n v. State*, 501 P.3d 731, 737-38 (Ariz. 2022); *League of Women Voters v. State*, 499 P.3d 382, 392-93 (Haw. 2021); *Magee v. Boyd*, 175 So. 3d 79, 105-06 (Ala. 2015); *Common Cause v. Commonwealth*, 710 A.2d 108, 117-18 (Pa. Cmwlth. 1998), *aff’d*, 757 A.2d 367 (Pa. 2000); *see Pennsylvanians Against Gambling Expansion Fund, Inc. v. Commonwealth*, 877 A.2d 383, 393 n.6 (Pa. 2005).

In modern times, the Minnesota Supreme Court has emphasized the same thing in exceptionally strong terms. In 2000, the Supreme Court struck down statutory provisions that violated the single-subject rule. *Assoc. Builders*, 610 N.W.2d at 307. In doing so, the Court first observed that it has enforced the single-subject rule since Minnesota's first years of statehood. *Id.* at 299-300. The Supreme Court then reiterated that, since the 1980s, the Justices have increasingly "sound[ed] an alarm that we would not hesitate to strike down oversweeping legislation that violates the Single Subject and Title Clause, regardless of the consequences." *Id.* at 301. The Court noted the intense concerns expressed by the Justices in recent decades:

- That "all bounds of reason and restraint seem to have been abandoned" regarding the single-subject rule;
- That single-subject violations "ha[ve] become a monster eating the constitution;"
- That "[g]arbage or Christmas tree bills appear to be a direct, cynical violation of our constitution" and "the more deference shown by the courts to the legislature and the more timid the courts are in acting against constitutional infringements, the bolder become those who would violate them;"
- That "the [Supreme C]ourt is increasingly concerned about the possibilities of future violations of art. IV, Sec. 17;" and
- That it had previously given a "warning about the constitutional frailty of 'garbage bills'."

Id. at 301-02 (citations omitted). After striking down the unconstitutional provision, the *Associated Builders* Court reiterated that "[t]his decision ... informs the legislature that **we do not hesitate to declare unconstitutional a statutory provision violating the Single Subject and Title Clause.**" *Id.* at 307 (emphasis added).

The Supreme Court's most recent word on the Single-Subject Clause is just as emphatic. In *Otto v. Wright County*, the Court stated that although in modern times it has found most laws to satisfy the single-subject rule, this is "not because we have adopted an unduly deferential approach to reviewing legislation for compliance with the Minnesota Constitution or because we do not

share the concerns that members of our court have expressed from time to time regarding the legislative process.” 910 N.W.2d at 458 (citations omitted). Instead, the Court stated, “[w]e remain firmly committed to our constitutional duty,” and “[w]e trust that the Legislature has heard, and will heed, these warnings.” *Id.* at 459.

B. Defendants’ defiance of this settled law is wholly out of place in this Court.

Defendants are refusing to accept the Supreme Court’s repeated warnings that the legislature should take the Constitution’s rules seriously. They rejoin, in effect, that the Supreme Court should *not* take the Constitution’s rules so seriously, and should let the Legislature violate them if it wants to.

This Court is not the proper forum for that argument. Defendants can ask the Supreme Court to throw out 150 years of its own strongly worded precedents and defy the unanimous consensus of the other States, if Defendants are brave and foolish enough to try. But they cannot properly demand that of this Court. Even on the merits, however, Defendants’ political-question argument is every bit as wrongheaded as one would expect, in light of the unbroken line of Supreme Court decisions to the contrary.

Defendants offer two unpersuasive reasons for their revolutionary contention that the Single Subject Clause and Title Clause are unenforceable. First is Defendants’ assertion (State Mem. 9) that “[t]he Minnesota Constitution delegates responsibility for the single-subject and title clause to the legislature” because “[t]he clause appears in article IV of the Minnesota Constitution, which relates to the powers and responsibilities of the ‘legislative department,’” “[a]nd the clause applies to the legislature’s core function: lawmaking.” These mundane points about the constitutional structure obviously cannot establish a non-justiciable political question: if they could, they would completely bar the judiciary from ever determining whether the Legislature had complied with *any*

of the Constitution's procedural requirements for legislating. The Supreme Court rejected that very position just weeks ago, in ruling that the courts can review whether a legislative quorum is present:

This ... is not strictly a matter about the Legislature's internal decisions about how to organize itself It is emphatically the province and duty of the judicial department to say what the law is. The judiciary can rule on the Legislature's noncompliance with a constitutional mandate, especially in as much as the interpretation of the constitution's language is a judicial, not a legislative, question.

Simon v. Demuth, Nos. A25-0066, A25-0068, 2025 Minn. LEXIS 109, at *6-8 (Mar. 5, 2025) (cleaned up).

Stated more generally, the rule has long been that “there is no breach of the separation of powers for the [judiciary] to determine the basic issue of whether the Legislature is meeting the affirmative duty that the Minnesota Constitution places on it.” *Cruz-Guzman*, 916 N.W.2d at 8-10. That was the situation in *Demuth*, and it is precisely the situation here. Minnesota's courts have always interpreted the Single Subject Clause and Title Clause as imposing a “constitutional limitation,” *Olsen*, 88 N.W. at 536, or a “constitutional mandate,” *Unity Church*, 694 N.W.2d at 593, on the Legislature. Declining to enforce legislative enactments that violate that mandate falls within the heartland of the judicial power.

Defendants do no better in arguing (State Mem. 9) that the Single Subject Clause must present a political question because it is supposedly “difficult to enforce.” On this point, Defendants invoke only one 1890 Minnesota decision (*id.*), which eschewed any “general rule” for defining what constitutes a single subject, *State ex rel. Nash v. Madson*, 45 N.W. 856, 856 (Minn. 1890), along with one law-review article. (State Mem. 9.) They cite not a single Minnesota case from the last 130 years in which a court has expressed difficulty in applying the single-subject rule. In fact, the Supreme Court's recent warnings about its determination to enforce the single-subject rule

have been accompanied by increasing doctrinal clarity regarding the “concept of germaneness,” which provides the governing legal standard. *Otto*, 910 N.W.2d at 458 & n.11.

Moreover, the courts consider the “subject” of legislation in a variety of other legal contexts, without any suggestion that it is somehow impossible to discover. *E.g.*, *People for Env'tl. Enlightenment & Responsibility (PEER), Inc. v. Minn. Env'tl. Quality Council*, 266 N.W.2d 858, 866 (Minn. 1978) (noting the “general policy of statutory construction ... of harmonizing statutes dealing with the same subject matter” (citations omitted)); Minn. Stat. §645.17(4) (“when a court of last resort has construed the language of a law, the legislature in subsequent laws on the same subject matter intends the same construction to be placed upon such language”).

It is downright bizarre, therefore, for Defendants to contend (State Mem. 11) that “modern legislative ‘complexity’” requires the courts to give up on enforcing the single-subject rule. The very purpose of the single-subject rule is to *prevent* one particular kind of legislative complexity that our constitutional tradition regards as corrosive of democracy. If Defendants think that kind of complexity has somehow now become a necessity, they should seek to amend the Constitution to permit it—not ask this Court to simply ignore both the Constitution and everything the Minnesota Supreme Court has said about the Single Subject Clause, both recently and historically.

The same goes for Defendants’ arguments about the supposed “transparency” of the modern legislative process (State Mem. 11). If Defendants want to argue that technological developments have made certain provisions of our Constitution no longer necessary, the proper audience for that argument is shows that “transparency” by itself cannot replace the role of the Single Subject and Title Clauses. The Jumbo Omnibus Bill’s nine constituent omnibus bills were folded together almost literally at the eleventh hour, and were presented to and passed by both Houses of the Legislature within mere minutes. *See supra* Legal and Factual Background. There was little or

no opportunity for even the legislators, let alone any member of the public, to apprise themselves of what they were voting on. Indeed, there were not even enough copies for all legislators to read, and the online version of the conference committee report was unavailable. *Democrats Abandoning Minnesotans*, Minn. Senate Republican Caucus, <https://www.mnsenaterepublicans.com/democrats-abandoningminnesotans/> (last visited Apr. 29, 2025). But even if it were available, nobody could read 1,400-plus pages in a few spare minutes. One might reasonably think that legislating under cover of darkness in this way is virtually the opposite of “transparency.” But in all events, the lightning-fast turnaround of the Jumbo Omnibus Bill in both the House and the Senate made it more crucial than ever that legislators could rely on the accuracy of the bill’s title and the coherency of its subject matter.

The reality is that, from the 1800s to today, Minnesota’s courts have consistently recognized and addressed concerns like Defendants’ while still enforcing the Single Subject Clause and Title Clause. The courts have done so by consistently holding that the constitutional term “subject” must be given a “broad and extended meaning.” *Assoc. Builders*, 610 N.W.2d at 299-300 (quoting *Johnson*, 50 N.W. at 924). The courts have followed that rule for over a century, upholding many laws while striking down some, all without a hint of difficulty in either its application or its consequences. So even if Defendants’ request for an abrupt change of course were not roundly foreclosed by the Supreme Court’s repeated and emphatic warnings, it would be thoroughly wrong on the merits.

Single Subject Clause and Title Clause challenges have always been justiciable, are justiciable, and should remain justiciable. They do not present political questions.

II. Like Most States, Minnesota has Never Held that Codification Immunizes Unconstitutional Laws from Challenge—Nor Should It.

Defendants next argue (State Mem. 11-13) that courts somehow are required to enforce unconstitutional laws once the Revisor codifies them in the Minnesota Statutes. Just like Defendants' political-question argument, this rule is utterly foreign to Minnesota's constitutional tradition. Like most States, the Minnesota courts have never applied or even suggested such a bar. Nor should they. In every other area of the law, the interests in certainty and repose are amply served by statutes of limitations and the doctrine of laches. Defendants give no reason why the courts should impose unique disfavor on Single Subject Clause or Title Clause challenges by improvising a special "codification" bar only for them.

A. Minnesota has never applied Defendants' "codification rule"—nor has almost any other State.

As noted above, Minnesota courts have decided many dozens of single-subject cases since the beginning of statehood—and Defendants cite not a single case that has rejected such a challenge due to untimeliness. In fact, MGOC brings this claim on the exact same timeframe as the plaintiff in *Otto*, 910 N.W.2d at 449-50 (plaintiff sued in February 2016 to challenge an act passed in May 2015), and much more quickly than other past plaintiffs who succeeded in their single-subject challenges. *E.g.*, *Women's & Children's Hosp.*, 173 N.W. at 402 (act passed in April 1917; constitutional challenge raised in suit filed in June 1918; court invalidated entire act); *State ex rel. Finnegan*, 29 N.W.2d at 656 (challenge to 1945 enactment raised in January 1947); *Metro. Sports Facilities Com v. Cnty. of Hennepin*, 478 N.W.2d at 488-89 ("The case now before us involves the 1985 amendment and is based on petitions filed in 1987 and 1988 with respect to the 1986 and 1987 assessments.").

Minnesota is in good company on this point. As Defendants concede (State Mem. 11), at least 40 States have single-subject rules in their constitutions, and a strong majority do not apply any version of a codification rule.

Just as important, even of the minority of States that *do* apply a codification rule, nearly all apply a very different and drastically narrower version than the one advocated by Defendants here. Specifically, these States bar challenges to a law’s procedural constitutionality only when *the state legislature* has re-enacted the law into the state’s code, not merely when the state revisor has published an updated version of the code.

Minnesota is like most every State in that “the actual laws of Minnesota as passed by the legislature are contained in the *session laws*.” *State v. Boecker*, 893 N.W.2d 348, 353 (Minn. 2017) (cleaned up). After each legislative session, the Revisor of Statutes is directed to re-organize and lightly edit the newly enacted laws (and remove any newly-repealed ones) to publish a new edition of the Minnesota Statutes. *See* Minn Stat. §§3C.08, 3C.10. But the precise language of this reorganized and edited version of “the codified Minnesota Statutes” has not been voted on by the Legislature or signed by the Governor; thus, they “are one type of prima facie evidence of the laws of Minnesota, but they are not the laws themselves.” *Boecker*, 893 N.W.2d at 353 (cleaned up); *see* Minn. Stat. §3C.13.

In many States, however, the Legislature occasionally reviews the code, as edited by the state revisor, and may decide to enact the full code itself (or large portions of it) into law—thus effectively revising and replacing the similar session laws that previous legislatures had enacted. *E.g.*, *State ex rel. Griffith v. Davis*, 229 P. 757, 758 (Kan. 1924) (“[T]he Revised Statutes of 1923 became, on publication, not merely evidence of the law, but the law itself.”). In Minnesota, this last happened in 1945, when the Legislature enacted the then-current Minnesota Revised States in

their entirety. *See* Minn. Stat. §3C.07. Other state legislatures, however, have enacted their state codes into positive law more recently. *E.g.*, Ga. Code Ann. §1-1-10 (1981).

It is *this* kind of codification—an actual vote by the legislature and signature by the governor on the codified language of the laws—that some States hold prevents litigants from claiming that the previous version of any codified law had not been enacted by the constitutionally required procedures. In South Dakota, for instance, “[a]fter a statute has been reenacted as part of the Code, it is no longer subject to assault because of a claimed defect in the title to the original Act when it was enacted by the legislature.” *State v. Matteson*, 205 N.W.2d 512, 514 (S.D. 1973) (emphasis added; citation & quotations omitted); *accord, e.g., Meadows v. Logan*, 121 W.Va. 51, 52, 1 S.2d 394, 394 (W.Va. 1939) (“[L]egislative incorporation of an existing statute into a general code cures the statute of any titular defect in its original enactment” (citations omitted)); *Bluthenthal v. I. Trager & Co.*, 31 So. 622, 623 (Ala. 1901).

And it is easy to see the rationale for that approach: once the legislature enacts a codified version of the statute, *that* is the operative version of the law, and what matters is whether *that* version was enacted in a constitutional manner. Since such a “revision is a wholly independent enactment,” courts may conclude that “the constitutionality of its several provisions ... depends upon its own title and not upon the titles of prior enactments embodied therein.” *State v. Czarnicki*, 10 A.2d 461, 462 (N.J. 1940).⁷ Of the 16 States that Defendants say have adopted the “codification

⁷ That, of course, does not mean that the procedures the legislature used to enact the *codified* version of the laws are necessarily immune from constitutional challenge. With respect to the single-subject rule in particular, one might wonder how the Legislature could be permitted to enact whole volumes of the Code at a single time. Explanations in the caselaw are remarkably sparse; it is possible that courts view “organizing the preexisting laws” as a permissible single subject. But in any event, the question does not arise here because the Minnesota Legislature does not appear to have re-enacted the entire code since 1945.

rule,” it appears that almost all of them apply this sort of legislative-enactment version of it. *See, e.g., McGraw Elec. Co. v. Lewis & Smith Drug Co.*, 68 N.W.2d 608, 619 (Neb. 1955); *State v. Pitet*, 243 P.2d 177, 185 (Wyo. 1952); *Edwards v. S. Ry.*, 44 S.E. 748, 749-50 (S.C. 1903); *Cent. G.R. Co. v. State*, 31 S.E. 531, 539 (Ga. 1898).

But of course, Defendants here are not and could not be advocating that narrow version of the codification rule. Minnesota’s Legislature does not appear to have voted any version of the Revised Statutes into law since 1945, so no part of the Jumbo Omnibus Bill has been “codified” by the Legislature itself.⁸ Defendants instead argue for a breathtakingly broad version of the codification rule that has been adopted by virtually no other State: they contend that mere publication of a new edition of the Revised Statutes by the Revisor somehow eliminates any constitutional defects in the procedures used to enact the newly-codified laws.

B. Nothing in our legal tradition suggests Defendants’ “codification rule.”

Defendants’ version of the “codification rule” is so broad and senseless as to be absurd. There simply is no support in our constitutional tradition for a rule that the Revisor can render an unconstitutional law constitutional just by publishing it. That is obviously true for claims that a law has transgressed the *substantive* boundaries of the legislative power: surely, not even Defendants mean to suggest that a law that criminalized protected speech, or established a state church, or abolished jury trials, would somehow become constitutional as soon as the Revisor published it in the Minnesota Statutes. But there is no better reason why publication should somehow cure a law’s *procedural* unconstitutionality. Suppose that a purported law was not actually passed by a

⁸ Even the 1945 enactment of the Code was careful to specify that “[t]he laws contained in Minnesota Revised Statutes are continuations of the acts from which compiled and are not new enactments,” Minn. Stat. §3C.07, subd. 1, which arguably would prevent any triggering of any codification rule.

majority of each house of the Legislature, or was not properly signed by the Governor, such that it was due to be struck down by the courts. Nothing in our constitutional order suggests that this non-law could somehow be transformed into law by the Revisor's mere act of printing and shipping the code books.

Thus, courts in other States have rejected the codification rule on the ground that it "simply emphasizes finality over the importance of addressing the underlying wrong that exists in unconstitutionally enacted legislation." *People v. Reedy*, 708 N.E.2d 1114, 1120 (Ill. 1999); accord *Netzer Law Office, P.C. v. State*, 520 P.3d 335, 340 (Mont. 2022). As the *Reedy* court observed, and as Minnesota precedent recognizes, there are important purposes behind the Single Subject Clause, see *Otto*, 910 N.W.2d at 456; *Johnson*, 50 N.W. at 924, and choosing an arbitrary timeframe in favor of finality would "unjustifiably" and "drastically diminish the effect and importance of the single subject clause." *Reedy*, 708 N.E.2d at 1120.

Indeed, Defendants' cartoonishly outsized version of the codification rule would create considerable uncertainty and would unduly politicize and frustrate the work of the Revisor of Statutes. The Revisor is required to codify newly enacted statutes "[a]s soon as possible after a session of the legislature has adjourned." Minn. Stat. §3C.08, subd. 4. Historically, this has occurred sometime between September and November after a session. See Ch. 609 Versions, Minnesota Statutes, <https://www.revisor.mn.gov/statutes/cite/609/versions>. But if the Revisor had the power to make unconstitutional statutes constitutional, there would be great risk of political pressure on the Revisor from various directions to work more quickly or slowly, in order to stymie or facilitate constitutional challenges. This is utterly senseless. The Revisor's job is to create and publish convenient compilations of Minnesota law, and the Revisor's office is set up to do that job. The Revisor's job

has never been to determine when constitutional challenges to Minnesota statutes could be brought, and nothing in the nature of the position remotely suggests giving the Revisor that power.

And that is only the beginning of the practical problems that would arise from Defendants' rule. If it really were true that "any defects in the title or subject of a bill are cured when the bill is subsequently codified" by the Revisor (State Mem. 11), then apparently codification would shut down even already-filed legal challenges to a bill. As noted, codification normally occurs within months of a law being enacted—so Defendants' rule would mean that *most* Single Subject Clause challenges would require as their first step a preliminary injunction ordering the Revisor not to codify the challenged provisions.⁹ This would create a potentially-massive unwarranted burden on the courts—and would also risk requiring the Revisor to prepare a Swiss-cheese version of the Minnesota Statutes, making his or her work both harder and less useful.

It also bears noting that Defendant Ellison is combining ripeness and codification-rule arguments in a way that would completely foreclose single-subject review of many provisions of law. In another ongoing Single Subject Clause challenge to the Jumbo Omnibus Bill, Ellison has argued that the plaintiff cannot challenge the provision that affects it, because that provision has not yet taken effect.¹⁰ If Defendants prevailed on both that argument and on their version of the codification rule, then the Legislature could completely immunize a provision from Single Subject

⁹ That assumes, of course, that an injunction against codification by the Revisor would be a proper remedy for a Single Subject Clause or Title Clause violation. If not, then the only relief that single-subject plaintiffs likely ever could obtain would be a temporary injunction lasting only until codification by the Revisor. The need to sort through and answer such artificial ancillary questions only reinforces the senselessness of Defendants' version of the codification rule.

¹⁰ State Defs' Mem. in Supp. Of Mot. to Dismiss, *UnitedHealth Grp., Inc., et al. v. State of Minnesota, et al.*, 62-CV-24-4764 (Ramsey Cnty. Dist. Ct., filed Aug. 7, 2024), Doc. 71 at 15-16.

Clause or Title Clause challenges simply by delaying the provision's effective date until after codification. That cannot be right.

Finally, Defendants' accusation of "political gamesmanship" regarding the timing of this lawsuit (State Mem. 13) hardly merits response. Defendants apparently think it is somehow unfair for the courts to strike down an unconstitutional law unless the same legislature that enacted it gets a second chance to pass a constitutional version after suit is filed. But that has never been the rule: judicial review does not require giving the Legislature a mulligan on an unconstitutional statute in any other context, and there is no good reason for it to do so here. The Legislature is a co-equal branch of government, and each of its members is bound by oath to support the Constitution (Art. IV, §8). Legislators thus have an independent duty to ensure that their actions comply with the Constitution—the first time.

To be sure, the law recognizes the need for certainty, finality, and repose. In every other legal context, those interests are amply served by statutes of limitations and the doctrine of laches. There is no reason that Single Subject Clause and Title Clause challenges cannot be governed by the same principles, rather than Defendants' nearly unprecedented and frighteningly overgrown version of the codification rule. Defendants acknowledge that MGOC's suit here is within the applicable limitations period—they just believe, apparently, that a shorter window to sue would be better as a matter of policy. (State Mem. 13.) But if Defendants think that the Legislature should choose a shorter limitations period for cases like this, they should direct that argument to the Legislature itself. There is no need, and no warrant, for the courts to invent an awkward substitute for a limitations period out of whole cloth, as Defendants request with their monstrous version of the "codification rule." The Court should decline that invitation.

III. MGOC Need Not Seek a Declaratory Judgment Against Every State Officer who Might Conceivably Enforce the Binary Trigger Amendment.

Defendant Moriarty argues (Moriarty Mem. 5) that declaratory relief is unwarranted because, even if MGOC wins against the current Defendants, its members still might be prosecuted under the binary-trigger ban by someone else, such as “the county attorneys in each of Minnesota’s remaining 86 counties.” That is silly. MGOC’s members concededly are in danger of criminal prosecution under a Minnesota statute—and MGOC has sought relief from this against the Governor, the Attorney General, the Criminal Apprehension superintendent in charge of confiscating the prohibited devices, and the chief prosecutor of the State’s most populous county, where at least one of MGOC’s members lives and owns one of the prohibited devices. *See supra* Legal and Factual Background. Moriarty, however, apparently demands that the courts refuse declaratory relief about the constitutionality of a criminal statute unless the plaintiff joins as a defendant every single county attorney, and possibly many others as well. She cites no caselaw in support of that strange and unworkable proposition, and she gives no reason for it either. The Court should reject it. As the Supreme Court has previously explained in the context of declaratory judgments, “many non-parties are bound to be affected by a judicial ruling in an action regarding the constitutionality of state statutes or state action, but they cannot all be required to be a part of the suit.” *Cruz-Guzman*, 916 N.W.2d at 14. That is no reason to refuse relief. *See Kohls v. Ellison*, No. 24-cv-3754 (LMP/DLM), 2025 U.S. Dist. LEXIS 4953, at *17 n.2 (D. Minn. Jan. 10, 2025) (rejecting “the curious argument” that a constitutional challenge was improper “because individuals other than Ellison and Larson can enforce” the challenged statute).

In one sentence free of any explanation (Moriarty Mem. 5), Moriarty also makes the conclusory statement that invalidating the binary-trigger amendment cannot remedy any harm to MGOC or its members, because “Minnesota law already made it a crime to own devices purposed

to modify a firearm's rate of fire.” The State Defendants do not make any such argument, and Moriarty does not develop or explain her argument in any way. It is waived.

In any event, the argument also is wrong, both in its conclusion and in its premise. As to the conclusion, Moriarty suggests nothing to indicate that a plaintiff who wants relief from an unconstitutional law must prove that no other law could possibly be used to similar effect. Nor should that be the rule. At the barest minimum, the Complaint pleads—and it is wholly plausible—that the Binary Trigger Amendment made prosecution of binary-trigger possession substantially more likely than it was before. That is more than sufficient to allow binary-trigger owners—and MGOC, which represents them—to seek judicial relief from it.

As to the premise, Moriarty is legally mistaken to suggest that Minnesota law already prohibited binary triggers. She points to Minnesota's preexisting ban on “machine guns” that fire “more than once by a single function of the trigger.” Minn. Stat. §609.67, subd. 1. Of course, most machine guns fire when one simply *pulls* the trigger, and stop firing when one releases the trigger—which strongly suggests that the phrase “single function of the trigger” means a pull. But in order to embrace binary triggers, “a single function of the trigger” would have to include both a pull *and a release* of the trigger. That is not the most natural meaning of the statutory language—and even if it were a conceivable meaning, the rule of lenity would prohibit it, since “no citizen should be held accountable for a violation of a statute whose commands are uncertain.” *State v. Thonesavanh*, 904 N.W.2d 432, 440 (Minn. 2017) (quoting *United States v. Santos*, 553 U.S. 507, 514 (2008)); accord *State v. Nelson*, 842 N.W.2d 433, 444 (Minn. 2014).¹¹

¹¹ Moriarty does not appear to rely on Minn. Stat. 607.69, subd. 1(d)(2), which prohibits devices for “shoot[ing] more than one shot with a single pull of the trigger.” But similar logic applies there: binary triggers do not come within the most natural meaning of this prohibition because a single pull of a binary trigger, without more, fires only one shot. Even if it were conceivable to read the

Therefore, MGOC has adequately stated a claim against Defendant Moriarty, and the requested relief would redress MGOC and its members' injury stemming from the Binary Trigger Amendment.

IV. The Court Should Invalidate the Entire Jumbo Omnibus Bill.

Alternatively, Defendants ask the Court to limit MGOC's claim to challenging the Binary Trigger Amendment alone, not any other portion of the Jumbo Omnibus Bill. (*See* State Mem. 14-15.) MGOC has already briefed this issue in support of its cross-motion for summary judgment (Doc. 22 at 26-33), so rather than repeating that argument here, MGOC incorporates it by reference, and responds only to additional points raised by Defendants.

The Supreme Court's *Associated Builders* and *Otto* decisions show that challenges under the Single Subject and Title Clauses are analyzed in two distinct steps. First, the court must examine the entire challenged statute to determine whether it *has* a single subject: the court asks whether "the great weight of the [statute's] provisions" are "related to the common theme" identified in its title. *Assoc. Builders*, 610 N.W.2d at 305; *see id.* at 306-07; *Otto*, 910 N.W.2d at 457 (concluding that "the operation of state government" was a permissible single subject for "legislation that [mostly] addresses the roles and responsibilities of state entities"). Second, *if* the statute overall has a predominant general theme, *then* the court proceeds to examine the particular provisions of the statute that directly affect the plaintiff, to determine whether those provisions are "germane" to that common theme. *Assoc. Builders*, 610 N.W.2d at 305-07; *Otto*, 910 N.W. at 457 ("A

statutory language as prohibiting devices that allow a firearm to shoot once by pulling the trigger, and then to shoot again by doing something else *other* than pulling the trigger (such as releasing it), the rule of lenity would prohibit that interpretation.

provision that allows counties to choose between the State Auditor and a private CPA firm ... is clearly germane to the subject of state government operations.”).

These two steps of the inquiry come with different remedies. At the first step, if a statute is unconstitutional because its provisions address multiple major “distinct subjects,” then it is not possible even to identify a single subject for the law because “the court would be required to engage in a balancing of importance between the” multiple subjects, which “is clearly a legislative process,” not a judicial one. *Assoc. Builders*, 610 N.W.2d at 306. As a result, if different major portions of a statute address multiple different subjects and no one of them can be said to predominate, then at least the presumptive remedy is for the courts to invalidate the whole thing. *Id.* By contrast, if a statute *does* have a single predominating subject, but the court determines at the second step that the particular provisions affecting the plaintiff are not germane to that subject, then the proper remedy is to sever the non-germane provisions and strike only them. *Id.* at 305-07.¹²

The resulting rule makes perfectly good sense. When the Legislature passes a law that is mostly about one thing but tacks on a few relatively minor unrelated provisions, the proper remedy is to strike only the unrelated provisions. By contrast, when the legislature smashes together multiple major pieces of legislation on unrelated subjects, such that no one of them predominates, then

¹² Defendants thus get it backwards in arguing (State Mem. 15) that the “large[st] and mo[st] substantive” portions of a statute can be severed and invalidated under the single-subject rule if they are not germane to more minor “pieces of the bill that are left intact.” It would be a bizarre rule that would allow a court to invalidate a hundred major provisions of a bill in order to save one minor provision—all without specifying how the court should decide whether the major or minor provisions were more worthy of preservation. In any event, the case Defendants cite does not suggest any such rule. In *Unity Church v. State*, the plaintiff *did not ask* the courts to strike an entire statute under the single-subject rule, but requested only “severing the ‘offending’ portions.” 694 N.W.2d at 597.

it is not the courts' province to fish out one of those multiple subjects as the permissible one—so the whole statute presumptively must go.

Here, therefore, Defendants' attempt to limit MGOC's remedies relies on a plain legal error: Defendants ignore the step-one "single subject" analysis and address only the step-two "germaneness" analysis. Defendants observe (State Mem. 15) that the Minnesota courts "will not strike down a germane provision of a law simply because other provisions in the law are not germane." As described above, that is true at step two of the analysis—if most provisions of a bill have a predominating single subject, *then* the courts will strike down only outlying provisions that are not germane to that subject. By contrast, however, if a bill has no predominating single subject at all—as MGOC claims here—then the whole bill should be stricken.

Indeed, it is hard to see how the rule could be otherwise. Defendants emphasize that the courts must sever and strike pieces of a statute that are not "germane." But that requires the courts first to answer the threshold question: germane to what? The Constitution does not require merely that each provision of a bill be germane to *some* other provision of the bill; it requires that each provision be germane *to a single subject* identified in the bill's title. Thus, germaneness analysis is not even possible unless the reviewing court can first identify what single subject the bill covers. If there is no single subject, then, Defendants' rule about saving germane provisions and striking only non-germane ones simply cannot operate.

Therefore, if Defendants wanted to limit MGOC's remedy to severing and striking the Binary Trigger Amendment, they would have to show that "the great weight of the [Jumbo Omnibus Bill's] provisions" are "related to the common theme" identified in Jumbo Bill's title. *See Assoc. Builders*, 610 N.W.2d at 305. But Defendants cannot make that showing. They have not even tried. Since the Jumbo Omnibus Bill has no predominating single subject, it is not the business of the

courts to try to fabricate one and save provisions that might be “germane” to that made-up subject. The whole Bill should be struck.

V. MGOC Has a Cause of Action Under the Constitution’s Remedies Clause.

Finally, Defendants question whether the Remedies Clause provides MGOC with a cause of action. Since Defendants do not question MGOC’s ability to seek injunctive and declaratory relief, this argument is immaterial. But it also is mistaken.

First, the Court can functionally moot the Remedies Clause question by granting summary judgment on MGOC’s other claim. As noted above, the Minnesota courts have a long history of deciding challenges under the Single Subject and Title Clauses. Almost never have they questioned whether a cause of action exists for those challenges. In recent decades, the courts have routinely decided Single Subject Clause and Title Clause challenges as injunctive and declaratory-judgment actions. *E.g.*, *Otto*, 910 N.W.2d at 449; *Assoc. Builders*, 610 N.W.2d at 298. And indeed, setting aside Defendants’ political-question argument that these Clauses cannot be enforced at all, Defendants too do not challenge the availability of injunctive and declaratory actions to enforce these provisions.

That provides an easy path to disposing of the issue here. MGOC’s complaint asserts two counts. Count One is an injunctive and declaratory action; Count Two asserts an action directly under the Single Subject Clause and/or under the Constitution’s Remedies Clause. The relief MGOC seeks under both counts is substantially similar. As a result, if the Court grants summary judgment on MGOC’s Count One, all remaining issues as to Count Two will be functionally moot and there will be no need to decide the Remedies Clause issue.

To any extent that the Court reaches this issue, however, it should reject Defendants’ argument and hold that MGOC has stated a valid claim directly under the Constitution. As Defendants

correctly observe (State Mem. 16), the Remedies Clause gives constitutional stature to at least common-law rights, ensuring that access to the courts to enforce them cannot be abrogated arbitrarily. But nothing in the Remedies Clause suggests that its protection is *limited* to common-law rights: to the contrary, it secures “a certain remedy in the laws for *all injuries or wrongs*” to “person, property or character.” Minn. Const., Art. I, §8 (emphasis added). It is extraordinarily difficult to think of a reason why this language should be construed to protect rights secured by the common law while categorically leaving *constitutional* rights unprotected. To be sure, the Minnesota Supreme Court has declined to hold “that *every* constitutional violation requires a remedy,” *State v. Lindquist*, 869 N.W.2d 863, 874 (Minn. 2015) (emphasis in original)—but, at almost exactly the same time, the Supreme Court expressly reserved the question of whether “the Remedies Clause provides an independent cause of action for” *some* “constitutional violations.” *Dean v. City of Winona*, 868 N.W.2d 1, 7 (Minn. 2015).

To the extent the Court reaches this issue, it should hold that the Remedies Clause *does* provide an independent cause of action to challenge unconstitutional statutes, including statutes enacted in violation of the Single Subject and Title Clauses. The Minnesota Constitution does not impose duties and restraints on the Legislature for no reason. It would be senseless if the Constitution allowed the Legislature to insulate its unconstitutional statutes from judicial review simply by enacting other statutes that deprive the people of any remedy to challenge them. But the only way to guarantee the people a judicial remedy for unconstitutional statutes—one that the Legislature cannot abrogate—is if the Constitution itself creates such a remedy. The plain language of the Remedies Clause indicates that it was adopted for just such a purpose, and it provides a cause of action here.

CONCLUSION

The Court should deny Defendants' motions to dismiss and grant summary judgment in favor of MGOC.

Dated: April 29, 2025

Respectfully submitted,

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ACKNOWLEDGMENT

The undersigned acknowledges that sanctions may be imposed pursuant to Minn. Stat. § 549.211.

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